



Pension Investment
Association of Canada

Association canadienne des
gestionnaires de caisses de retraite

February 27, 2009

The Honourable Dwight Duncan
Minister of Finance and Chair of Management Board of Cabinet
Government of Ontario
Attention: Comments on Report of the Expert Commission on Pensions
c/o Pension and Income Security Policy Branch
5th Floor, Frost Building South
7 Queen's Park Crescent
Toronto, ON M7A 1Y7
Pension.Feedback@ontario.ca

Dear Minister,

The purpose of this letter is to express the Pension Investment Association of Canada's ("PIAC") comments on the report issued by the Ontario Expert Commission on Pensions ("the Commission").

PIAC has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over \$940 billion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

PIAC commends the Commission for addressing several recommendations that had been brought forward in PIAC's submission to the Commission, including the solvency funding recommendations, use of letters of credit, encouraging the Federal government to amend the Income Tax Act to allow plan sponsors to make contributions beyond the current 110% limit, clarifying rules on mergers, splits, and partial wind-ups, as well as recognizing the need to better harmonize pension law across Canada.

However, PIAC also has a number of concerns about the Commission's report as summarized below:

- While the asymmetry in the rules regarding surplus entitlement has been partially addressed by encouraging joint governance, PIAC believes that this falls short of our expectations of addressing this issue for all types of pension plan designs, including Single Employer Pension Plans. We are disappointed that there was not more that could be done to recognize the needs of these types of plans, especially when coverage is such a big issue in Ontario and in the country as a whole.

- While the Commission is to be commended for helping JSPPs by recommending that they not be required to fund solvency deficits, PIAC's impression is that the overall thrust of the report is to encourage jointly sponsored plans, multi-employer pension plans, and target benefit plans. Single-Employer Pension Plans (SEPP's) appear to be particularly disadvantaged, in that they do not receive the funding relief that are recommended for other types of plans, but are still subject to the 5% cushion. The Commission's report does not do much to encourage sponsors of SEPP's to continue them, or to otherwise address the sustainability of the SEPP model.

- We are encouraged by the Commission's recommendations in favour of removing the quantitative investment restrictions on pension fund investing. PIAC and the Canadian pension industry have repeatedly asked that all the quantitative investment restrictions (including the 5,15,25 restrictions on Canadian resource and real estate, the 10% single issuer/investment restriction and the 30% restriction on the exercise of corporate voting rights) be replaced by a prudent person standard. Both the Joint Expert Panel on Pension Standards in Alberta and British Columbia and the Nova Scotia Pension Review Panel are recommending that investment standards should be uncoupled from the federal regulation to remove quantitative restrictions on investment and increase reliance on the prudent investor principle.

- We are concerned with the limitations to the removal of the quantitative investment restrictions introduced by the Commission's recommendation 8.8. We do not believe that these limitations are necessary as the prudent person principle reflected in section 22 of the PBA, various reporting requirements required by the PBA and the role of the Financial Services Commission of Ontario in monitoring the pension industry, provide sufficient oversight for all plans.

- We are disappointed that the Commission recommends increasing benefits under the Pension Benefit Guarantee Fund (PBGF). It is PIAC's view, which had been submitted to the Commission, that the PBGF should be eliminated. Such insurance may encourage plans to take excessive risks. The Minister should refer to other provincial expert commissions that did not recommend a PBGF.

- With respect to governance, funding and investment policies, including socially responsible investment practices, PIAC's view is that such policies should be disclosed on request to plan members, but should not be required to be filed with the regulator.

Further, we would encourage the Minister to take note of the following recommendations in the report of the Joint Expert Panel on Pension Standards of Alberta and British Columbia that in PIAC's opinion merit serious consideration:

- That plan fiduciaries be provided a statutory defence if they can demonstrate that they have adhered to the governance guidelines and have acted in good faith, on an informed basis, in the interests of the beneficiaries, and in the absence of conflicts of interest;

- That pension plan sponsors be allowed to contribute funds in excess of those required on a going-concern basis to a separate fund (a “pension security fund”) from which amounts in excess of the calculated “wind-up basis”, after building in a reasonable margin, could be withdrawn by the sponsor;
- That surplus ownership issues be “ring fenced” by allowing pension plan sponsors to freeze existing plans, thereby preserving any existing entitlements to surplus and ensuring that accrued rights such as vesting continue, and to start new plans whose terms and conditions with respect to surplus entitlements would be clearly set out;
- That irrevocable letters of credit continue to be allowed to cover solvency deficiencies, as is currently allowed in both provinces;
- That the provincial governments encourage the federal government to increase the limit on surplus that can be held in a pension plan to at least 125 percent of liabilities on a going-concern basis; and
- That the provincial governments work toward national harmonization by championing the establishment of a national council of ministers responsible for pensions that would have a mandate to consider the viability of harmonized or uniform pension standards regulation across the country and a single national regulator.

PIAC urges the Minister to take these comments into consideration as the Commission’s recommendations are taken forward through the legislative process.

Yours truly,



Gayle McDade
Chair