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

June 16, 2014

Honourable Kevin Sorenson
Minister of State - Finance
House of Commons
Ottawa, ON K1A 0A6

Via email: **Kevin.Sorenson@fin.gc.ca**

Dear Minister:

RE Proposed Regulation: Pension Payments from Pension Plans which provide Defined Benefit Pension Plans

The Association of Canadian Pension Management (ACPM) is the informed voice of Canadian retirement income plan sponsors, administrators and their allied service providers. We are a non-profit organization and our objective is to advocate for an effective and sustainable Canadian retirement income system. Our membership represents over 400 retirement income plans consisting of more than 3 million plan members, with assets under management in excess of $330 billion.

Defined benefit pension plan sponsors have often sought to settle their liabilities to retired plan members by purchasing life annuities from licensed life insurance companies. It has come to the attention of the ACPM that in certain jurisdictions, pension regulators believe that such a transaction does not relieve an active pension plan of its liability to the retired plan member. Instead, we understand that some regulators take the position that a life annuity purchased by an active pension plan remains an asset of the plan and therefore could be amended to reduce the annuity payments in the event that the pension plan was later wound up in a deficit position, or the liability could revert to the plan in the event of the insolvency of the insurer. They take this position despite the fact that pension legislation typically requires that the Superintendent approve the transfer of monies out of the pension fund to purchase the annuity and/or that plan sponsors must make a top up payment to the plan so that the remaining plan members are in no worse position after the purchase.

It is the ACPM's understanding that the position of these regulators is inhibiting defined benefit pension plan sponsors from availing themselves of this risk management tool. In turn, the ACPM believes that this position is harmful to the health of the Canadian pension system because it removes a valid tool by which plan sponsors can manage the size and type of risk created by the pension plan thereby harming the sustainability of the plan and the attractiveness of defined benefit pension plans. The ACPM also believes that the position prevents the security of the benefits due to retired plan members from being enhanced by virtue of the transfer to a regulated financial institution. The ACPM therefore encourages all Canadian jurisdictions that have not already done so to amend their pension legislation to make clear that purchased annuities are not assets of an active pension plan and that the administrator and the employer are discharged of the liabilities that are covered by such purchases.[1]

By doing so, the Canadian pension environment would be brought into line with that of each of the United States and the United Kingdom. In each of these jurisdictions the purchase of an annuity from a locally licensed insurer discharges the employer and the plan trustee of further liability to the annuitant as long as some level of due diligence was conducted during the selection of insurer. This may explain in part the very healthy risk transfer market, particularly in the U.K., that has occurred over the last number of years.

The ACPM believes that a purchased annuity should no longer be an asset of an active pension plan and that the administrator and the employer be discharged of the pension liability for the following reasons:

1. Legislative protections for the prospective annuitants and the remaining plan members are already in place in the form of the top up payment and/or approval of the relevant regulator;

2. To the extent that the annuitants should have any contingent rights to benefits arising from subsequent plan surpluses, a position which the ACPM supports, those rights can be best protected by legislation rather than by inhibiting annuity purchases;

3. Life annuities are already recognized within pension statutes as a portability option for plan members because of their benefit security features;

4. It is the expectation of plan sponsors that the plan be discharged in respect of the liability because of the top up payment and the expectation of annuitants that their benefits are not subject to reduction as a result of the subsequent wind up of a plan in deficit. Since the annuity obligation is in the name of the annuitant, and not the plan, this expectation is reasonable and runs counter to the view of some regulators (referred to above) that the annuity remains an asset of the plan. It is also not typical for the certificates issued to annuitants to make provision for benefit reduction in the event of the wind up of the pension plan;

5. The need to make provision for this possible liquidity event would lead to an increase, likely small, in the cost of annuities; and

6. Harmonization with other jurisdictions. British Columbia and Alberta have recently introduced amendments to their respective pension legislation that include a discharge for the administrator and the employer, subject to prescribed but as yet to be published conditions. The recent report in Quebec by the D'Amours Committee endorsed the full transfer of risk to an

[1] Please note that this letter addresses "buy-out annuities – those purchased by a pension plan which transfer all liabilities, including the obligation to make benefit payments, to the life insurer. It is not meant to address those annuities that are purchased by a pension plan for investment purposes, sometimes called "buy-in" annuities, where the pension plan retains the obligation to make the pension payments to the plan member.

insurer upon annuity purchase for plans that are not wound up. This practice was seen as a means for those plans to properly manage their overall risks and remain more viable. Included with the recommendation (no. 11) is a requirement for the plan sponsor to adopt a policy for the purchase of annuities containing prescribed information and, where the purchase reduces the solvency ratio, a requirement for the plan sponsor to contribute a like amount to the plan. This latter requirement mirrors Ontario's current requirements.

The ACPM encourages your active review of this policy matter of importance to defined benefit plan sponsors and prospective and existing retiree annuitants and looks forward to discussing it with you at your earliest convenience.

Sincerely,

Bryan D. Hocking
Chief Executive Officer