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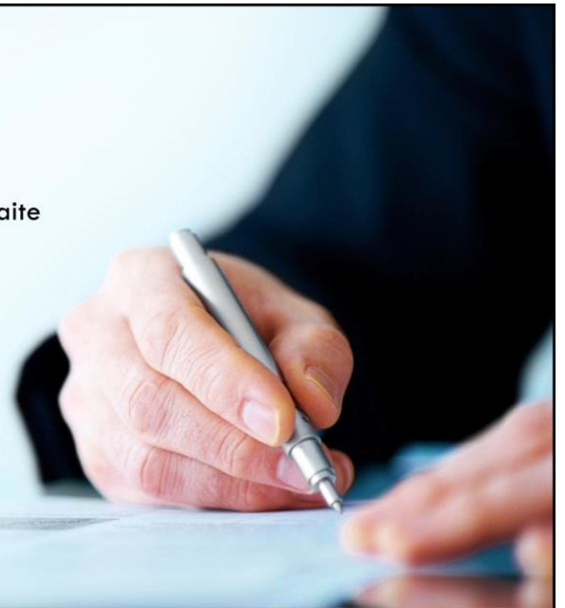

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ACPM Response to the Department of Finance Canada Target Benefit Plan Consultation Paper

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FOREWORD

THE ASSOCIATION OF CANADIAN PENSION MANAGEMENT (ACPM)

ACPM is a national non-profit volunteer-based organization acting as the informed voice of plan sponsors, administrators and their service providers, advocating for improvement to the 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.

ACPM believes in the following principles as the basis for its policy development in support of an effective and sustainable Canadian retirement income system:

Diversification through Voluntary / Mandatory and Public / Private Options

Canada's retirement income system should be comprised of an appropriate mix of voluntary Third Pillar and mandatory First and Second Pillar components.

Third Pillar Coverage

Third Pillar retirement income plan coverage should be encouraged and play a meaningful ongoing role in Canada's retirement income system.

Adequacy and Security

The components of Canada's retirement income system should collectively enable Canadians to receive adequate and secure retirement incomes.

Affordability

The components of Canada's retirement income system should be affordable for both employers and employees.

Innovation in Plan Design

Canada's retirement income system should encourage and permit innovation in Third Pillar plan design.

Adaptability

Canada's retirement income system should be able to adapt to changing circumstances without the need for comprehensive legislative change.

Harmonization

Canada's pension legislation should be harmonized.

Introduction

In March 2012, the ACPM released a policy paper on target benefit plans (TBPs). In this Paper, the ACPM recommended TBPs as a viable alternative to traditional DB and DC pension plans, and urged the provincial and federal governments to take the necessary steps to amend pension and tax legislation to make TBPs widely available. We are very pleased that the Government of Canada has initiated a process directed at this objective.

The ACPM continues to believe that the TBP is an innovative and viable pension model which has a high likelihood of providing adequate pension income to members. We also believe that a move to TBPs could improve pension sustainability, coverage and adequacy in the third pillar of Canada's retirement income system. For these reasons, we strongly support the development of a workable framework for TBPs in the federal jurisdiction. We therefore congratulate you on taking this important initiative on behalf of the Canadian pension industry.

Response

We are pleased to provide ACPM's comments on the confidential consultation paper issued by Finance Canada in April 2014. In the paper, the federal government proposes a framework for target benefit plans. Once enacted, this framework will provide an important new plan design option for the creation or conversion of federally-regulated pension plans.

Objectives and Guiding Principles

We support the objectives and guiding principles stated in section 3 of the consultation paper.

To these we would suggest the following be added:

3.1 Objectives

1. Broad Availability – TBPs should be available to pension plan members and sponsors in all industries, public and private sector, and to both the unionized and non-unionized workforces. They should **not** be restricted to the unionized sector.

2. Flexibility - we see TBPs not as one specific type of pension plan but rather as a range of plan designs. Legislation permitting the creation or conversion of plans using the TBP model should allow plan sponsors to tailor a TBP design that is best suited to their needs. In our view, this flexibility will be key to the success of TBPs. Any framework for TBPs must take into account this objective, and not be unduly restrictive (or prescriptive) so as to deter innovative plan designs that will improve pension coverage and sustainability.

3. Harmonization – the framework for TBPs should be established on a harmonized basis across federal and provincial jurisdictions.

3.2 Guiding Principles

1. The legislative framework for TBPs must produce a level playing field with other pension plan design options (i.e., DB plans and/or DC plans). In other words, the regulation and oversight of TBPs should not be unduly onerous or complex when compared to the rules

applicable to traditional DC and DB plans and the risks borne by plan members and sponsors in relation to such plans.

2. A TBP may offer significant advantages in many circumstances. However, each situation is different. Accordingly legislation must allow for considerable flexibility in their structure, governance and operation. For example, a plan sponsor may decide to convert the plan for future service only. A joint governance structure may not be practical for non-unionized workforces. Retirees may want to have the opportunity to be consulted in order to discuss the possibility of obtaining special protection for their benefits or settlement by an annuity purchase. And finally, as we note in section 4.7 below, particularly for conversions of existing defined benefit plans, there must be a high level of communication and negotiation or consultation with plan members, including retirees.

Answers to the questions posed

4.1 Administration and Governance

Question 1: ***Is this governance framework appropriate for federally-regulated private sector and Crown corporation pension plans wishing to convert to a target benefit plan?***

ACPM Response:

In order to increase the chance that TBPs will improve pension plan coverage, a specific governance model should not be mandated, but the regulations should provide sufficient flexibility to accommodate different circumstances. For example, while joint governance requiring member and retiree representation on the TBP's administrative body might be appropriate in the multi-employer or unionized context (where TBPs are effectively already available), such a framework (if mandated) may deter many single and non-unionized employers from offering or converting to TBPs. The objective of increased pension coverage would suffer as a result.

Question 2: ***Should the federal legislation or regulations be prescriptive regarding the composition of the governance body (e.g., proportion of plan members and retirees, presence of independent trustees)?***

ACPM Response:

- The legislation or regulations should not be prescriptive; instead we encourage the government (or regulator) to provide guidance on the composition of the governance body.

- Guidance should focus on relevant skills and knowledge of the members of the governance body and encourage fiduciary and skills training.

- The plan documents of the TBP should clearly set out how the composition is determined and how it is maintained.

- If joint governance is mandated by the legislation, we would support the inclusion of independent trustees on the governance body as good practice. However, the presence of independent trustees may not be practical in many cases.

***<u>Question 3:</u>* Should the Board of Trustees have powers to amend plan documents?**

ACPM Response:

- No, the Board of Trustees should not have the power to amend the plan text, other than for housekeeping and simple compliance amendments. It may, however, be delegated the power to amend other plan documents such as the SIPP and documents like trust agreements.

- The Board role in plan text amendments should be to provide recommendations to the plan sponsor(s) regarding changes.

- The power to amend the plan text should remain a sponsor power only, consistent with the current federal single employer pension plan rules.

- We note that the power to amend the plan text is distinct from the power to reduce or increase benefits or adjust contributions. The circumstances in which plan benefits could be reduced or increased must be clearly set out in the plan documents. The Board of Trustees would be responsible for implementing the plan provisions in that regard.

***<u>Question 4:</u>* What should be the plan member support level requirement for making substantial amendments to the plan text?**

ACPM Response:

- We consider substantial plan amendments to be those that (i) change the plan formula/rules for the reduction or increase of benefits, (ii) reduce or increase employer contributions from what is currently established in the plan text, or (iii) increase or reduce member contributions from what is currently set out in the plan text.

- Such amendments should be subject to the one-third of affected member objection standard referred to in our answers relating to conversions. That is, to block an amendment, one-third of affected members would have to confirm their objection to the proposed change. (see Section 4.8 below).

***<u>Question 5:</u>* Should there be different governance framework provisions applicable to federally-regulated pension plans in unionized and non-unionized environments?**

ACPM Response:

- No, with one exception. If a union exists, it should be included in representing unionized members on the Board of Trustees or administrative body.

***<u>Question 6:</u>* What type of process could be used for negotiating provisions of the plan with employees in federally-regulated non-unionized environments?**

ACPM Response:

- Plan provisions should not have to be negotiated in non-unionized environments. The design of the plan and the power to amend its provisions should remain as a sponsor power, subject to the imposition of a negative consent regime referred to above for substantial amendments.

4.2 Funding Policy

ACPM feels that it is important for a TBP to have a formal benefits/funding policy rather than just a "Funding Policy" so that there is always a focus on the balance between the funding (required contributions) and benefits (sustainable/affordable target benefits). We have responded to the following questions accordingly.

<u>Question 1:</u> Is the going concern valuation sufficient to measure and fund target benefits?

ACPM Response:

- A going concern valuation is sufficient; there should not be a solvency valuation.

<u>Question 2:</u> Which approach should be adopted under the federal legislative and regulatory framework: the margin or the probability test?

ACPM Response:

- We recommend using a method that reflects the various factors identified in the plan provisions and the benefits/funding policy. In order to allow simple application and supervision, it would be useful to have a simple approach developed in cooperation with the CIA and which is either described in regulations or recommended in OSFI guidance material.

  If the plan provisions include a benefit structure with some categories having different priority levels (e.g. base vs. ancillary, or actives vs. inactives), then this would need to be reflected in the simple prescribed method.

  For example, the simple method could be a going concern approach that reflects the actuary's best estimate assumptions plus an explicit margin or a PfAD. This PfAD could be based on a simple formula reflecting a small number of variables that could be specified in the plan provisions or the benefits/funding policy. One of the variables reflected in the PfAD could be the period until the next valuation.

  However, this simple method should not be prescribed for all plans. It should be permitted for plans to use an approach that is more sophisticated. For example, certain plans could use a stochastic approach, provided it is in accordance with that plan's provisions and benefits/funding policy. In this regard, we recommend that the CIA be approached to develop more robust guidance on stochastic valuations than what is available at the moment.

<u>Question 3:</u> Is the PfAD approach appropriate as a funding margin or should a different margin calculation be provided for or allowed (e.g., through a discount rate margin)?

ACPM Response:

- A specific PfAD is preferable to a margin in the discount rate.

<u>Question 4:</u> What is the appropriate period time horizon for the purposes of calculating the PfAD?

ACPM Response:

- One of the variables reflected in the PfAD could be the period until the next valuation. For example, if the next valuation is to be performed in one year, then the level of the PfAD should

be calculated differently than if the next valuation is to be performed in three years. We support a period of 15 years of future contributions over which the funding target should be attained.

Question 5: ***Should going concern valuations be required on a closed group or open group basis?***

ACPM Response:

- It should be permitted for a plan's benefits/funding policy to specify that the funding valuation is to be based on an open group valuation method, but this should not be required. The valuation report should comment on whether there are particular circumstances that represent clear limitations on such an open group approach. It might be preferable to limit the period over which new entrants are taken into account in order to have some consistency with the period over which the funding of a deficit is spread. We support a period of 15 years of future contributions over which the funding target should be attained.

Question 6: ***How frequently should valuations be required?***

ACPM Response:

- There should be a formal valuation required at least every three years. In addition, the actuary should conduct estimates no less frequently than annually to assist the parties in monitoring trends in the contribution/benefits relationship. The estimates could be required to be filed with the regulator as part of the annual information reporting. On the basis of the estimates, a formal actuarial valuation could be required before the triennial review date if a deteriorating trend was developing or if a specified trigger would be indicated based on the plan's estimated funding, e.g., the current estimated funding situation does not exceed the targeted level by at least a prescribed margin (e.g. 5%). Note that this margin should not be used to improve benefits or be included in termination payments.

Question 7: ***Should some of the specifics on the funding policy (e.g., PfAD rates) rely on guidance from sources such as the Canadian Institute of Actuaries (CIA) or should they be more fully prescribed in legislation or regulations?***

ACPM Response:

- The minimum funding requirements that a benefits/funding policy must comply with should be prescribed in the regulations. However, the CIA should be consulted and asked to provide guidance to actuaries.

4.3 Contributions

Question 1: ***Is this approach to contributions for federally-regulated plan appropriate?***

ACPM Response:

- We support having the ability (if specified in the plan text), but not the requirement, to vary employee and/or employer contributions within a specified corridor. The corridor used in New Brunswick (+/-25% of original contribution amount, up to +/-2% of earnings) seems reasonable, but plan texts could be allowed to specify greater corridors. We agree with a requirement for contributions in excess of best-estimate normal costs in order to establish a margin to allow the plan to withstand shocks.

***<u>Question 2:</u>* Should some of the specifics concerning contributions be determined by plan members or more fully prescribed in legislation or regulations?**

ACPM Response:

- No. The variability of employer contributions should be determined on set up of the plan through the same mechanism that applies to the rest of the plan terms, including, where applicable, engagement of both unionized and non-unionized employees. Any change to contributions after the TBP is established or following a conversion process would be a substantive amendment that should follow the consent process discussed in our answer to question 4 under section 4.1 above.

4.4 Benefit Structure

***<u>Question 1:</u>* Is the approach of categorizing benefits in two classes appropriate?**

ACPM Response:

- Yes, it is not unprecedented, and we agree with the initial categorization into base and ancillary benefits to allow for different levels of benefit security where applicable.

- A plan should be permitted to define additional classes of benefits for the same reason.

***<u>Question 2:</u>* Should base and ancillary benefits be determined by pension plans or more fully prescribed in federal legislation or regulations?**

ACPM Response:

- A plan should be permitted to distinguish base and ancillary benefits, and the plan text should reflect that approach. The categorization of certain plan benefits as "base" or "ancillary" should be left to each plan and not be prescribed in legislation or regulations.

- Plan sponsors should be provided with the flexibility to define the relative importance of protecting benefits without restricting it to two classes (base and ancillary). The plan's benefits/funding policy can spell out the treatment of benefits under various scenarios. For example, retired member base and ancillary benefits may have different levels of priority when compared to active member base and ancillary benefits. In addition, once retired, some ancillary benefits may no longer be treated as ancillary but as base benefits, e.g. early retirement reduction factors.

- The plan text should specify what benefit reductions will be possible, including how and in what priority they would be applied.

- Pension regulators may wish to develop flexible but clear guidelines on which types of benefit reduction principles or provisions would be acceptable.

4.5 Funding deficit recovery plan

ACPM General Comments:

- On principle, to avoid confusion, we recommend staying away from the terms "deficit" and "surplus" as they do not apply to TBPs in the same sense that they do to DB plans. It makes more sense to refer to benefits and contributions being out of balance (whether overfunded or underfunded). The "Target Benefit Recovery Plan" would be the plan to bring them back into balance, which would entail adjusting one or the other or both.

Question 1: ***Should the deficit recovery measures and their prioritization be determined by plan members or more fully prescribed in federal legislation or regulations? If the latter, what measures should be prescribed and what should be their order of priority?***

ACPM Response:

- We recommend that every TBP be required to implement a benefits/funding policy that outlines different factors specified by regulation or by OSFI guidelines, including at minimum the following (essentially incorporating a "deficit recovery plan" as that is described in the consultation paper):

  a) The benefit affordability test that must be applied at every valuation; and

  b) The consequences to contributions and benefits of a full range of possible benefit affordability test results (i.e. how should contributions and/or benefits be adjusted under the plan's "deficit recovery plan" or "surplus utilization plan").

- The benefits/funding policy should be agreed at the outset by the plan sponsor(s). Then the administrator or Board of Trustees would simply apply the benefits/funding policy whenever they were presented with a valuation and an updated benefit affordability test. In the event that the benefit affordability test results produced a result not contemplated in the policy, then the plan sponsor(s) would have to agree to amend the policy to accommodate the new situation. However, if the governance process is working, then the administrator would then be able to provide advance notice that the unusual result is becoming a possibility.

Question 2: ***Should deficit recovery measures be triggered as soon as the PfAD starts to be depleted or the probability test is not met?***

ACPM Response:

- When an actuarial valuation reveals a negative imbalance in the funding position (or what could be considered akin to a traditional "deficit"), the provisions of the plan text or the benefits/funding policy should stipulate through which measures the situation is to be redressed and that it should be amortized over a maximum period of 15 years (or a shorter time if specified in the plan text or benefits/funding policy). These measures should not have to be in the form of additional contributions; they could also be in the form of benefit reductions, which might be applied differently to different classes of benefits or of members, and which need not be spread uniformly over the amortization period. However there should be some rules to disallow extreme back-loading of those measures toward the end of that period.

4.6 Funding Surplus Utilization Plan (FSUP)

ACPM General Comments:

- As mentioned above, on principle, we recommend avoiding using the terms "deficit" and "surplus" as they do not apply to TBPs in the same sense that they do to DB plans, creating confusion. It makes more sense to talk about having benefits and contributions out of balance (whether overfunded or underfunded). The "Target Benefit Recovery Plan" would be the plan to bring them back into balance, which would entail adjusting one or the other or both.

- It is ACPM's view that coordination of the FSUP with the other elements of the TBP described in the consultation paper will be key, including the benefit design, benefits/funding policy and deficit recovery plan.

- Communication and disclosure of, and access to, the FSUP by all plan participants will also be important to ensure clarity regarding how surplus will be used. Disclosure of the FSUP should be included as part of the disclosure obligations under the TBP framework.

- Subject to our comments on disclosure below, we question whether it would be useful to require the filing of the FSUP with the Superintendent, given regulatory resources, so long as any later filings (such as plan amendments associated with surplus usage) confirm conformity to the FSUP.

<u>Question 1:</u> Should the surplus utilization measures and their prioritization be determined by plan members or more fully prescribed in legislation or regulations? If the latter, what measures should be prescribed and what should their order of priority be?

ACPM Response:

- Given the potential variability in the structuring of TBPs under the proposed federal model (benefit structures, contribution model), the surplus utilization measures should not be prescribed by the legislation, but rather should be left to plan sponsors to determine the appropriate measures for the particular circumstances of their plan. These measures should be laid out clearly in at least one of the key plan documents (the plan text or benefits / funding policy).

- As noted, clarity of the FSUP provisions and disclosure to all participants (active and retired members, employers) will be critical to avoid disputes when surpluses arise.

- The FSUP should fully contemplate how and when surplus will be used and in what priority.

- The plan's administrator or Board of Trustees should be permitted to retain limited discretion not to apply surplus even when the trigger is attained where appropriate in the circumstances. This discretion should be limited in the benefits/funding policy to permit action once the bottom of a limited range is reached, but to require surplus to be applied when the top of the range is reached.

- The FSUP should be designed with a focus on intergenerational equity between active and retired members, including the ability to vary usage for different groups (for example, contribution reduction for actives and temporary improvement to benefits for retirees).

- As noted in other responses, our preference would be to permit flexibility in the priority as each plan is different and unforeseen circumstances may develop. Two "minimum standards" that could be considered could be: (1) the first priority would be to restore previously reduced base benefits and ancillary benefits (not necessarily both to their full prior level), and (2) cash payouts from surplus for members would be a last resort, only where ITA limits prevented further benefit improvements.

***<u>Question 2:</u>* What would be an appropriate margin (over the fully-funded level) to allow surplus utilization? What would be an appropriate cap on the utilization of surplus?**

ACPM Response:

- Since it is assumed that the TBP benefits/funding policy will specify that the actuarial valuation must incorporate appropriate provisions to maintain the desired equilibrium between assets and liabilities, it may not be necessary for rules to impose additional restrictions on the utilization of excess assets. We suggest that it could be left up to the parties to determine among themselves what restrictions should be imposed or not, and to document this either in the plan text or in the benefits/funding policy.

4.7 Disclosure and Communications

***<u>Question 1:</u>* What are your views on the proposed additional disclosure requirements listed above?**

ACPM Response:

- Disclosure and communication with plan members are very important in a target benefit plan, particularly in respect of any likely or actual reduction of benefits.

- We support following the existing PBSA and PBSR filing requirements as much as possible, recognizing that there needs to be a balance between providing sufficient information, and providing too much information. Care needs to be taken to ensure that the disclosure is correct, relevant and understandable.

- “Pre-notice” of adverse changes is desirable. The administrator should have some discretion regarding the notice period but should follow any minimum requirement that may be specified in the plan’s benefits/funding policy. “Pre-notice” of favorable changes should not be required.

- Electronic communications should be encouraged. For example, a plan should be able to make information available on a website.

- Without seeing the Financial Consumer Agency of Canada (FCAC) materials it is difficult to comment on the benefits of providing the FCAC address. We would be concerned that the details of a particular plan may differ from the information given by the FCAC, and that this may be confusing to members. We recommend instead that each plan be required to provide adequate disclosure.

***<u>Question 2:</u>* What are your views on the timing, frequency and sequence for communicating these additional disclosure items?**

ACPM Response:

- We generally support the timing, frequency and sequence for communications outlined in the paper.

***<u>Question 3:</u>* What are your views on requiring the plan administrator to report the solvency funding ratio of the plan in its annual reports for information purposes?**

ACPM Response:

- The concept of a "solvency funding ratio" is not applicable to TBPs, as they are not required to fund for solvency and commuted values are not dependent on solvency calculations.

4.8 Conversion of Pension Plans to TBPs

***<u>Question 1:</u>* What are your views on how benefits are treated upon conversion?**
***<u>Question 2:</u>* Do you have any other views on how accrued benefits should be calculated at the time of conversion?**

ACPM Response (applicable to both questions):

- We agree that accrued benefits should be treated as benefits that can be reduced.

- The conversion of a DB Plan to a TBP replaces the need to bring the DB Plan up to fully funded status on any basis. We support tracking the solvency deficiency for 5 years post-conversion as a method to avoid the potential abuse of a TBP conversion as a method to escape current DB obligations.

- We recommend that member and retiree consent requirements be based on the one-third of affected member objection standard noted above. There is precedent for this approach in the rules applicable to surplus sharing and solvency relief. Requiring 100% or other level of positive member and retiree consent to a conversion would be completely impractical, rendering most if not all conversions impossible to implement.

- In order to ensure that the conversion is not rejected by more than one third of a particular member group, especially retirees, the employer would likely be required to enter into negotiations with each group similar to negotiations typically undertaken in the past in order to achieve appropriate consent levels required to withdraw surplus. In the case of retirees, who would likely have the least to gain from a plan conversion to a TBP, employers could offer them higher priority in the benefit reduction formula under the Plan or indexing of benefits. Alternatively, the employer could offer to buy out their benefits through an annuity purchase or potentially permit portability of their benefits from the Plan (which would require a change to the PBSA to allow retirees to transfer their benefits out of the plan prior to conversion).

- We suggest that the content of member notices on conversion contain similar information and detail as is currently required by OSFI's reducing amendment policy.

Question 3: ***What view, if any, do you have on converting federally-regulated DC Plans to TBPs?***

ACPM Response:

- Conversion of federally regulated DC plans to TBPs should be allowed and supported. The proposal that the value of assets accumulated under the DC plan would determine an employee's accrued benefits upon conversion to a TBP is reasonable.

- For DC administrators concerned about their responsibility to educate their DC plan members on investment principles and the options available under the plan, a TBP may have some appeal. Likewise, the pooling of risk in a TBP could be attractive to DC plan sponsors and administrators.

4.9 Portability and Locking-in Rules

Question 1: ***Are there any TBP-specific issues in relation to locking in and portability that should be addressed in the federal legislation and regulatory framework?***

ACPM Response:

- The TBP rules regarding portability and locking-in of benefits should aim for harmonization and uniformity with existing regulations governing pension plans. In particular, portability after the early retirement date should be permitted if the Plan terms allow it, but it should not be required.

- Portability should not result in a benefit to the terminating member at the expense of the remaining members.

4.10 Individual Termination

Question 1: ***What are your views on the methodology used to calculate the individual termination value?***

ACPM Response:

- We recommend that individual termination values be calculated on the same basis as the new going concern valuation basis. This means that a terminating member could receive a value representing the proportion of total liabilities the member's benefits represent in the actuarial valuation, and thus the member's pro-rata share of the plan's assets. The parties should be permitted to provide in the Plan terms for the inclusion or exclusion of margin in the termination calculation. Consideration will need to be given as to whether special treatment is necessary to reflect how the plan's financial situation deviates from the target funding based on the new going concern basis, not the traditional solvency basis. Consideration will also be needed on whether to reflect the plan's financial situation as at the last valuation date or estimated as at a more recent date.

- Individuals should be given the choice of taking the termination value (pro-rata share) or leaving their pension in the plan, with opportunity every 5 years to take the termination value determined as above.

- The same discount rate and other assumptions used to calculate the plan's overall funding liabilities should be applied to calculate individual termination values.

4.11 Plan Termination and Wind Up

<u>Question 1:</u> What are your views on the formula used for calculating termination value? Would it be more appropriate to use the solvency funding ratio?

ACPM Response:

- In our view, the calculation method outlined above in Section 4.10 (Individual Terminations), should apply also in case of a plan termination or wind-up.

<u>Question 2:</u> What are your views on applying solvency requirements in the case of plan termination within 5 years of conversion from a federally-regulated DB plan?

ACPM Response:

- Since this rule is intended to dissuade parties to convert a DB plan mainly (or partly) to avoid funding an existing solvency deficit, the conversion rules should state that the DB plan's solvency deficit existing at the conversion date would need to be funded by the employer <u>only</u> in case of a plan wind-up within 5 years of the conversion date.

  This solvency deficit should be calculated as if the DB plan had been wound up at the conversion date and not using the three-year averaging method that currently applies to determine the minimum amortization schedule.

  This solvency deficit should not have to be funded after the conversion from DB to TBP as long as the TBP remains in force for at least 5 years. The solvency deficit that would need to be funded in case of wind-up should be the amount that existed at the conversion date, plus interest over the period at the rate used to determine the solvency deficit at the conversion date. For example, if the wind-up deficit is calculated as $100 Million at the conversion date, then this amount would remain as a contingent liability of the sponsor during the 5-year transition, increasing with interest at the solvency rate applicable at the conversion date.

  Furthermore, we would recommend that this original solvency deficit amount owed by the employer be reduced to take into account the portion of contributions made by the employer between the conversion date and the wind-up date that represents an extra margin for benefit security. This extra margin would be determined as the amount contributed in excess of the going concern cost, without margins, for benefits accrued after the conversion date. This excess amount would be similar to special payments in excess of current service cost and it is therefore appropriate to be deducted from the solvency deficit to be paid.

  Alternatively, instead of deducting excess contributions from the DB solvency deficit, the regulations could specify that the deficit to be paid in case of wind-up within 5 years of a conversion could be reduced gradually over that 5-year period. For example, in case of wind-up 3 years after a conversion, the employer would need to pay 40% of the original deficit, with interest.

Experience gains or losses between the conversion date and a wind-up date occurring within 5 years, should not affect the deficit payment to be made by the employer, since it is more appropriate to reflect this experience under the TBP regime.

Since it may be argued that the plan members might be at risk if the employer is unable to fund that solvency deficit at the wind-up date (occurring within 5 years), then it might be appropriate for the regulations to prescribe some sort of security to further protect the plan members. For example, such a form of security could be a deemed trust equal to the original solvency amortization schedule or else letters of credit that cover such amounts.

4.12 Application to MEPPs

***<u>Question 1:</u>* To what extent could the proposed elements of the federal TBP framework apply in a multi-employer context?**

ACPM Response:

- Existing negotiated-contribution defined benefit MEPPs are essentially TBPs but involve two or more unrelated employers whose participation in the plan is determined by a collective bargaining agreement. As such, we recommend that TBPs and negotiated-contribution defined benefit MEPPs be subject to the same framework and rules.

We are pleased to have had the opportunity to provide input on this TBP consultation paper. We welcome any questions you may have relating to ACPM's response as outlined above or on the subject of TBPs in general.