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Montreal, February 6, 2018

The Honourable Carlos J. Leitão  
Minister of Finance  
Ministère des Finances du Québec  
12, rue Saint-Louis  
1er étage  
Quebec City, QC G1R 5L3

The Honourable Dominique Vien  
Minister responsible for Labour  
Ministère du Travail, de l'Emploi  
et de la Solidarité sociale  
200, chemin Sainte-Foy, 6e étage  
Quebec City, QC G1R 5S1

**Re: Disparity clauses in pension plans**

Dear Ministers,

We are writing to you to share our concerns at the Association of Canadian Pension Management (ACPM) regarding the government's intention to amend labour standards and prohibit disparity clauses in supplemental pension plans and group insurance plans based on the employee's date of hire.

ACPM is the leading advocate for plan sponsors and administrators in the pursuit of a balanced, effective and sustainable retirement income system in Canada. We represent plan sponsors, administrators, trustees and service providers and our membership represents over 400 companies and retirement income plans that cover more than 3 million plan members.

ACPM's main concerns regarding the prohibition on including disparity clauses in pension plans can be summarized as follows.

1. Based on our experience, it is very unlikely that employers who have "closed" their defined benefit plans to new employees would decide to "reopen" them to new employees if disparity clauses were to be prohibited. Employers would be prompted to terminate their defined benefit plans for existing employees rather than allow new employees to join the plan. Prohibiting disparity clauses would therefore significantly speed up the decline of defined benefit plans and needlessly penalize employees with long periods of service. Prohibiting disparity clauses would moreover go against the purpose of Bill 57<sup>1</sup> adopted by your government in December 2015. The aim of the bill was to ensure the sustainability of supplemental defined benefit pension plans.
  2. We believe it is unlikely that other Canadian provinces will follow Quebec's approach to disparity clauses<sup>2</sup>. The many Quebec workers who are members of multi-jurisdictional plans may end up being treated less favourably than workers in other provinces. If employers cannot include disparity clauses in Quebec, workers in that province who are currently members of a defined benefit plan could be excluded from their plans and be pushed into joining defined contribution plans with new employees, while their colleagues in other provinces would be able to continue to be members of defined benefit plans.
1. An Act to amend the Supplemental Pension Plans Act mainly with respect to the funding of defined benefit pension plans, SQ 2015, c 29.
  2. For example, section 87.1 of the Act respecting labour standards introduced in 1999, prohibiting salary disparity, was not adopted outside Quebec. It is therefore even less likely that a provision concerning pension plans would be enacted outside Quebec.

3. Several employers have negotiated the introduction of disparity clauses with their unions and these negotiations led to concessions on both sides. Prohibiting disparity clauses would break the negotiated agreements and create a new imbalance. We expect major labour disputes in upcoming collective bargaining if disparity clauses were to be prohibited. We can expect a number of pension plan-related strikes or lockouts.

We believe that maintaining the status quo is by far preferable to protect employees with long periods of service and we do not see why these employees should be forced to sacrifice their participation in a defined benefit plan in the name of intergenerational equity.

We believe employers who offer pension plans or other benefits of equal value to existing employees and new employees should not be regarded as creating a disparity in treatment. In other words, an employer should be able to offer a defined contribution plan or any other type of benefit to its new employees as long as the benefits are of equal value to the benefits in a defined benefit plan in which existing employees are members. In our opinion, it would be quite simple for the government to develop the necessary regulation to control such equivalence in the plans.

We are prepared to discuss our comments and suggestions at your convenience.

Regards,



Michel Jalbert  
Chair of the Board



Ric Marrero  
Interim CEO

cc: Jean-Pascal Bernier, Chief of Staff to the Premier  
Michel Després, President and Chief Executive Officer of Retraite Québec