



[UNOFFICIAL ENGLISH VERSION]

November 5, 2021

BY EMAIL

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Subject: Draft regulation amending the *Regulation respecting supplemental pension plans*

Mr. Després,

ACPM is a national non-profit association and the leading advocacy organization for plan sponsors and administrators, as well as their service providers, promoting improvements in the retirement income system in Québec and Canada.

We are writing to you to provide you with ACPM's comments regarding the draft *Regulation to amend the Regulation respecting supplemental pension plans* published on September 22, 2021 (the "Draft Regulation") which completes various measures adopted by the *Act mainly to allow the establishment of target benefit pension plans*.

First of all, allow us to salute the work accomplished by Retraite Québec and the government over the past two years to develop a framework for the establishment of target benefit pension plans ("TBPP") in Quebec. ACPM actively encourages innovation in pension plan design and access to new tools that allow for the pooling of risks. We believe that TBPPs are a promising step forward that will certainly allow thousands of Quebecers to eventually receive adequate retirement income at a reasonable cost.

Our comments on the Draft Regulation are focused on four main areas: the content of the actuarial valuation report for TBPPs, communication to TBPP members, the conversion of certain types of existing plans to TBPPs, and the frequency of determining the degree of solvency for the purpose of paying benefits and the resulting residual benefits.

1. Content of the actuarial valuation report for TBPPs

New sections 9.2 and 9.3 of the *Regulation respecting supplemental pension plans* (“SPP Regulation”) which will be added by the Draft Regulation¹ provide that the information to be included in actuarial valuation reports for TBPPs for the purpose of reviewing the adequacy of contributions must be presented separately for service after the valuation date and for service credited at that date. In particular, where recovery measures are required due to an insufficiency of contributions, the actuary must certify that, taking into account the recovery measures, the contributions are sufficient for service after the valuation date or for service credited at the valuation date, as the case may be.

Section 146.74 of the *Supplemental Pension Plans Act* (“SPPA”) allows a recovery measure to take effect no later than one year after the valuation date. In such a case, technically, there may still be an insufficiency of contributions for the period between the valuation date and the effective date of the recovery measure.

In order to reconcile the possibility that the recovery measure may be out of step with the date of the actuarial valuation, we believe that the required certification set out at the end of the new sections 9.2 and 9.3 should read as follows: *“It must be certified that the contributions are sufficient [for/regarding] service [after/credited] at the valuation date, assuming, if necessary, that the recovery measures take effect on that date.”*

Without this adjustment, the target benefit would have to be reduced further in years 2 and 3 to compensate for the fact that the target benefit recognized in year 1 was too high. The approach proposed here is inspired by that implemented in the municipal sector for the shift of the current service contribution.

This is illustrated in the following table, where the target benefit must be reduced from 1.41% to 1.36% for years 2 and 3. The proposed approach would provide greater stability in the target benefit:

	<u>Year</u>					
	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>
Expected contributions	15.00%	15.00%	15.00%	15.00%	15.00%	15.00%

Scenario 1:

3 years from the valuation date

Required current service contribution (including the stabilization provision)	16.00%	14.50%	14.50%	14.50%	15.25%	15.25%
Target benefits (as a percentage of salary)	1.50%	1.36%	1.36%	1.41%	1.41%	1.41%

Scenario 2:

Assume effective date = valuation date

Required current service contribution (including the stabilization provision)	16.00%	15.00%	15.00%	15.00%	15.00%	15.00%
Target benefits (as a percentage of salary)	1.50%	1.41%	1.41%	1.41%	1.41%	1.41%

¹ See section 7 of the Draft Regulation.

2. Communications to TBPP members

ACPM recognizes that in order to ensure a clear understanding of the plan, communications to members must be enhanced in the context of a TBPP. We believe that the foundation for describing the plan to members should be the TBPP Summary. As stated in the new section 56.1 of the SPP Regulation², it is primarily in this document that the administrator will be required to explain the nature and challenges of the TBPP, as well as the associated risk management measures. In our opinion, the various documents sent to plan members should always include a clear reference to the Plan Summary for more information.

We generally support the communication requirements set out in the Draft Regulation, subject to the following comments:

- For the statements of benefits, the new section 56.1.1 of the SPP Regulation³ states that, whenever a benefit amount is indicated, the amount corresponding to the target benefit must be indicated, as well as “... *any adjustment resulting from the application of recovery measures, the restoration of benefits or the appropriation of surplus assets...*”. It would be preferable if only one net amount resulting from all historical adjustments, if any, need be provided in addition to the target. Providing a history of all adjustments each time would be difficult to communicate and would likely confuse plan members.

For example, assuming benefits were restated to 90% of target and then restored to 95% of target, only the target and the 95% benefit should be indicated. At this time, the Draft Regulation suggests that this is in fact the requirement, but the interpretation is somewhat uncertain. The Draft Regulation could be modified as follows so that the new section 56.1.1 of the SPP Regulation confirms the approach sought: “... *the amounts or values determined taking into account, regardless of their effective date, of all historical adjustments resulting from the application of recovery measures, the restoration of benefits or the appropriation of surplus assets ...*”. These comments also apply to the new section 67.3.12 of the SPP Regulation.⁴

- Section 59.0.2 of the SPP Regulation⁵ provides a variety of information to be provided to TBPP members in the second section of annual statements. In our opinion, it would be appropriate to include only the same information as that provided for in the Draft Regulation for annual meetings in section 61.0.11 of the SPP Regulation⁶. We believe that standardizing the content required for annual statements with the content required for annual meetings will provide consistency of message and ease of understanding for plan members in a coherent approach to communications.
- Rather than being repeated each year in the annual statements, the content currently provided for in section 59.0.2 should be part of the content required for the summary of plan provisions. As we suggested at the outset, references to the Plan Summary could be made in the annual statements and at the annual meeting in order to indicate that more information is available in the Plan

² See section 38 of the Draft Regulation.

³ See section 39 of the Draft Regulation.

⁴ See section 55 of the Draft Regulation.

⁵ See section 44 of the Draft Regulation.

⁶ See section 48 of the Draft Regulation.

Summary. This would ensure that the explanations with respect to the plan are always the same and presented in the same way. The summary should be easily accessible to all plan members.

- We did not note in the Draft Regulation any specific content for communications to members regarding the conversion of a plan to a TBPP. Given the importance of the choices that plan members will have to make at the time of the conversion, we believe that the information to be provided should be well defined. Again, reference to the TBPP summary will be important.

Finally, we note that a number of new items have been added to the already long list of information required for statements of benefits (annual statements and event statements) for all types of plans covered by the SPPA and the SPP Regulation. In practice, many of these are already included in statements of benefits, but plan administrators will need to ensure that their statements comply with the new requirements, which may prove to be a significant undertaking for them. We encourage Retraite Québec to document these changes in a simple manner, such as creating summary lists, specific interpretations, and a Q&A on its website to assist plan sponsors and administrators.

3. TBPP Conversion

a) Conversion from a defined contribution ("DC") plan to a TBPP

The first paragraph of section 67.9 of the SPP Regulation deals with the conversion of a DC plan to a TBPP and refers to the "collective consent" rules described in section 146.55 of the SPPA. We understand that the second paragraph of section 67.9 refers to the individual consent of each member and beneficiary to the conversion of their respective benefits. If our understanding is correct, several additional details should be specified in the SPP Regulation, including:

- The process for obtaining individual consents and the time limits for responding.
- Options for members and beneficiaries who do not consent to the conversion (i.e. where accrued benefits are entitlements in capital and mostly locked-in).
- Information to be provided to members and beneficiaries on the available options in order to inform their decision-making.
- The obligations of the converted plan sponsor with respect to unconverted benefits (maintain a separate component, maintain or eliminate investment choices, etc.).

In addition, members not represented by a certified association will need to vote twice, once to consent to the conversion of the plan and once to consent to the conversion of their accrued benefits. Such a process could be complex, and lead to uncertainty and inconvenience for all parties involved.

If these two paragraphs were to be interpreted in a different way, namely to the effect that the consent referred to in the first paragraph of section 67.9 is the same as the consent referred to in the second paragraph, then similar issues would arise, in particular with respect to the handling of those who, in response to the notice from the pension committee referred to in the first paragraph, have confirmed in writing their opposition to the conversion of the plan.

It is our view that the conversion of a DC plan to a TBPP requires further consideration and raises a number of issues that are left unresolved by section 67.9 as currently drafted. We believe that this

provision should be reviewed in depth and that its application could be postponed to a later date, allowing for the implications of such a conversion to be fully considered, which will ultimately benefit the members and beneficiaries concerned as well as the sponsor of the plan subject to the conversion.

b) Conversion from a TBPP to a defined benefit (“DB”) plan

Our understanding is that it would be impossible to convert a TBPP to a DB plan in the following circumstances:

- If benefits are not restored to the target.
- If the plan is in a situation of insufficient contributions.

We believe that these rules are too restrictive and that the SPP Regulation should provide some flexibility in these situations, particularly in the context where the DB plan sponsor is willing to accept the risk arising from the plan.

TBPPs are all new plans that are not expected to experience major changes for several years. However, the future often holds surprises and it is possible that in 15 or 20 years, the context will be different and that a TBPP will find itself in financial difficulty with benefits adjusted below the target. We believe that it would be in the best interests of the parties to the plan, including retirees, if the SPP Regulation were sufficiently flexible to allow for the implementation of creative solutions at the relevant time, in accordance with the wishes of the parties to the plan and with the approval of Retraite Québec, if considered preferable.

We believe that the application of this part of the SPP Regulation could be deferred to a later date. We encourage the government to consult with key stakeholders to amend these provisions in order to address potential issues that could arise in an adverse environment.

4. Frequency of determining the degree of solvency

In the new Division VIII.1.1 “Degree of solvency”, the Draft Regulation sets out the conditions for establishing the degree of solvency of the plan according to intervals shorter than one fiscal year. We are pleased to see that the government has responded to our proposal in this regard by allowing any pension plan to establish a degree of solvency more frequently than annually. An amendment to the plan text will be required to set out this frequency and to determine whether updates will be done automatically or only as needed, i.e. when a benefit will have to be paid based on the degree of solvency.

The method and manner of calculating the degree of solvency on a shorter than annual basis must be disclosed in a full actuarial valuation report. When a new frequency is introduced, we note that there may be a discrepancy or lack of disclosure of the methodology in the last full actuarial valuation report. In order to avoid unnecessarily burdening the registration process of this amendment, we believe that the pension committee should be able to simply provide a description of the method and manner for calculating the degree of solvency at the request of Retraite Québec. If a more formal approach is preferred, the registration application could include a letter from the actuary describing the methodology to be used.

Plans will continue to be required to file actuarial solvency certifications at the end of each fiscal year where a full actuarial valuation is not required. In this regard, we welcome the government's simplified approach of not requiring the submission of an actuarial certification for each update during the fiscal year.

We believe that the Draft Regulation will provide the necessary flexibility to allow each plan to adopt an approach that is tailored to its needs.

5. Other provisions

Finally, we bring to your attention a few comments of a more technical nature that we noted during the review of the French version of the Draft Regulation. Equivalent changes to the English text would also be required.

a) Section 23 of the Draft Regulation

Section 23 of the Draft Regulation slightly modifies section 47 of the SPP Regulation, which reads as follows (underlined text is introduced by the amendment):

47. Unless the application for partition or for execution of the transfer is a joint application, the pension committee must, upon receipt, send the applicant's spouse a written notice informing him or her of the amount that would be granted to the spouse based on the application.

It seems to us that the amendment should rather be: “... *informing him or her of the amount that would be granted the member's spouse based on the application*”. If the application is made by the spouse, then the administrator should then inform the member of the amount that would be granted to him or her as the spouse of the applicant.

b) Section 42 (6) of the Draft Regulation

Paragraph 3 states: “(3) *the most recent degree of solvency determined at the date of the statement.*” As we understand it, the date of a statement is the date on which the benefits of the member or beneficiary are determined. In such case, it would be the annual statement issued to an inactive member, i.e. typically a statement dated December 31st. We understand that the intention is that the last degree of solvency reported to Retraite Québec at the time the statement is prepared be included in the statement in order to provide the most up-to-date information possible to the member. To avoid confusion, we suggest that the requirement be worded as follows: “(3) *at the date the statement is issued, the degree of solvency most recently provided to Retraite Québec.*”

c) Section 55 of the Draft Regulation

The annual statement sent to a beneficiary (section 59.0.1) must include the index or rate used for the indexation of the pension benefit. This is curiously not required for the annual statement sent to a retired member. Retraite Québec had indicated that the Draft Regulation would include a provision to correct this deficiency. However, this correction appears to have been omitted.

d) Section 55 of the Draft Regulation

There is a small typo in the French version of paragraph 2° of the 2nd paragraph of new section 67.3.13.: the “du” should be an “ou”: “2° *la mention de la possibilité ou non de maintenir les droits du participant ou bénéficiaire dans le régime;*”.

We note that the English text of this same paragraph reads: “*a mention whether or not it is possible to maintain the beneficiary's benefits in the plan;*” which differs from the French text. In accordance with our suggestion to amend the French text and to ensure that both versions have the same meaning, we recommend that “*member's or*” be inserted before “*beneficiary's*” in the English text.

e) Section 14 (3) of the Draft Regulation

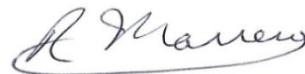
Paragraphs (a) and (b) are missing the second “r” in the word “*paragraphe*” in the French version.

As always, we offer our assistance in upcoming pension initiatives.

Sincerely,



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Chair of the Québec Regional Council
ACPM



Ric Marrero
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cc. Sonia Potvin, Retraite Québec
Stéphane Gamache, Retraite Québec
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