ACPM/ACARR
The Association of Canadian Pension Management
L'Association canadienne des administrateurs de régimes de retraite

February 1, 2011

The Honourable Dwight Duncan
Minister of Finance
Government of Ontario
c/o Budget Secretariat
Frost Building North, 3rd Floor
95 Grosvenor Street
Toronto, ON M7A 1Z1

Dear Minister:

**2011 Provincial Pre-Budget Submission - Pension Plan Issues**

As you know, the members of the Association of Canadian Pension Management (ACPM) represent over 400 pension plans consisting of more than 3 million plan members, with assets under management in excess of $330 billion. Our Association has now acted as the national voice of the Canadian pension industry for almost four decades. ACPM advocates policies and activities that promote the growth and health of Canada's retirement income system. The ACPM champions the following principles:

- Clarity in pension legislation, regulation and arrangements;
- Good governance and administration; and
- Balanced consideration of stakeholder interests.

As you are also aware, we have plans and members in each province and territory under both provincial and national legislation. As retirement income providers, we have always played an active role in supporting Canadians retirement income needs. We have Regional Councils across Canada, which provide us with valuable input and advice on matters in their particular jurisdiction. Today, I am writing to you on behalf of our Ontario Regional Council, offering comment on several matters as they may relate to the upcoming Ontario budget.

Retirement income, of course, has become a mainstream issue in the past several years and ACPM wishes to congratulate the Government of Ontario once again on its active engagement with various industry stakeholders, as well as with other jurisdictions. The report of the Expert Commission on Pensions (OECP Report) and recent passing of Bills 120, 135 and 236 to amend the *Pension Benefits Act* (PBA) illustrate this. We appreciate having had the opportunity to work closely with you and your officials over the past many months and we applaud your commitment to seeking solutions to problems that have been building for many years. We also wish to commend the Government of Ontario, as well as its provincial, territorial and federal counterparts, for continuing to discuss a national approach to enhancing the pensions system and examining retirement income adequacy and coverage.

There are a number of specific issues that the Ontario Council would like to address in this letter as being key issues that should be the retirement income priorities of the Ontario Government:

1. **Expanding Pension Coverage**
   We would like to draw your attention once more to ACPM's *Five-Point Plan*, which was released earlier this year and discussed in detail with Ministry of Finance officials. We reiterate that we see the *Plan* as being a comprehensive road-map for needed change on the coverage front. It is a comprehensive approach which provides maximum advantage if

   all five points can be implemented concurrently so that every Canadian, including the self-employed, have the options to save adequately for retirement that will work best for them and their families.

   The pension needs of Ontarians vary widely, as do the abilities of their employers to provide pension coverage. As such, ACPM does not believe in "one-size-fits-all" solutions. Plan sponsors and members (or their representatives) should be able to choose from a wide range of plan designs, benefits offered and funding methods, each of which should be roughly equivalent from a tax treatment perspective.

   The recent announcement of the Pooled Registered Pension Plan (PRPP) is, in our view, a welcome first step towards addressing the coverage question. ACPM will shortly be providing you with our additional comments with respect to the specifics of the PRPP proposal as tabled at the Finance Ministers' meeting in Kananaskis late last year. ACPM also looks forward to their continuing consultative role when invited to participate in the bilateral discussions with the joint federal-provincial working group in late February.

2. **Development and Expansion of Target Benefit Plans as a Coverage Option**
   We support the changes that exempt (i) existing JSPPs, and (ii) certain "target benefit" MEPPs, from solvency funding requirements. We believe the government should go further and have the relief that is being proposed for JSPPs and "target benefit" MEPPs be made available to other types of plans that may not fall within these definitions, but which share similar characteristics to such plans (e.g., joint governance, risk sharing and the absence of PBGF coverage).

   We find merit in the Ontario Expert Commission on Pensions proposal that multi-employer pension plans and target benefit plans be extended beyond sectors subject to collective bargaining. We support the concept of offering target benefit plans as an alternative type of retirement plan for single or multi-employer arrangements.

   The target benefit plan design offers the opportunity to employees to pool longevity and investment risk while at the same time limiting contributions by employers to defined amounts.

   As these plans shift investment risk and solvency risk to employees and provide variable benefits, they require clear and regular communication of the pension benefit and the plan performance. To avoid creating inter-generational inequities there needs to be a robust governance structure. We urge the government to provide clear and timely direction on how transitions to this model and the related asset transfers can occur.

3. **Harmonizing pension legislation/regulation**
   Ontario is home to the largest single concentration of multi-jurisdictional plan sponsors in Canada. ACPM has long advocated eliminating the patchwork quilt of pension legislation

and regulations in Canada. Our preference would be for a single national pension law and regulator; however, we recognize that this may not be feasible politically.

Ontario has the most to gain from harmonized national pension rules. ACPM acknowledges that there are a number of areas outside of the *exclusive* jurisdiction of the Government of Ontario; however, we urge you to play a proactive role in promoting pension harmonization with your federal, provincial and territorial counterparts, keeping in mind, of course, that the administration of duplicate legislation is a key element driving up costs. Harmonize the legislation and costs will most assuredly come down.

Harmonization, as we are suggesting, does not have mean that every jurisdiction across Canada would have to enact the exact same legislation in the exact same way. Instead, we would hope that all jurisdictions could come to agreement on a set of defined principles that each jurisdiction would then agree to enshrine either in stand-alone legislation, or as part of their current legislation, appropriately amended to meet the agreed upon criteria. We believe that if there is ultimately a willingness to achieve this goal there will be a way for you and your federal, provincial and territorial counterparts to reach a workable level of harmonization.

We also urge the Ontario Government to formally adopt as soon as possible the new Agreement Respecting Multi-Jurisdictional Pension Plans, which we also see as key to further harmonization of the regulation of Canada's pension system.

**4. Facilitating Greater Private/Public Sector Interaction on Pension Issues**

We have observed that with the exception of various consultation processes, there is relatively little formal exchange of knowledge between Ministry of Finance/FSCO and the pension industry. Recognizing that the government's budget is limited, we suggest that consideration be given to a secondment program in which pension industry participants work for a set period of time in the pension policy/regulatory environment. This would create an exchange of knowledge, information and viewpoints between Ministry of Finance/FSCO and its client base. We expect that pension policy makers/regulators and the pension industry would benefit equally from such a program. ACPM would be pleased to work with your officials in the development and coordination of such a program.

**5. HST Rebate**

Increasing administration costs of pension plans continues to be a deterrent to establishing new pension arrangements. We note the recent example of the introduction of the HST and specific rules effectively disallowing input tax credits with respect to expenses related to pension plans. We certainly would have preferred far more consultation with plan sponsors. This will undoubtedly increase the costs of administering pension plans at a time when plan sponsors and beneficiaries can least afford them.

Ontario pension plan administrators and their advisors are only now coming to terms with CRA's GST/HST "pension rebate" regime, including the treatment of multi-jurisdictional pension plans as selected listed financial institutions (SLFIs). We appreciate that this is a Finance Canada initiative, however we recognize that Ontario has been given some authority under the Canada-Ontario Comprehensive Integrated Tax Co-ordination Agreement. With this in mind, we propose that the Province consider taking action to increase the Federal rebate from 33% to 100%, either directly as a result of your agreement with CRA or by means of influencing the Federal government to make the change. With Quebec already implementing a 100% rebate, this would bring some form of harmonization between Quebec and Ontario regarding this issue.

6. **Allow all Multi-Employer Plans Choice on Commuted Value Payouts**
   Consideration should be given to allowing all Multi-Employer Pension Plans (including Jointly Sponsored Pension Plans) to pay out commuted values at the greater of the transfer ratio or going-concern ratio currently proposed for Target Benefit Multi-Employer Pension Plans when the pension plan is less than fully funded.

   As the PBA sets out minimum standards only, all Multi-Employer Pension Plans could choose whether to offer to transfer a minimum commuted value based on the current funded ratio or the higher full commuted value as per today's rules. This permissive option and decision should be left to each plan. In any case, all terminating members have their entitlement protected as they are provided with the option to have their full entitlement paid at retirement from the pension plan (i.e. deferred pension). Requiring an artificial higher "risk-free" payout creates inequities with the remaining members and employers. We believe this is consistent with the changes in Bill 135 to not offer deferred annuities as an option on termination under section 42 of the PBA.

7. **Retain Superintendent's Authority in Setting Actuarial Methods and Assumptions**
   The recent changes to the PBA enable the government to make regulations regarding acceptable actuarial methods and assumptions, including setting required margins for adverse deviation. The ACPM believes this type of oversight is unnecessary and can be problematic. The Superintendent already has sufficient power under Section 88 of the PBA whenever a valuation report is considered deficient. In addition, the Canadian Institute of Actuaries (CIA) has standards that the Actuary for each plan must follow.

   For jointly risk shared plans, required margins are established by all parties, most often with advice from the plan's actuary. It would be inappropriate to set a "one size fits all" approach to this issue as the risk sharing and other characteristics of each plan are different. Again, the ACPM maintains that the current tools for the regulator are sufficient.

8. **Remove the 30% Rule**
   We understand that the Ontario government continues to review the appropriateness of 30% rule for pension investments. ACPM believes that the 30% rule should be removed as unnecessary given the prudence standard in section 22 of the PBA.

9. **Introduce Solvency accounts**
   We continue to believe that in addition to letters of credit, solvency accounts should be permitted under the PBA. Solvency accounts would more readily permit a return of payments to plan sponsors when such funds are not necessary to provide for the promised benefits. We intend to submit a detailed submission on this issue to your officials shortly.

10. **Make an Ongoing Investment in Ontario's Pension and Supporting Regulatory System**
    While the Ontario government has, in its own words, addressed over two-thirds of the recommendations flowing from the OECP Report, a major component of that report - the recommendations concerning the pension regulatory system - has yet to be addressed by the government. If Ontario's pension system is to flourish, it can only do so within an effective regulatory system. We urge the government to review and consider the recommendations related to the pension regulatory environment as set out in Chapter 7 of the OECP Report. Please see our February 27, 2009 brief to the Ontario government on the OECP Report for a full discussion of ACPM's views on the OECP's recommendations in this regard.

We would also urge the government to facilitate the momentum and interest created by the recent round of reform by continuing to review and consider Ontario's pension system. In this regard we note that among the recommendations of the OECP Report was a Pension Community Advisory Counsel and a Pension Champion for promoting and facilitating innovation in the pension system and for leading policy development efforts in that field. These are both recommendations that the ACPM supports.

We look forward to the opportunity of discussing these issues further with you and your policy advisors in the coming months.

Sincerely,

Bryan D. Hocking
Chief Executive Officer

cc:
Derek Dobson, Chair, ACPM Ontario Regional Council
Chris Brown, President, ACPM
Mitch Frazer, Chair, Advocacy and Government Relations Committee