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

March 31, 2020

Lynn Hemmings
Director General
Financial Sector Policy Branch
Department of Finance Canada
90 Elgin Street
Ottawa, ON K1A 0G5

Re: Consultation on Pension Plan Challenges Posed by the COVID-19 Situation and Potential Measures that Could Greatly Assist Pension Plan Administrators and Employers

Dear Ms. Hemmings:

As requested, we are writing to you to formalize the views we expressed to you in our discussion of March 26, 2020.

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 millions of plan members.

As mentioned in our discussions, ACPM surveyed several of our federally regulated pension plan sponsors to gather their views regarding the immediate challenges they are facing due to the COVID-19 outbreak. Below we summarize the key challenges they are facing as well as some suggestions on how to address these challenges.

Immediate Challenges

The immediate challenges facing our members cannot be overstated. While some have particularly acute challenges due to their revenues virtually drying up overnight, all indicated that they are facing liquidity challenges as this crisis deepens and persists. The challenges can be summarized under three main headings:

1. **Cash flow shock:** Revenues for many businesses have dwindled nearly overnight. Some members expressed concerns that unless cash is conserved within the business to address immediate concerns out of the COVID-19 situation, the business may not survive the dramatic decrease in cashflow experienced in the past few weeks. While circumstances are expected to normalize when we come out of this crisis and businesses start recovering, the ability to conserve cash for the business is paramount. Recovery times are anticipated to vary by industry.

2. **Market liquidity challenges**: In addition to the extreme volatility in the equity markets, we are aware that fixed income instruments, even short-term instruments have become very illiquid, with bid-ask spreads rising dramatically. Many plans, especially those that are cash flow negative are seeing challenges in raising the cash needed to pay monthly pensions. Measures to increase liquidity within pension funds was identified as a key concern.

3. **Dire need for certainty:** In the face of the cash flow shock outlined above, our membership expressed a dire and immediate need for medium-term certainty regarding cash-outflows, including pension payments. The volatility of, and possible increase in solvency funding, given the current economic turmoil was identified as a key item on which certainty is desperately needed.

We also discussed administrative challenges. However, with OSFI's announcement on March 27th extending deadlines and imposing a freeze on transfer values, the views raised previously have evolved. The extension of deadlines is welcome. The freeze on transfer values raises new questions, which we will raise directly with OSFI.

An administrative issue not addressed in the OSFI announcement was to permit electronic communications, which would be most welcome in the current environment, if not permanently. As well, an extension on the legislative requirement to produce option election forms on termination or retirement within 30 days would be welcome, especially with questions arising from the freeze on transfer values.

<u>Measures that Could Dramatically Assist Pension Plan Sponsors</u>

On the three challenges we discussed the following suggestions:

1. **Suspend special payment obligations**: In your suggested agenda, you asked whether a ***delay*** in making normal cost contributions and special payments could be helpful at this time. Our members felt that an extension in the deadline to make special payments had the potential to result in a very large payment becoming due just as we are coming out of this crisis, thus preventing employers from getting back on their feet. In addition, the complex rules and case law regarding the PBSA deemed trust for missed payments could result in some employers being offside on the strict covenants in lending facilities, with the possibility of employers being in a technical default under such facilities.

   Given the foregoing, the ACPM urges a *suspension* on special payments (as opposed to a delay) for at least the next six months. Given the current uncertainty, we recommend that special payments only recommence six months after an announcement that the moratorium will cease. With respect to normal cost, a deferral would be more appropriate, with the drafting cognizant of deemed trust issues. The amount of deferred contributions could be amortized to avert a large one-time payment.

2. **Increase Liquidity for Pension Plans:** Given the lower liquidity on fixed income instruments, it would be helpful to **eliminate or extend the normal 90-day limit on borrowing under the Income Tax Act for defined benefit pension plans** to allow plans to continue to pay pensions without incurring significant losses on the forced sale of less liquid investments. Moreover, the normal functioning of fixed income markets (including the REPO market) is critical to not only pension plans, but also businesses themselves. **Anything the government or the Bank of Canada can do to improve liquidity in fixed income instruments and ensure a well-functioning market will be of great benefit to the economy during this crisis.**

3. **Minimize Solvency Funding Over Medium-term:** It is extremely difficult for businesses to know how much time it will take businesses to recover from this crisis, and some businesses will struggle longer than others due to the very nature of their business. As discussed, following the immediate crisis, stability of future funding requirements will be critical.

In our discussions, the subject of 2009-style funding relief was identified. Our thoughts were that this style of funding relief would not materially assist employers due to:

- the extension of the repayment schedule from five years to ten years is of limited relief;
- the conditions that were associated with that relief (consultation with members and retirees – not feasible under current circumstances or letters of credit – very difficult to obtain at this time); and
- the extent of the relief by extending the solvency deficit payment period is unlikely to provide the level of medium-term cash relief needed.

ACPM believes that this situation presents an opportunity to re-think solvency funding – a funding measure from which “relief” has been granted at the bottom of nearly every economic cycle and market shock since its inception in the 1980s, in economic circumstances that differ greatly from the current persistent low long-term interest rate environment. **We urge similar measures to that which other pension jurisdictions either have already adopted or are in the process of adopting. Key measures would include basing funding on a going-concern model, eliminating solvency requirements except for a minimal solvency ratio floor.** Employers and plan sponsors would greatly appreciate an announcement of an upcoming consultation on the defined benefit funding model. You could then revisit target benefit legislation shortly thereafter, potentially building off such a revised funding model.

Notwithstanding the foregoing, if the Government is only willing to provide temporary funding relief at this time, **we urge the Government to make the relief broadly available, without restriction or qualification.** The 2009 crisis was the biggest we had seen in a generation. By all accounts, this crisis out-shadows the events of 2009 by multitudes and, in our view, warrants more significant, broad-based pension funding relief.

Thank you once again for giving us the opportunity to discuss the challenges facing pension plan administrators and employers and some measures which could be extremely helpful in the immediate term and the mid-term as we exit the crisis. Please feel free to contact us if we can be of further assistance.

Sincerely,

Ric Marrero
Chief Executive Officer
ACPM

Todd Saulnier
Chair, National Policy Committee
ACPM

cc: Kathleen Wrye, Senior Project Leader, Finance Canada