REGULATORY REFORM FOR TARGET BENEFIT MULTI-EMPLOYER PENSION PLANS

A Consultation Paper

Ministry of Finance
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Ontario

Contents

Introduction

The 2015 Budget outlined the government's plan to strengthen the retirement income system for all Ontarians, by creating the Ontario Retirement Pension Plan, helping Ontarians better manage their self-directed retirement savings, and strengthening and modernizing workplace pension plans. As part of this strategy, the government committed to:

- Consult on a regulatory framework for target benefit multi-employer pension plans (MEPPs) with a view to introducing a framework that sets out eligibility conditions, funding rules and governance requirements, and
- Use feedback from these consultations to help in subsequently developing a framework for target benefit single-employer pension plans (SEPPs).

The purpose of this paper is to discuss and solicit feedback on the key policy issues associated with the development of a new target benefit framework for MEPPs in Ontario. Several proposals are described to illustrate how a new regulatory framework for Ontario could work.

How to Participate

The Ministry of Finance is seeking feedback from all interested parties on how best to implement a target benefit MEPP framework in Ontario. This consultation process will help inform the development of Ontario's target benefit MEPP framework and subsequent target benefit SEPP framework.

While some parts of this paper are of a more technical nature, comments of any level of detail are welcome.

Feedback on issues relating to target benefit MEPPs, as well as comments on target benefits more generally, can be submitted to pension.feedback@ontario.ca or mailed to:

Framework for Target Benefit MEPPs
Pension Initiatives Unit, Pension Policy Branch
Ministry of Finance
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Submissions must be received by September 25, 2015.

Structure of the Consultation Paper

This consultation paper provides background on the pension landscape in Ontario and is broken into seven sections discussing potential reforms required to implement a target benefit MEPP framework in Ontario.

- Sections 1 to 6 address key aspects of a potential target benefit MEPP framework, including funding, governance, disclosure requirements, regulatory oversight, multi-jurisdictional issues and transition provisions. These sections focus on developing a new target benefit MEPP framework for plans that currently are specified Ontario multi-employer pension plans (SOMEPPs). Each section provides an overview of the issue, outlines proposals for consideration, and solicits feedback on specific questions.
- Section 7 sets out a brief discussion of issues relating to how a target benefit framework could apply to pension plans that do not satisfy the SOMEPP criteria. Issues raised include the feasibility of non-collectively bargained target benefit MEPPs and requirements for a framework for target benefit SEPPs.

Types of Pension Plans in Ontario

Pension plans are classified as either SEPPs or MEPPs, depending on the number of employers participating in the plan. If all members of a pension plan work for one employer, the plan is referred to as a SEPP. Members of MEPPs are employed by one of two or more non-affiliated employers who contribute to the MEPP.

MEPPs and SEPPs can either be contributory (both employees and employers contribute) or non-contributory (only employers contribute).

Generally, in Ontario, MEPPs are established pursuant to either a collective bargaining agreement or a trust agreement and are administered by a board of trustees, at least half of which must be comprised of representatives of plan members. In SEPPs, accrued benefits cannot be reduced. However, if a MEPP is established by a collective agreement or trust agreement, accrued benefits can be reduced by the board of trustees unless prohibited by the plan. Employer required contributions rates that are fixed in collective agreements cannot be changed by the board of trustees.

There are many different categories of individuals who may be entitled to a benefit from a pension plan, such as members currently employed, former members not yet retired, retired members and others such as survivors of retired members. This paper will use the term "plan participants" to refer to all those entitled to a benefit from a pension plan.

Types of Pension Benefits in Ontario

Ontario's Pension Benefits Act (PBA) currently classifies pension benefits into two broad categories.

1. Defined benefit pension plans are designed to provide plan members with a monthly pension throughout their retirement years that is determined by a formula set out in the plan. A plan member's pension benefit is usually based on how long the member works and possibly other factors, such as the member's salary. For example, a member in a defined benefit plan might accrue a pension of $50 per month for each year of service. This means that a member retiring after working for 30 years would receive a pension of $1,500 per month, or $18,000 per year.

   Because defined benefit pension plans provide a specific pension to members after they retire, contributions to the pension fund must be calculated by an actuary in order to determine the contributions likely required to provide the benefits promised. Administrators of defined benefit pension plans are required to file valuation reports prepared by an actuary periodically with the Superintendent of Financial Services, the pension regulator in Ontario. In general, day-to-day responsibility for regulating pensions has been delegated to the Financial Services Commission of Ontario (FSCO).

   The PBA requires defined benefit plans to have sufficient funds to finance the benefits that will be paid out in the future. Contributions must be made to fund the plan's normal cost, which is the ongoing cost to fund the benefits members are accruing. However, if an actuary prepares a report that finds that the initial contributions are not sufficient, additional contributions, known as special payments, are required to eliminate any funding shortfall.

   There are two types of funding valuations used to determine if a defined benefit pension plan is sufficiently funded.

   - The first, called going concern funding, assumes that the pension plan is in place indefinitely. Consequently, to calculate going concern funding requirements, an actuary selects an interest rate for the pension fund based on an assumed long-term average return. The plan's normal cost is calculated on this basis, and any funding deficiencies must be eliminated through payments made over a period of 15 years.

   - The second funding valuation, called solvency funding, is intended to calculate the funding required to pay for all benefits if the plan were to wind up on the valuation date, with any funding deficiencies to be eliminated through payments made over five years. To determine solvency funding requirements, an actuary must use interest rates based on current Government of Canada bonds.

   Defined benefits plans do not establish separate accounts for participants, but rather pool all contributions into a single fund that is used to provide benefits to all plan members. As a result, defined benefit plans pool longevity risk, which is the risk that a retiree may outlive his or her retirement savings. Defined benefit plans also pool investment risk among all members.

In Ontario, with few exceptions, members of defined benefit SEPPs are partially protected by the Pension Benefits Guarantee Fund (PBGF), which is intended to ensure that a minimum pension benefit level will be paid to members in the event of employer insolvency. The PBGF is administered by the regulator and is funded by assessments paid by employers sponsoring covered plans. No other jurisdiction in Canada has an equivalent program to the PBGF. In general, the PBGF protects the first $1,000 of a retiree's monthly pension. MEPPs are not covered by the PBGF.

Each year, FSCO releases a report on the funding of defined benefit pension plans, which includes funding, investment and actuarial information related to defined benefit SEPPs and MEPPs registered in Ontario. Further information on DB pension plans can be found in FSCO's latest report.

2. Defined contribution pension plans provide each plan member with an individual investment account, and a member's retirement income is determined by total contributions made into the account and any investment returns. Plans may offer members a choice of investment options, but this is not required. Plan funds are pooled for members who choose the same investment, but longevity risk is not pooled. While no specific monthly pension is paid to retirees, the advantage of defined contribution plans is that employer and employee contribution rates are known in advance as specified in the plan.

   Under Canada Revenue Agency requirements, employers are required to contribute at least 1% each year of total pensionable earnings of active employees participating in the plan. Because defined contribution plan members are only entitled to benefits that can be provided by their individual account, many of the requirements in the PBA are directed at defined benefit plans. Most significantly, defined contribution plans are not subject to any funding obligations outlined above for defined benefit plans.

   The retirement income generated by a defined contribution plan depends on each member's account balance. Under the PBA, retiring members of defined contribution plans have the option on retirement to either purchase an annuity or transfer this amount to a life income fund (LIF).

   - At current annuity rates, a 65-year-old retiring member with a balance of $325,000 could purchase an annuity paying about $1,500 per month for life.
   - Alternatively, transferring the $325,000 to a LIF would allow the member to make withdrawals subject to minimum amounts specified by the federal *Income Tax Act* and maximum amounts specified under the PBA. The minimum and maximum amounts depend on the retiree's age; the maximum amount also may vary with interest rates.
     - The maximum amount that a 65-year-old LIF holder could withdraw in 2015 is about 7.4% of the account balance at the start of the year. For an account with $325,000, the 65-year-old could withdraw a maximum of about $24,000, or $2,000 each month. However, unlike a retiree who has purchased an annuity, a LIF holder would have no guarantee that the LIF would not run out of money in retirement.

The government intends to introduce regulations that would allow defined contribution plans to provide “variable benefits” at age 65, which are payments directly from the pension plan that are similar to those that a LIF could provide.

Target Benefit Pension Plans in Ontario

Some MEPPs in Ontario that allow accrued benefits to be reduced are sometimes referred to as “target benefit MEPPs”. These MEPPs are established by a collective agreement or a trust agreement and provide a pension based on a formula; as such, they are considered to be defined benefit plans under the current PBA.

Unlike other defined benefit plans, the PBA allows these plans to have provisions that could reduce accrued benefits. In many of these plans, employer contributions are fixed as specified in one or more collective agreements, so accrued benefits may be reduced in order to satisfy funding requirements. As a result, retirees’ pensions may be less than what the benefit formula indicated before retirement. In addition, these benefits are not covered by the PBGF in the event of employer insolvency.

Since target benefit MEPPs are classified as defined benefit pension plans, they generally must satisfy the same going concern and solvency funding requirements as other defined benefit plans.

Recent Changes Affecting Target Benefit MEPPs

In 2007, the government enacted a temporary exemption from solvency funding requirements for SOMEPPs. A MEPP may elect to become SOMEPP if it satisfies several criteria, as laid out in s. 6.0.2 of Regulation 909 under the PBA. Some of these criteria are intended to help restrict the SOMEPP designation to MEPPs with a lower risk of winding up. For example, SOMEPPs must have at least 15 contributing employers, so failure of one employer would be less likely to cause the plan to fail. The temporary solvency funding exemption provided for SOMEPPs expires on August 31, 2017.

In 2008, the Expert Commission on Pensions, chaired by former York University President Harry Arthurs, issued its report, *A Fine Balance* (the Report), which laid out a comprehensive blueprint for reform of defined benefit plans in Ontario. Because target benefits MEPPs are classified as defined benefit plans, the Expert Commission’s report included recommendations for target benefit MEPPs. Specifically, the Report recommended that the government establish a comprehensive framework for MEPPs, based on the regulations for SOMEPPs, and that MEPPs should be required to fund only according to going concern valuations (A Fine Balance, Recommendations 4-9 and 4-10, p. 70).

Building on the Report's recommendations, a regulatory framework for target benefit MEPPs was first proposed by the government in an [August 24, 2010, Technical Backgrounder] (the 2010 Technical Backgrounder). The proposed framework was broadly consistent with the Expert Commission's recommendations and included the following elements:

- An exemption from solvency funding;
- Some or all of the conditions already established for SOMEPPs;
- A mechanism to reduce accrued benefits when needed to satisfy funding requirements;
- Retired member representation in plan governance and enhanced disclosure to members and retired members;
- All members to be employed in a jurisdiction where the plan was eligible for a permanent solvency funding exemption;
- An asset distribution process when the plan is underfunded on full wind up; and
- No PBGF coverage, as is the case currently for MEPPs.

Subsequently, Bill 120, the *Securing Pension Benefits Now and for the Future Act, 2010*, amended Ontario's PBA to add a definition to differentiate target benefit pensions from defined benefit pensions and defined contribution pensions. Although not yet in force, section 39.2(1) of the PBA defines target benefits and requires that:

- Employer contributions must be a fixed amount set out in one or more collective agreements; and
- Under the terms of the plan, the administrator of a target benefit plan must be able to reduce accrued benefits while the plan is ongoing and upon wind up, and this ability must not be restricted by a collective agreement or by pension legislation in another jurisdiction.

The PBA provides that other criteria may also be specified in regulations.

In addition, section 14 (3.1) (also not yet in force) of the PBA would explicitly allow target benefit plans to reduce accrued benefits, including retired members' pensions or vested benefits of current workers and former workers not yet retired.

Proclamation of sections 14 (3.1) and 39.2 is expected to coincide with the implementation of a target benefit MEPP regulatory framework.

Approach and Key Principles

This consultation paper focuses on issues the government will consider when preparing regulations to recognize target benefit MEPPs formally and in enacting the legislative provisions for these plans.

This paper relies on the Expert Commission's recommendations as well as proposals in the 2010 Technical Backgrounder that the government establish a framework for target benefit MEPPs. Consistent with those documents, this paper uses the current regulations for SOMEPPs as the basis for the proposed target benefit MEPP framework.

The paper also reflects key principles that are considered to be important in ensuring the soundness of any regulatory approach. Specifically, the principles are::

- Maintain the integrity of target benefit plans by reducing the risk of benefit reductions;
- Promote transparency to ensure plan participants understand how their respective plans are governed and operated;
- Provide even-handed treatment of plan participants, particularly when benefits need to be reduced;
- Prevent the costs of operating target benefit plans from outweighing the benefits; and
- Provide flexibility for plan administrators to make decisions that are appropriate for the specific needs of individual plans.

These key principles are broadly consistent with the recommendations of the Expert Commission. While the Expert Commission's recommendations outlined key elements of a target benefit MEPP framework, it necessarily left many details for further consultation. This paper also goes beyond the recommendations of the Expert Commission to propose additional details in order to provide a comprehensive picture of Ontario's proposed framework for target benefits MEPPs.

Question

1.1. In addition to the principles outlined above, what other principles are important to consider when developing a regulatory framework for target benefit MEPPs?

1. Funding

As highlighted by the Expert Commission in *A Fine Balance*, a solvency funding exemption must be supported by other measures to help manage risk in pension plans:

> *[i]f MEPPs are to be given a standing exemption from solvency funding, as they request and I propose below, they must be willing to do two things. First, they must acknowledge that they are accepting greater risks by abandoning solvency funding and ensure that their members are well aware of this fact. Second, they must initiate reforms in their governance arrangements that will ensure greater transparency in risk management, greater accountability by plan administrators, and greater influence by beneficiaries over decisions being made on their behalf in this new, riskier atmosphere. (p. 69, A Fine Balance)*

An important guiding principle of any new regulatory framework for target benefit MEPPs is to maintain the integrity of the target benefit plan by reducing the risk of benefit reductions. Building on the Expert Commission's recommendations, a funding framework for target benefit MEPPs is discussed in this section based on strengthened going concern funding requirements and a permanent solvency funding exemption. Other key elements discussed in subsections below include:

- Regulation of surplus in an ongoing target benefit MEPP and the establishment of a funding reserve, also referred to as a provision for adverse deviations (PfAD);
- How to determine benefits paid when a member terminates participation in a plan and when a plan is wound up;
- Minimum employer contributions (see Section, Minimum Employer Cost ("50% Rule") below); and
- Appropriate actuarial assumptions.

Unless otherwise specified in this section, "liabilities" refers to the going concern liabilities of the plan, calculated on a strengthened basis as described below.

A Permanent Solvency Funding Exemption

As outlined earlier, the PBA requires defined benefit pension plans to satisfy both going concern and solvency funding requirements. Consistent with the Expert Commission's recommendations, the 2010 Technical Backgrounder and the rules for SOMEPPs, Ontario's target benefit MEPP framework would provide these plans with a permanent exemption from solvency funding requirements. This exemption would be accompanied by strengthened going concern funding requirements, as discussed below, building on the Expert Commission's recommendation that following consultation, a comprehensive legislative and regulatory framework relating to funding, regulation and governance be developed for target benefit MEPPs (see Recommendations 4-9 and 4-10, p. 70).

Solvency valuations, however, provide additional information to FSCO and plan participants. In keeping with Recommendation 4-10 of the Expert Commission, target benefit MEPPs would continue to be required to provide solvency valuations in all filed valuation reports. The solvency valuation would assume that benefits could not be reduced, and apply the same methods and assumptions used for defined benefit solvency valuations. Among other things, this information would give plan participants an idea of how well-funded their pensions are in the event of wind-up. This requirement is also consistent with the treatment of certain specific pension plans which are already exempt from solvency funding requirements.[1]

Funding Requirements

Provision for Adverse Deviations (PfAD) – A Funding Reserve

In the context of a regulatory framework, a PfAD is a required asset amount in excess of a plan's liabilities that must be funded before the plan may take action that could weaken the plan's funded position, e.g., improve benefits. It is sometimes referred to as a "cushion" or reserve. A PfAD is typically expressed as a percentage of a plan's liabilities.

In a new target benefit MEPP framework, a PfAD could be used to:

- Manage funding risks that would otherwise be managed in a defined benefit pension plan by solvency funding requirements;
- Help to reduce the risk of benefit reductions after unanticipated events such as sudden significant investment losses; and
- Protect the integrity of the target benefit by requiring a plan to be more than fully funded before allowing any action that could weaken its funded position, e.g., reducing contributions or increasing benefits.

In January 2013, the Canadian Institute of Actuaries (CIA) released a research paper[2] aimed at assisting actuaries in determining the appropriate PfAD for a plan. The paper concluded that a larger PfAD is required to provide greater protection to a plan for a longer period of time. It also noted that plans with riskier investment portfolios require a larger PfAD than plans with more conservative portfolios. For example, a PfAD of 5-10% may be appropriate for a plan invested primarily in long-term government bonds, which are low risk investments, assuming an objective of reducing the likelihood of benefit reductions for three years. By contrast, the paper found that a PfAD of more than 40% could be required for a plan invested primarily in equities (i.e., stocks), assuming an objective of reducing the likelihood of benefit reductions for 15 years.

[1] Certain specific "jointly sponsored" pension plans have been permanently exempted from solvency funding requirements; see s. 1.3.1 (3) of the Regulation 909, the general regulation under the PBA.

[2] "Provisions for Adverse Deviations in Going Concern Actuarial Valuations of Defined Benefit Pension Plans", January 2013, available at http://www.cia-ica.ca/docs/default-source/2013/213002e.pdf?sfvrsn=0

With this in mind, a new Ontario target benefit framework could specify how a target benefit MEPP would calculate its PfAD based on the following:

- Asset mix and liabilities (e.g., more equities could increase the PfAD);
- The benefit formula (e.g., a final average plan may require a larger PfAD than a flat benefit plan);
- Plan maturity and demographics; and
- The plan's interest rate assumptions (e.g., the PfAD could be increased if an aggressive rate of return is assumed).

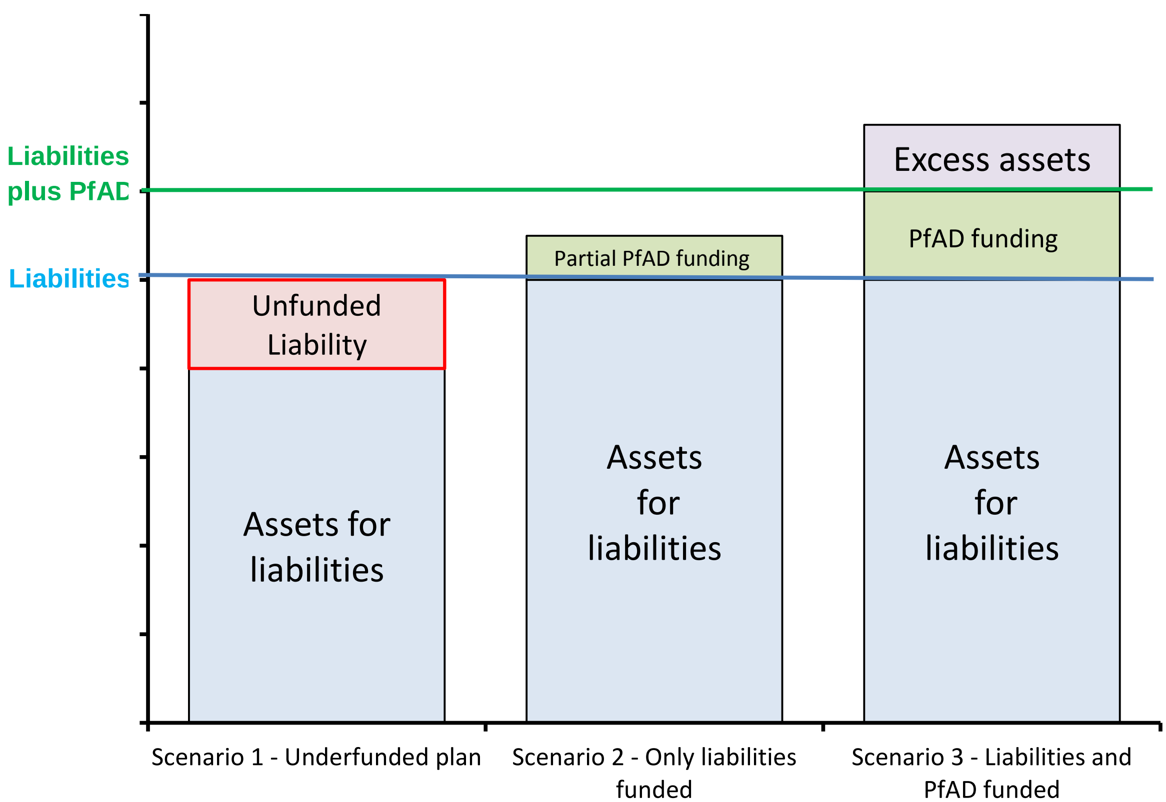
Application of the PfAD

Using a PfAD, a pension plan's assets would be divided into three categories:

1) Assets for liabilities – Where a target benefit MEPP's assets are less than its liabilities, the plan would have an unfunded liability (see Scenario 1 below).

2) Assets that fund the PfAD – Where a target benefit MEPP's assets cover all of the plan's liabilities, assets would go towards the funding reserve (see Scenario 2 below).

3) Excess assets – Where a target benefit MEPP's assets are in excess of the plan's liabilities and PfAD (see Scenario 3 below).



Consistent with the key principle of maintaining the integrity of the target benefit by reducing the risk of benefit reductions, in an ongoing target benefit MEPP, excess assets would not be considered surplus funds and could not be withdrawn from the plan.

To strengthen going concern funding, the PfAD could be used to help determine eligibility for certain actions that may affect plan funding, as detailed below.

1. Triennial Filing of Valuation Reports

The application of the PfAD could be used to determine the frequency of filing, balancing the value of timely financial information and the cost of preparing and filing valuation reports. For example, a target benefit MEPP could be required to file annual valuations if its assets were less than its liabilities plus its PfAD; otherwise, the plan could file valuation reports once every three years. As a result, a plan in a strong financial position may avoid the cost and administrative burden of preparing an annual valuation report.

2. Reversal of Benefit Reductions

The PfAD would also be used to determine the circumstances under which previous benefit reductions could be reversed.

For example, a target benefit MEPP paying reduced benefits could reverse reductions for future pension payments if the plan has excess assets (see Scenario 3 above) when the liabilities and PfAD are calculated based on the reduced benefits. In addition, only a portion of the excess assets could be used to fund reversals of benefit reductions (e.g., only one fifth of the excess could be used in a year). In this way, reductions could be reversed completely only if the plan was able to demonstrate over a number of years that it was able to afford the benefits.

3. Benefit Improvements

The SOMEPP regulations require that a benefit improvement be funded over no more than eight years if the improvement would leave the plan less than 80 per cent funded on a wind up basis or less than 90 per cent funded on a going concern basis. Because target benefit MEPPs are envisioned to be exempt from solvency funding, the 2010 Technical Backgrounder proposed that if a target benefit MEPP makes a benefit improvement that would leave it less than 85 per cent funded on a going concern basis, it would be required to fund that improvement over no more than five years. However, since the PfAD is a reserve intended to be drawn on when the plan experiences losses, such as poor investment returns, benefit improvements could be restricted to plans whose PfAD is fully funded and thus have excess assets. This would be consistent with the key principle of maintaining the integrity of the target benefit pension.

To protect accrued benefits and reduce the risk of future benefit reductions, additional conditions could be put on the amount of excess assets needed to make benefit improvements of this nature. For example, providing additional benefits could be allowed only if the benefit improvements made in one year can be funded by, at most, one fifth of the excess assets.

4. Decreasing Contributions (“Contribution Holidays”)

In a defined benefit plan with an actuarial surplus, the employer sponsor may be allowed to temporarily reduce or eliminate contributions to the plan by allocating some of the surplus to satisfy contribution requirements. This is commonly referred to as a “contribution holiday”.

In a target benefit MEPP, contributions would be fixed in one or more collective agreements and, therefore, would have to be made regardless of the funded position of the plan. The funding rules would establish a test to show that the fixed contributions are sufficient to fund the plan’s benefits (see next subsection, “The Test for Sufficiency of Contributions”). It may be possible for a plan to take a kind of contribution holiday if the plan has excess assets (see Scenario 3). For example, the sufficiency test could be satisfied by a combination of the negotiated fixed contributions and excess assets, not just the contributions alone.

Conditions could also be established to require that previous benefit reductions must be reversed before a contribution holiday may be taken.

Questions

1.1. How should a plan’s PfAD be calculated? What aspects of the plan (e.g., plan maturity and demographics) should determine the PfAD, and how much weight should be given to each factor?

1.2. How frequently should target benefit MEPPs file valuation reports? Do triennial valuations for a well-funded target benefit MEPP provide sufficient disclosure to plan participants?

1.3. What limits should there be on uses of excess assets? Should there be a required order of priority for using excess assets (e.g., previously reduced benefits must be restored before additional benefit improvements can be made or a contribution holiday is taken)?

1.4. Should a plan be required to maintain a funding reserve larger than the PfAD after making a benefit improvement?

1.5. If employees are making contributions, should there be a requirement that members share contribution holidays with employers?

1.6. Are there any other funding rules which should be considered to encourage plans to develop a substantial reserve to reduce the risk of benefit reductions?

The Test for Sufficiency of Contributions

Currently, an actuarial valuation report filed by a MEPP established by a collective agreement or trust agreement must demonstrate that plan contributions are sufficient to fund the plan's benefits or else set out options that the plan's board of trustees could take to satisfy this condition. In general, the test for sufficiency must be done on both a going concern basis and on a solvency basis. Plans that have elected to be SOMEPPs temporarily are only required to satisfy the test on a going concern basis.

In a new regulatory framework for target benefit MEPPs, if the plan's contributions (fixed in one or more collective agreements) are not sufficient to provide the target benefits, the plan would be required to reduce future benefits, accrued benefits or both. The funding rules for SOMEPPs require that contributions must total at least the sum of:

- The normal cost of the target benefits; and
- Special payments to fund any going concern unfunded liabilities, amortized over 12 years (shorter than the 15 years allowed for other defined benefit plans).

Consistent with the recommendations of the Expert Commission, funding rules for target benefit MEPPs could be based on these rules, but strengthened so as to protect the integrity of the target benefit. Contributions could be considered sufficient if they totaled at least the sum of:

- the SOMEPP required contributions; plus
- an additional amount to fund the PfAD on the normal cost.

Timeliness of Benefit Reductions

Target benefit MEPPs are designed to be able to meet funding requirements through benefit reductions. As a result, a target benefit MEPP framework must:

- Contain provisions which ensure benefits (accrued and future) are reduced when funding is insufficient to provide the target benefit; and
- Provide for "intergenerational equity" by spreading the risks among all plan participants– no one group (members, retired members or former members) should disproportionately bear the benefit reductions necessary to eliminate any unfunded liabilities.

Any framework must ensure that timely action is taken to ensure funding is sufficient in target benefit MEPPs. In cases in which other measures are not taken to address a funding issue, the framework could provide a process for reducing plan benefits or clear timelines within which benefits must be reduced. This could help to protect benefits of active members from larger reductions at a later date, while taking into account the effect of a reduction in retired members' pensions.

In addition, each target benefit MEPP would be required to establish a funding policy (see Section 2, Governance) detailing how the plan would implement benefit reductions when necessary to satisfy funding requirements.

Questions

1.7. Should special payments for going concern unfunded liabilities be amortized over 12 years, or a different period of time, e.g., 10 years?

1.8. Should new funding rules for target benefit MEPPs differ from the funding rules for SOMEPPs in ways different from the description above? How would these changes help promote benefit security?

1.9. How should the regulations ensure that target benefit MEPPs reduce benefits in a timely way when needed to meet funding requirements? For example, should the regulations include a default method for reducing benefits?

1.10. To guide target benefit MEPPs in developing funding policies, should the regulations establish a priority sequence for which benefits should be reduced?

Lump Sum Values and Entitlements on Wind-up

As outlined earlier, solvency funding requirements are intended to ensure that benefits are fully funded in the event that the pension plan winds up. They also help ensure that defined benefit plans fund the lump sum value of an individual's entitlement that may be paid if an individual's membership is terminated while the plan is ongoing.

Given that target benefit MEPPs would be exempt from solvency funding requirements, a different method of determining plan participants' benefit entitlements on wind up or termination of membership in a plan may be needed.

Lump Sum Values on Termination

In a defined benefit plan, a member is entitled to transfer the full commuted value of his or her deferred pension upon termination of membership, although the commuted value may be transferred within 5 years of the date of the initial transfer if the plan is underfunded at the time of termination. In a target benefit MEPP framework, the calculation of commuted values for lump sums should recognize the funded position of the plan, consistent with how benefits are funded. PBA amendments in Bill 120 allow regulations to specify how commuted values can be reduced.

If the plan is not fully funded at the time membership in a target benefit MEPP is terminated (see Scenario 1 above), a member would only receive the funded portion of his or her commuted value. Alternatively, if the plan's liabilities were fully funded (see Scenarios 2 and 3 above) at the time of the member's termination, a member would be provided with his or her full lump sum value. The member would not be entitled to further assets, consistent with the key principle of preserving the integrity of the target benefit.

In defined benefit plans, lump sum values are based on the CIA's commuted value standard, which is also used to help determine solvency funded levels. The 2010 Technical Backgrounder proposed that commuted values in target benefit plans would be calculated according to the CIA standard, but reduced to the greater of the going concern funded ratio or the "transfer ratio" (i.e., the wind up ratio on a solvency basis). This approach recognizes that the CIA standard is an accepted method for calculating lump sum values.

An alternative approach would be to calculate the commuted value according to going concern assumptions. If the plan is less than fully funded, the commuted value would be multiplied by the going concern funded ratio. Reducing the benefit in this way would be consistent with the funding of target benefit MEPPs if funding obligations are based on going concern requirements (as described in this section).

To ensure that these transfer amounts reflect the funded position of the plan, target benefit MEPPs could also be required to periodically update their funded positions between valuations, based on actuarial estimates.

Questions

1.11. Should lump sum values paid from target benefit MEPPs be calculated using the CIA commuted value standards or using the plan's going concern assumptions? Should lump sum values be reduced to reflect the funded ratio of the plan, and if so, how?

1.12. Given plan participants of a target benefit MEPP could only be entitled to receive a commuted value that reflects the funded status of the plan on termination of membership, should target benefit MEPPs be required to file periodic updates on their funded position (e.g., every 3 months) to ensure that commuted value transfers better reflect the funded position of the plan at the time of transfer?

Wind up Entitlements

MEPPs have typically been much less likely to wind up than SEPPs, largely because MEPPs can often continue even if one participating employer fails or ceases to participate in the plan. Nonetheless, wind up entitlements need to be specified, not only for the infrequent occasions when they will be used, but to help determine funding rules needed to provide those entitlements.

Upon the wind up of a defined benefit plan, members and former members are entitled to choose to transfer the commuted value of their benefits to a locked-in retirement savings arrangement, such as a locked-in retirement account (LIRA) or a Life Income Fund (LIF). They may also choose to use the commuted value to purchase an annuity from an insurance company or to transfer the funds to another pension plan, if permitted under the terms of that plan. In addition, annuities must be purchased for retired members so that they continue to receive the income formerly provided by their pensions. Solvency funding rules are intended, among other things, to ensure the plan has the funds necessary to purchase annuities for retired members on wind up.

Wind up entitlements for participants of TB MEPPs could be changed to recognize that these plans are not funded on a wind up basis. For example, it may be important that retired members be given the same options as members and former members in a defined benefit plan, since annuities purchased for retired members from the funds available on wind up of a target benefit MEPP may provide smaller monthly payments than those they received before the wind up.

Also, since no further funds beyond the plan's fixed contributions would be paid into a target benefit MEPP on wind up in order to fund benefits, wind up entitlements would need to be defined relative to the assets in the fund.

One method of determining the value of entitlements would be to provide each individual with a pro-rata share of the plan's assets, based on the liabilities of the individual's benefits. The liabilities could be calculated using the going concern actuarial assumptions in the plan's last filed valuation before the wind up date. This approach would result in all plan assets being distributed to the plan participants. No surplus assets would revert to the employers, recognizing the increased risks to plan participants' benefits both during the life of the plan as well as on wind up of the plan (e.g., the loss of investment and longevity risk pooling).

Questions

1.13. What options for entitlements should different plan participants have when a target benefit MEPP winds up?

1.14. How should the value of entitlements of plan participants be determined when a target benefit MEPP winds up?

Minimum Employer Cost ("50% rule")

Since 1987, defined benefit plans have been subject to the "50% rule", which requires that a member's contributions with interest cannot fund more than 50% of the member's benefit when it is determined at termination or retirement. Any "excess contributions" are refunded to the member. For purposes of this rule, interest on employee contributions can be based on either the fund's rate of return or an average of recent yields on personal 5-year term chartered bank deposits.

By preventing defined benefit pension plans funded predominantly by employee contributions, the 50% rule makes the value of a defined benefit pension clearer and prevents employees' salaries from being used to fund the employer's pension plan disproportionately. It also helps younger members who change employers, since the normal cost for a younger member's pension is much less than for an older member's and both typically contribute the same percentage of salary.

Unproclaimed provisions of the PBA relating to target benefit plans (subsection 39 (4.3)) would continue to require refunds of contributions in target benefit MEPPs under the 50% rule, but would allow refunds to be reduced as prescribed in the regulations. This provision recognizes that payments from target benefit pension plans, including refunds of contributions, may be reduced depending on the funded status of the plan. These refunds on contributions could be reduced in the same way as lump sum values, for example, consistent with the going concern funded ratio of the plan.

Questions

1.15. What adjustments should be made to the "50% rule" for target benefit MEPPs?

1.16. Should other limits be placed on the extent to which member contributions may fund benefits? For example, should there be an explicit requirement that member contributions be required to be limited to, at most, employer contributions?

Appropriate Actuarial Assumptions

Actuaries have considerable discretion when selecting assumptions and methods for calculating the going concern funding requirements of a defined benefit plan. However, actuaries must adhere to CIA standards, which generally require that going concern assumptions be "best estimates" that are neither conservative nor aggressive. More conservative assumptions may be used if required by law or requested by a plan sponsor.

Actuaries have significantly less discretion for solvency valuations, for which the CIA standards and additional guidance notes determine standard assumptions which are generally used. For target benefit MEPPs with a permanent solvency funding exemption, funding may be strengthened by rules that help ensure appropriate actuarial assumptions are used to determine contribution requirements.

In a target benefit MEPP framework, assumptions used for going concern valuations could generally be best estimates, but in some cases could be somewhat more conservative. Additional rules could apply and may include requiring:

- The actuarial value of the assets to be equal to the market value;
- An assumption on projected salary increases for benefits based on final average salary;
- Use of current mortality tables (for example, the recent CPM 2014 tables from the CIA), taking into account future mortality improvements;
- A margin for adverse deviations for the interest rate assumptions (i.e., to be conservative, reduce the interest rate assumption below a best estimate for asset returns); and
- An assumption for expenses paid out of the pension fund.

Consistent with the recommendations of the Expert Commission for a less rules-based regime for target benefit MEPPs, regulations would not place explicit restrictions on the interest rate assumption. However, it is expected that the regulations regarding the calculation of the PfAD would help to ensure that plans are managed prudently. For example, particularly aggressive interest rate assumptions may be discouraged if the effect is that a plan's PfAD is increased. In addition, relevant provisions of the PBA (s. 87(4)) could be proclaimed to provide the regulator with enhanced authority to order a plan administrator to prepare a new valuation report if the assumptions used are inappropriate for the plan.

Questions

1.17. What regulations, if any, are needed regarding actuarial assumptions?

1.18. If target benefit MEPPs reduced their best estimate interest rate assumption by a margin for adverse deviations, should that affect the calculation of the plan's PfAD?

1.19. Under what circumstances should the regulator be able to order the board of trustees of a target benefit MEPP to prepare a new valuation report because of inappropriate assumptions?

2. Governance and Risk Management

In a target benefit MEPP where accrued benefits can be reduced, plan participants bear significant risks which are not borne by plan participants of defined benefit plans. For this reason, the Expert Commission highlighted the importance of reforming governance requirements:

> *[i]f MEPPs are to be given a standing exemption from solvency funding…they must initiate reforms in their governance arrangements that will ensure greater transparency in risk management, greater accountability by plan administrators, and greater influence by beneficiaries over decisions being made on their behalf in this new, riskier atmosphere (p. 69).*

This section discusses possible governance requirements in a new target benefit MEPP framework, including retired member representation on boards of trustees, how stress testing could assist the board of trustees in managing risk, and new standards for policies on plan governance, investment and funding.

Representation on Boards of Trustees

Currently under the PBA, MEPPs are administered by a board of trustees, at least half of which must be comprised of representatives of plan members. Where plan members are represented by one or more unions, as required for SOMEPPs, the unions typically select the member representatives.

A target benefit MEPP framework would continue to require significant member representation on plans' boards of trustees.

Retired members in a target benefit plan may, however, have interests distinct from those of members. For example, reductions in accrued benefits would impact retired members immediately by reducing the payments they receive from the plan. By contrast, a decision to reduce accrued benefits may not impact members until a future date, by which time the benefit reductions may have been reversed. Consistent with the Expert Commission's recommendation (Recommendation 8-30, p. 177) and the 2010 Technical Backgrounder, a target benefit MEPP framework could require retired member representation on plans' boards of trustees.

Similarly, the interests of former members may differ from those of either members or retired members. Although all trustees have the fiduciary duty to consider the interests of all plan participants, changes to the board of trustees may help the plan administrator's decisions be informed by former members' interests.

One challenge with respect to retired member representation is how these representatives would be selected. Retired members are not represented by unions and may not be well organized. Recognizing this, it may be desirable for a target benefit MEPP framework to outline requirements for selecting retired member representatives.

In addition, a target benefit MEPP framework could require MEPPs' boards of trustees to include independent trustees. Apart from being selected jointly by the MEPP sponsors or other trustees, these trustees would not have any connection to the employer or plan participants and could be professionals with experience in governance. Independent trustees may help ensure that interests of all plan participants are taken into account in making decisions, such as reducing accrued benefits to eliminate funding shortfalls. They may also help a board operate efficiently by reducing the possibility of deadlock.

Questions

2.1. Should the PBA continue to require that at least half of the board of trustees of a target benefit MEPP be representatives of plan members?

2.2. Should retired member representation on the board of trustees of a target benefit MEPP be required? How could representatives be selected to ensure retired member representation is effective?

2.3. What measures could be taken to ensure that the board of trustees adequately considers the interests of former members? Should former members have representation on the board of trustees?

2.4. What protections from legal liability, if any, should be given to trustees to encourage members' and retired members' participation in governance?

2.5. Should the proportion of representation on the board of trustees of members, former members and retired members be related to the proportion of liabilities for each group?

2.6. Would independent trustees improve the governance of target benefit MEPPs? If so, how should independent trustees be selected?

Stress Testing

Stress testing is used to evaluate the risks that could arise if future events that affect the plan are different from assumptions made in the plan's valuation report. It is an important component of developing risk mitigation strategies.

Stress testing could be either deterministic or stochastic.

- Deterministic testing looks at the effect of a particular change or changes, e.g., a lower rate of return than assumed, without any assumptions regarding the likelihood of the change(s) taking place.
- In stochastic testing, the likelihood of many different outcomes is calculated based on assumed probabilities of many different possible changes.

Different plans may prefer one type of testing over the other. Stochastic testing may provide more information about risks to some plans. However, it is more expensive and involves more assumptions. While stochastic testing provides a broad overview of the risks, it also puts less emphasis on scenarios that may be unlikely but could pose a significant risk to the plan. Deterministic testing can be used to focus on worst-case scenarios and may be a better tool for some plans to improve and ensure sustainability.

A target benefit MEPP framework could use stress testing as a tool to identify significant risks to a MEPP's target benefit as well as those changes which would better enable the plan to provide a consistent target benefit. For example, stress testing could investigate the risk to the plan if:

- Investment returns are less than expected;
- Plan participants live longer than expected;
- The mix of investments is changed; or
- Participating employers withdraw from the plan.

Stress testing need not be used to determine the plan's contribution requirements.

Stress tests for a target benefit MEPP could be required either when the plan is established or within a certain period, e.g., 3 years of the enactment of the new regulations, and periodically thereafter. Results of the stress tests could be included in the next filed valuation report, which could also indicate what actions, if any, would be taken to manage risks to the plan in the scenarios considered by the stress tests.

Questions

2.7. Should stress testing of target benefit MEPPs be required? For what factors (e.g., investment returns) should the regulations require stress testing?

2.8. If required, how frequently should target benefit MEPPs be required to perform stress testing?

2.9. If required, should the regulations specify whether the plans should perform deterministic or stochastic tests?

2.10. How should target benefit MEPPs be required to use the information provided by stress tests? For example, should the regulation specify what a plan should do to address problems identified in a stress test?

2.11. Should stress tests also be used in determining contribution requirements for target benefit MEPPs?

Written Policies

The Expert Commission also highlighted the importance of having written policies to aid in pension plan governance and recommended that target benefit plans be required to establish and file with FSCO policies relating to governance, investment, and funding (Recommendations 8-22 and 8-7, pp. 173, 161). While these written policies could help in governing any pension plan, they could be an important method of promoting the integrity of target benefits and reducing the risk of benefit reductions. These policies could also provide transparency to plan participants regarding the governance and operation of their plan.

All pension plans are required to establish a Statement of Investment Policies and Procedures (SIP&P) and will be required to file the SIP&P starting in 2016. However, defined benefit and defined contribution plans are not currently obligated to have any other such policies. A new target benefit MEPP framework could require plans to establish governance, investment and funding policies, file them with the regulator, and make them available to those entitled to plan benefits. Considerations regarding the structure of these policies are outlined below.

Governance Policy

As the administrator of pension benefits for plan participants, the board of trustees of a MEPP acts as a fiduciary and, as much as possible, must administer the plan in the best interests of all participants. Also, subsection 22(1) of the PBA states that the plan administrator "shall exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person". In keeping with its fiduciary obligations towards all of the plan participants, the board of trustees of a target benefit MEPP needs to be even-handed in its treatment of benefits for members, former members, retired members and other participants. A governance policy could be helpful in carrying out this obligation, particularly given that accrued benefits may need to be reduced or increased depending on the funded status of the target benefit MEPP.

The Canadian Association of Pension Supervisory Authorities (CAPSA), an interjurisdictional association of pension regulators, has prepared guidelines relating to a number of areas of pension management which are frequently referenced by pension industry experts. Similar to the Expert Commission, CAPSA recommends in its Pension Plan Governance Guidelines that plan administrators establish a policy detailing the roles and responsibilities of those involved in plan governance. Although CAPSA's guidelines are voluntary, they provide general principles for effective governance that plans can adapt to their particular circumstances.

Drawing on the CAPSA guidelines, a target benefit MEPP's governance policy could be required to address the following:

- The roles, responsibilities, and accountability of all participants in the plan governance process, including the process by which members of the board of trustees are selected;
- Governance objectives for the administration of the plan, in particular to ensure that the plan complies with all regulatory requirements, such as filings;

- Performance measures and procedures for monitoring the performance of those who have decision-making authority;
- An internal control framework that addresses the plan's risks, including investment risk and the risk to benefits posed by improper governance; and
- A code of conduct for members of the board of trustees to guide them in carrying out their fiduciary obligations.

The Expert Commission also highlighted that "[b]oth lay and professional participants in the governance process ought to be knowledgeable" (p. 168). While it could be considered part of trustees' fiduciary duty to have sufficient knowledge, the governance policy could also set out the knowledge and skills required to meet governance responsibilities and help ensure that trustees have the necessary qualifications. For example, the governance policy could indicate training that would be required for trustees to help them understand their fiduciary responsibilities.

If the plan documents (e.g., the trust agreement) already address some of the issues which may be required to be documented in a governance policy, the plan could be permitted to file a statement to this effect to ease the filing burden on plans.

Questions

2.12. Should target benefit MEPPs be required to establish a governance policy, and if so, what issues should it address?

2.13. Should the governance policy also outline the roles of delegates, such as external service providers and consultants, with whom the board has contracted to help fulfil governance responsibilities?

2.14. Should filing of governance policies be required? How frequently should reviews of governance policies be required?

2.15. Should a target benefit MEPP framework require all trustees to complete training? If so, what topics should be addressed?

Investment Policy

The SIP&P must satisfy requirements in the federal Pension Benefits Standards Regulation and explain how investment decisions aid the plan in achieving the goal of providing promised benefits to members. Information that must be included in the SIP&P includes:

- Categories of investments and loans, including derivatives, options and futures;
- Diversification of investment portfolio;
- Asset mix and rate of return expectations;

- Liquidity of investments;
- Lending of cash and securities;
- Retention or delegation of voting rights attached to investments;
- Valuation of investments not regularly traded at a public exchange; and
- Related party transactions.

However, as noted in CAPSA's Pension Plan Prudent Investment Practices Guideline (page 8), certain pension plan administrators "may decide to have a broader investment policy including or referencing other documents" beyond the SIP&P. Given the possibility of benefit reductions and increases in a target benefit MEPP, the current SIP&P requirements may need to be augmented to better protect the target benefit pension.

Requiring target benefit MEPPs to have a more detailed investment policy could help reduce the risk of benefit reductions. The investment policy could be required to contain information that could form part of the plan's SIP&P, such as:

- How the investment policy is designed to ensure that the plan's target benefit is provided unreduced;
- How plan demographics are taken into account so that the intergenerational risk-sharing in the plan does not favour any particular generational cohort;
- How the investment policy manages risks to members, retired members, and former members;
- How the plan chooses investment advisors and services as well as how it evaluates their performance; and
- How higher risk investments are managed so that actions to improve returns are balanced with preventing benefit reductions. For example, while equities (e.g., stocks) may provide a higher rate of return over the longer-term than fixed income investments (e.g., bonds), they also carry a greater risk of loss that could trigger a reduction in pensions to retired members.

Questions

2.16. What information not currently required for SIP&Ps should be included in the investment policy for target benefit MEPPs, and why?

2.17. What methods of managing risk and promoting intergenerational equity could be included in an investment policy for a target benefit MEPP?

Funding Policy

A funding policy is an especially important tool for target benefit MEPPs where plan participants' accrued benefits can be reduced. It is intended to establish a framework for funding, demonstrate how the plan's fixed contributions can best deliver benefits and assist the plan in providing a sustainable benefit. Because contribution levels are fixed in a target benefit MEPP, the funding policy would primarily be used to describe how and when benefits would be adjusted based on the funded position of the plan.

The funding policy could specify:

- The contributions to the plan (which may need to be updated as new collective agreements are negotiated);
- The benefits that would be reduced, when necessary, to meet funding requirements (i.e., how benefits of members, former members and retired members are affected in specific situations);
- What stress testing would be conducted as well as the frequency of stress testing and plan valuations, subject to the regulations;
- The circumstances under which the plan would reverse previous benefit reductions or improve benefits, subject to the regulations; and
- How contributions would be reduced when excess assets could be used to take a contribution holiday, subject to the regulations.

The funding policy would also assist plan participants in planning for their retirement years. CAPSA's Pension Plan Funding Policy Guideline notes:

"Having a written summary of the funding policy that is accessible to plan beneficiaries should help to improve the transparency of funding decisions and increase the beneficiaries' understanding of pension funding issues" (p.4).

As such, the target benefit MEPP framework could require that the funding policy be subject to periodic reviews, be made available to plan participants and be filed with the regulator.

Questions

2.18. Should target benefit MEPPs be required to develop a funding policy? If so, what information should funding policies contain?

2.19. Should funding policies and amendments be filed with the regulator?

2.20. How often should the funding policy of a target benefit MEPP be reviewed?

2.21. Should the regulations specify a priority sequence for benefit reductions in target benefit MEPPs to manage concerns such as intergenerational equity?

3. Disclosure of Information

Disclosure of information takes on added significance in a target benefit plan. Plan participants must be provided with sufficient information to understand their benefit entitlement, highlighting the risk that future and accrued benefits may be reduced. Timely and clear communication may also encourage plan participants to be engaged with their plans, which may, in turn, improve plan governance.

Information for New Members

Providing detailed disclosure to new members of a target benefit MEPP is critical to ensuring that they understand the nature of a target benefit plan from the outset. In addition to the information currently provided by plans to new members, a target benefit MEPP framework could require that they receive additional disclosure, including:

- How benefits are funded, including that contributions are fixed in a collective agreement and accrued benefits may be reduced;
- A description of the plan’s funding policy, including a description of how and when accrued benefits would be reduced if that became necessary;
- A statement that the Pension Benefits Guarantee Fund does not apply to target benefit MEPPs;
- If applicable, when and by how much benefits were reduced in the previous five years; and
- The most recently calculated going concern funded ratio and transfer ratio of the plan and an explanation of what those ratios mean.

Questions

3.1. Do the proposed additional requirements listed above address the type of disclosure that would be of assistance to members who are new to a target benefit MEPP? Should additional information also be provided?

Annual Statements to Plan Participants

The PBA requires all pension plans to provide plan members with annual statements outlining the benefits to which a plan member is or may become entitled. Defined benefit plans must provide plan members with additional information required to calculate a member's benefit, such as the member's years of employment and, where salary is a factor in determining the benefit, the salary level used for the purpose of calculating the pension benefits. Annual statements for defined benefit plans also include information regarding the funded position of the plan as of the statement's date, including the transfer ratio of the pension plan, an explanation of that ratio and how it relates to the level of funding of members' benefits.

Recent amendments to the PBA also require all registered pension plans to provide statements to former members and retired members.

For target benefit MEPPs, statements for members, retired members and former members could be required to meet the current PBA disclosure obligations as well as provide the following additional information:

- A description of the benefit entitlement, highlighting the risk that accrued benefits could be reduced if the plan is not sufficiently funded;
- A statement that the plan's policy on benefit reductions is included in the funding policy and is available from the plan administrator;
- The participant's accrued pension, including any adjustments made because of the financial position of the plan;
- If applicable, the member's accrued pension at the statement's date if accrued benefits had not been reduced;
- For members, the commuted value of the accrued pension and how it is affected by the funded position of the plan;
- The plan's going concern funded ratio and an explanation of what it means;
- The magnitude of the plan's provision for adverse deviations (expressed as a percentage of liabilities) and an explanation of how the PfAD helps to mitigate the risk of benefit reductions; and
- A description of any adjustments to benefits that were applied during the past year.

If benefits are reduced, additional information could be sent to participants which would provide details on how the reductions would affect them. Given how this could impact participants, such as retired members, such information could be required to be provided in a timely manner.

Questions

3.2. Do the proposed additional requirements listed above address the type of disclosure that should be included on an Annual Statement for members of a target benefit MEPP? Should any additional information also be provided?

3.3. When should the statements for target benefit MEPPs be sent so that members receive timely notice of benefit adjustments, whether reductions or increases? Would notice in addition to the normal periodic statements be needed?

Termination, Retirement and Survivor Benefits Statements

The PBA also requires pension plans to provide a member with a statement regarding his or her benefit entitlements on termination of membership. The contents of the statement vary depending on the reason for the termination of membership. For example, the statement for a member who retires must include the member's benefit entitlement and payment options. In the case of the death of a member, retired member or former member, a survivor benefits statement is issued. This statement contains the amount and method of payment of the benefit to which the spouse, beneficiary or estate may be entitled.

In a target benefit MEPP framework, plan participants should be entitled to the same information currently required to be disclosed under the PBA on termination of membership as well as any new disclosure requirements to be included on annual statements for members of target benefit MEPPs (see above discussion of "Annual Statements for Plan Participants" in Section 3, Disclosure of Information), with necessary modifications. For example, when providing a description of the benefit entitlement and highlighting the risk that future and accrued benefits can be reduced by the plan, the termination statement would make clear that if the former member defers his or her pension by leaving the benefits in the plan, the benefit entitlement may increase or decrease according to the funded status of the pension plan. Statements could also note that the most recent actuarial valuation of the plan is used to determine the plan's funded status at the termination date.

Question

3.4. What additional information, if any, should be included on termination, retirement and survivor benefits statements?

Statements at Wind-Up

In the event of a plan wind up, the PBA requires a plan to provide each individual with an entitlement from the plan with a statement outlining the options available to collect the benefit entitlement. The statement also includes information such as the date of the plan wind up and the accumulated amount of required contributions made by the member, former member or retired member to the pension fund, including interest credited to such contributions, to the date of the plan wind up.

In a target benefit MEPP framework, in addition to including applicable existing PBA requirements for wind-up statements such as information regarding benefit entitlements (see the discussion of “Wind Up Entitlements” in Section 1, Funding), a wind up statement could include the following additional information:

- The funded ratio calculated on a going concern basis on the wind up date;
- The amount of the pension which the individual has accrued, adjusted according to the plan’s funded status as of the wind up date;
- If applicable, the amount that the pension would be if the plan was 100% funded on a going concern basis; and
- The lump sum amount the individual is entitled to transfer out of the plan.

Question

3.5. Do the proposed additional requirements listed above address the type of disclosure that should be included on a wind-up statement for a member of a target benefit MEPP? Should any additional information also be provided?

4. Regulatory Oversight

A new target benefit MEPP framework should be designed, in part, to provide plan administrators and participants with flexibility to make decisions that are in the best interests of the particular plan and its participants. As indicated by the Expert Commission, a more flexible and principles-based framework may require an enhanced regulatory framework:

> *It is particularly important that a new enforcement strategy be put in place to complement the new approach to regulation proposed elsewhere in this report. In general, that new approach encompasses greater reliance on shaping conduct through principles augmented by guidelines, on extensive and open interaction between the regulator and the regulatees, and on the sophisticated monitoring and analysis of outcomes over long periods of time. What keeps such a trust-based system "honest" is the certain knowledge that violations will be promptly detected, that defaults will be corrected and that deliberate wrongdoing will be severely punished. The regulator, in other words, needs a large toolkit to enable graduated responses to be made to the situation at hand. (p. 140)*

Outlined below are various possible enhanced regulatory powers that may help to provide greater protection to plan participants in a new target benefit MEPP framework.

Ability to Wind-Up a Target Benefit MEPP

Section 69(1)(h) of the PBA enumerates two specific situations in which the regulator may order the wind up of a MEPP:

- The number of members is significantly reduced; and
- Contributions to the plan cease or are significantly reduced.

Section 69(1) also allows additional situations to be prescribed in regulations; however, none relating to MEPPs have been specified.

Historically, MEPP wind ups have been infrequent and this will likely continue to be the case. However, given the risk of benefit reductions under a target benefit MEPP framework, there may be situations not currently contemplated in the PBA under which a wind up may serve the best interests of plan participants. For example, it may be in the best interests of plan participants to wind up the plan if it is significantly underfunded and the funded position of the plan is likely to deteriorate further. In this case, a wind up could prevent a further reduction to plan participants' benefits.

While it is preferable for pension plans to continue, providing the regulator with discretion to wind up a target benefit MEPP in extraordinary circumstances may be an important tool to protect the interests of the plan participants that may be affected by the failure of a target benefit MEPP.

Appointment of Administrator by the Regulator

Currently, the regulator has the power to appoint an administrator of a pension plan that is winding up if the plan does not have an administrator or if the administrator fails to act. The Expert Commission recommended that this power be extended to allow the regulator to appoint an administrator of a plan with a sponsor that is insolvent or is at risk of becoming insolvent.

Consistent with this recommendation, unproclaimed provisions in the PBA (s. 8(1.1) and (1.2)) would allow the regulator to appoint an administrator or to act itself as the administrator for a pension plan in circumstances prescribed in regulation. While this power would be used only in unusual circumstances, this provision may provide the regulator with an additional tool to protect plan participants if the ability of the plan to continue to pay benefits is put in jeopardy. For example, the regulator could be given authority to appoint an administrator for a plan that is experiencing significant governance difficulties, leading to delays in decision making that put benefits at risk.

Special Orders

In addition to the appointment of an administrator, unproclaimed provisions in the PBA (s. 87(6) to (9)) allow the regulator to issue a special order requiring a plan to prepare a new valuation report where the regulator believes that benefits from the plan are at risk. The special order could take effect immediately. The intent of the provision is to allow the regulator to make an order outside of the normal process for notices of intended decision when expedited action may be needed to help a pension plan.

Allowing the regulator to use such special orders for a target benefit MEPP may be part of the "toolkit to enable graduated responses" that the Expert Commission recommended (A Fine Balance, p. 140) to properly oversee MEPPs under a new framework.

Enforcing Plan Policies

The discussion in Section 2 describes how written policies on governance, investment and funding could be required in a target benefit MEPP framework. As noted in Section 2, these policies could be filed with the regulator. The Expert Commission also recommended that the regulator be given the tools to enforce the policies filed by individual plans:

> *Recommendation 8-7 — All policies, statements or reminders required by current law or provided by multi-employer and jointly sponsored plans pursuant to these recommendations should be communicated to plan members and beneficiaries and filed with the regulator. The regulator should have the power to sanction violations of both statutory requirements and plan policies. (p. 161)*

For example, if a plan has a funding shortfall, the regulator could be allowed to enforce the terms of the MEPP's filed funding policy, similar to how the regulator is able to enforce the terms of the plan. In addition, if the plan's investments are inconsistent with the plan's filed investment policy (e.g., because there is a significant mismatch with liabilities not provided for in the policy), then the regulator could be able to take steps to ensure that investments are changed to follow the investment policy.

Questions

4.1. Under what circumstances should the regulator be able to order the wind up of a target benefit MEPP?

4.2. Under what circumstances should the regulator be able to replace the administrator of a target benefit MEPP?

4.3. Under what circumstances should the regulator be able to issue a special order for a target benefit MEPP to file a new valuation report?

4.4. To what extent should the regulator be able to enforce the terms of filed governance, investment and funding policies of a target benefit MEPP? For example, should the regulator be able to ensure that benefit reductions are carried out as specified in a plan's funding policy?

4.5. Are there disadvantages to allowing the regulator to enforce plan policies?

5. Issues for Multi-Jurisdictional Target Benefit MEPPs

In 2011, the Governments of Ontario and Quebec entered into the Agreement Respecting Multi-jurisdictional Pension Plans (the Agreement) to clarify and improve the regulation and administration of multi-jurisdictional pension plans. The Agreement was developed under the auspices of CAPSA, whose members include the pension regulators from the federal and provincial governments. It is anticipated the Agreement would eventually apply to all jurisdictions in Canada.

The Agreement establishes how pension laws of the different jurisdictions apply to multi-jurisdictional plans. For example, a plan with a plurality of members in Ontario would be subject to Ontario funding rules; however, an individual's benefit entitlement would be governed by the law of the jurisdiction in which the individual is or was employed. The Agreement may be amended in the future to take into account changes in pension regulation.

This section outlines some potential risks that Ontario plan members, retired members and former members may bear in a multi-jurisdictional target benefit MEPP as well as possible approaches to mitigate the identified risks.

Risks to Ontario Members in Multi-Jurisdictional Target Benefit MEPPs

Some jurisdictions have prohibitions against the reduction of accrued benefits in defined benefit pension plans that may also extend to multi-jurisdictional target benefit MEPPs. As a result, in a situation in which a multi-jurisdictional target benefit MEPP registered in Ontario needs to reduce accrued benefits in response to a funding shortfall, plan participants in jurisdictions that prohibit the reduction of accrued benefits would continue to receive the unreduced benefit. Consequently, if no other measures could be taken to improve plan funding, plan participants in Ontario would likely have their benefits reduced disproportionately in order to improve the funded status of the plan.

- For example, if a target benefit MEPP registered in Ontario is 90% funded, the plan's total liabilities, which arise from accrued benefits, may need to be reduced by 10% if contributions are not sufficient and other measures, such as negotiated increases in contributions, are not taken. Assuming that a reduction of 10% of the plan's total liabilities is needed, if half of plan liabilities are for benefits of Ontario members and half are for benefits of members employed in a jurisdiction that does not allow accrued benefits to be reduced, the benefits of Ontario plan participants would have to be reduced so that the Ontario liabilities were reduced by 20%.

Similar issues could also arise if other jurisdictions implement different rules from Ontario relating to members' benefit entitlements on termination of plan membership, since these entitlements would not be determined by Ontario law.

- For example, another jurisdiction may require target benefit MEPPs to pay the full commuted value based on the current CIA standard to members who chose to transfer their benefit out of the plan on termination of membership. If so, members of a target benefit MEPP in that jurisdiction could receive a more generous termination benefit than Ontario members, regardless of how commuted values of Ontario members are calculated (see Section 1, Funding).

Another potential issue may arise when it is necessary to allocate a pension plan's assets among jurisdictions, such as when a plan winds up. Once the assets are allocated, the rules of each jurisdiction are then used to determine the individual entitlements for benefits.

The Agreement provides a method in which benefits for individuals in jurisdictions that require solvency funding are given priority in the asset allocation process. Under the Agreement, this rule would hold even if the plan itself does not need to satisfy solvency funding requirements under the laws of the jurisdiction in which it is registered. Consequently, if Ontario adopted a framework for target benefit MEPPs which provided a permanent solvency funding exemption, Ontario participants involved in a plan wind up could be at a significant disadvantage relative to participants in those jurisdictions which require solvency funding.

Reducing Risk to Benefits of Ontario Members

As noted earlier, target benefits are defined in section 39.2 of the PBA (unproclaimed). One criterion of a target benefit pension plan is that the administrator must be authorized by the plan documents to reduce the target benefits; this ability must not be prohibited by a collective agreement or the pension legislation of a jurisdiction in which the plan has members. However, that section also provides some flexibility by allowing regulations to prescribe exceptions to this rule.

While it may be desirable for the Agreement to be amended to explicitly address target benefit plans, negotiations could take a significant period of time. As a result, other measures will likely be required if multi-jurisdictional target benefit MEPPs are to be able to operate in Ontario in the near future.

To reduce the additional risk borne by Ontario members, former members and retired members, one of the following options could be used.

1. Permit a multi-jurisdictional MEPP to be a target benefit MEPP in Ontario if a substantial portion of plan members, retired members and former members (e.g., 90-95%) are in jurisdictions which permit the reduction of accrued benefits and provide a permanent solvency funding exemption for similar types of plans.

This approach would allow multi-jurisdictional target benefit MEPPs to operate in Ontario and limit, although not eliminate, the additional risk borne by Ontario members, retired members and former members. It would require transitional measures for target benefit MEPPs whose membership changes so that the required percentage of members falls below the threshold.

2. Require multi-jurisdictional MEPPs to be split to ensure target benefit MEPPs only have members in jurisdictions with regimes similar to Ontario.

This approach would prevent individuals in Ontario from bearing a disproportionate share of the risk of benefit reductions; however, it could also impose additional costs to MEPP sponsors in instances where the plan must be split.

It should be noted that in some other jurisdictions the regulator has the ability to split a plan. In these jurisdictions, the regulator could force a multi-jurisdictional target benefit MEPP to split if it is of the view that the permanent solvency funding exemption provided to Ontario target benefit MEPPs could expose its members to additional risk. The PBA could be amended to give the regulator similar authority to split plans to protect Ontario plan participants. However, this could potentially increase costs for MEPPs.

Questions

5.1. Would either of the options described above allow multi-jurisdictional target benefit MEPPs to operate effectively while minimizing the disproportionate risk to Ontario members retired members and former members, both while a plan is ongoing and on wind up?

5.2. Under the first option, what measures may be needed for target benefit MEPPs whose membership changes so that the plan no longer passes the test?

5.3. Are there other options that should be considered that would reduce the additional risk to Ontario members in multi-jurisdictional target benefit MEPPs?

6. Transition

Given the scope of the reform, eligible MEPPs will likely require a transition period (e.g., 3 years), to make necessary adjustments to comply with the new target benefit MEPP framework. For example, plans may require time to:

- Adjust to funding a PfAD on the plan's normal costs;
- Update documents and establish procedures for selecting members of the board of trustees (e.g., to represent retired members);
- Develop governance, funding and investment policies in accordance with the regulations; and
- Review and update administrative procedures to reflect new disclosure requirements.

MEPPs eligible to participate in the new target benefit MEPP framework could also be permitted to continue to be regulated as defined benefit MEPPs pursuant to the current rules. In this case, the MEPP would continue to be able to reduce benefits; however, it would also be required to fund on both a going concern and solvency basis. This option would provide flexibility to those plans that may prefer to maintain their current structure and abide by the current funding rules, including solvency funding.

Questions

6.1. What transitional measures may be needed for SOMEPPs once a new framework for regulating target benefit MEPPs is enacted?

6.2. Would transitional measures be required for MEPPs that would be eligible for target benefit status but were not previously SOMEPPs?

6.3. How should the regulations accommodate MEPPs that wish to be regulated as defined benefit plans?

6.4. Is a three year transition period sufficient for MEPPs to comply with a new target benefit regulatory regime?

7. Broader Target Benefit Issues

The Expert Commission recommended the basis for rules for target benefit MEPPs should be the SOMEPP regulations (Recommendation 4-9, p. 68). The definition of target benefit in the PBA (s. 39.2(1), unproclaimed) is consistent with this recommendation and, as a result, requires that target benefit plans be funded by employer contributions fixed in one or more collective agreements. By requiring a collective bargaining relationship, the PBA incorporates an established legal framework to ensure members' interests are represented in the negotiation and administration of the plan.

The Expert Commission also proposed establishing a new class of single-employer pension plans, which it called the jointly governed target benefit pension plan (see Recommendation 8-27, p. 176). In the Expert Commission's description, this kind of plan "originates in a collective bargaining relationship; it provides for significant participation in governance by both active members and retired members; and it offers 'target' benefits." (p. 72).

Although the focus of this consultation is a framework for target benefit MEPPs building on the SOMEPP requirements, some broader target benefit issues that are raised by the Expert Commission are discussed below for comment.

Feasibility of Non-Collectively Bargained Target Benefit MEPPs

While amendments to the PBA would be necessary, target benefit MEPPs may be feasible outside of a unionized environment. The establishment of such plans, however, raises a number of issues that would need to be addressed. The Expert Commission recognized the role that unions, which operate in a recognized legal framework, can play in ensuring that the interests of employees are effectively represented in plan governance:

> *…[I]f a representative organization can pressure or persuade the sponsor to reconfigure, reinforce or reinterpret that bargain so as to better protect the interests of its members, it may be reasonable to place somewhat less reliance on the regulatory regime in such circumstances (p. 67).*

In addition, the Expert Commission highlighted that it is difficult to determine the value of the benefit provided by a MEPP:

> *In the absence of solvency funding, and given the target nature of the benefits and fluctuations in asset values, it is difficult to determine the value of an active MEPP member's future pension. All of these problems are capable of being resolved, but they may require detailed consultations between MEPP representatives and those responsible for drafting legislation… (pp. 69-70).*

For SOMEPPs, collective bargaining provides an established method for MEPP representatives to have a say in determining the value of a target benefit pension.

There may be a number of ways to mitigate the risks which may arise in the absence of union representation. For example, a target benefit MEPP outside of a collective bargaining framework may benefit from enhanced regulatory requirements in certain areas such as governance. As noted in Section 2, Governance and Risk Management, “Representation on Boards of Trustees”, independent trustees may provide a mechanism to improve governance of target benefit MEPPs and better ensure that the interests of all parties (employers, plan members, former members and retired members) are effectively balanced.

Regardless of the mechanism, care will be required to protect plan participants if there is no organization with the ability, noted by the Expert Commission, “to reconfigure, reinforce or reinterpret [the plan] so as to better protect the interests of its members” (p. 67).

Questions

7.1. How much interest from MEPP plan participants and contributing employers would there be in target benefit MEPPs without the participation of a union?

7.2. What challenges to proper plan governance could arise if members are not represented by a union? How might they be addressed?

7.3. What additional requirements would be needed in a regulatory regime for target benefit MEPPs outside of a unionized environment in order to ensure effective joint governance outside of the collective bargaining context?

7.4. In the absence of collective bargaining, how would employer contributions be determined?

Target Benefit Single-Employer Pension Plans

In addition to recommending a framework for target benefit MEPPs, the Expert Commission also recommended that SEPPs, in certain circumstances, be permitted to offer target benefit plans:

> *In my view, it ought to be possible to offer target benefits in a single employer plan under certain circumstances...*
>
> *Given the risks associated with self-administered SEPPs…I have proposed that the new [jointly governed target benefit pension plan] should be available where workers both belong to a trade union or equivalent organization, and are represented on the plan's governing body. These interlocking requirements should ensure that beneficiary interests will be considered in fixing the levels of employer contributions and target benefits, lend economic force to workers' demands that the sponsor fund the plan at the proper level, and ensure that member representatives will have an effective voice in the plan's governance (p. 182).*

In the 2015 Budget, the government reiterated its intention to develop a framework for target benefit single SEPPs.

A particular challenge in forming a framework for target benefit SEPPs relates to the federal Income Tax Act (ITA). While the ITA has specific rules that apply to most target benefit MEPPs, it currently does not have a framework for target benefit SEPPs. As a result, target benefit SEPPs may simply be treated as defined benefit plans for tax purposes. For example, pension adjustments, which reduce the amount members can contribute to registered retirement savings plans, could be based on the plan's target benefit. This could disadvantage plan members if their target benefit pensions are later reduced. The federal government acknowledged this issue in its latest budget and indicated that it is considering changes to the ITA to accommodate provincial frameworks for target benefit SEPPs.

In addition, some stakeholders have suggested that target benefit SEPPs should be available outside of a collective bargaining environment or that the employer should be allowed to administer the plan without a joint governance structure. As previously indicated, pension plans without joint governance and union representation for members may present additional risks to plan members. The considerations discussed in the previous subsection would also apply to a framework for target benefit SEPPs.

Stakeholders are encouraged to provide feedback on how target benefit SEPPs could be regulated.

Questions

7.5. How much interest would there be from employer sponsors and employees in target benefit SEPPs?

7.6. Should the regulations for target benefit SEPPs differ from regulations for target benefit MEPPs, and if so how? For example, should regulations recognize the increased risk of a plan wind up due to employer insolvency in a target benefit SEPP? Should stronger funding rules be required?

7.7. If target benefit SEPPs were made available to non-unionized workplaces, what, if any, additional requirements could plans have to satisfy to protect the interests of members, former members and retired members?

Glossary

2010 Backgrounder

Pension backgrounder released by the government on August 24, 2010. Its proposals were the basis for the Securing Pension Benefits Now and for the Future Act, 2010, which was unanimously approved by the Ontario legislature in December 2010.

50% rule

The PBA requirement that member contributions with interest cannot fund more than 50% of a member's benefit when it is determined at termination or retirement. Any "excess contributions" are refunded to the member.

Accrued pension benefit

Amount of pension in a defined benefit pension plan that a member or retired member is entitled to receive. The pension being paid to a retired member is the retired member's accrued pension. A member's accrued benefit is the amount of pension the member would receive based on the years of plan membership at a given date.

Commuted value

The lump sum value of a member's accrued benefits as specified by regulation. In a defined benefit plan, the commuted value of a member's benefits is calculated according to standards set by the Canadian Institute of Actuaries. In a defined contribution plan, the commuted value of a member's benefits is the value of a member's investment account.

Defined benefit pension plan

A pension plan that provides its members with a pension on retirement given by formula, usually based on a flat dollar benefit per year of service or a percentage of salary and length of service.

Defined contribution pension plan

A pension plan in which members accumulate savings in investment accounts that are later used to provide income in the member's retirements. The monthly pension is unspecified.

Going concern funding

This method of pension valuation for a defined benefit plan assumes the plan will continue indefinitely and its assets must be sufficient to meet its liabilities (i.e., the promised pension benefits) as they come due in the future.

Going concern funded ratio

The market value of plan assets divided by the liabilities of the plan calculated on a going concern basis as of a particular valuation date.

Multi-employer pension plan (MEPP)

A pension plan to which two or more non-affiliated employers make contributions. Members are employed by one of the participating employers, which are usually in the same economic sector.

Multi-Jurisdictional Agreement

An agreement that clarifies the rules regarding the administration and regulation of pension plans with members in more than one jurisdiction. The agreement became effective in Ontario and Quebec on July 1, 2011. It is anticipated the Agreement would eventually apply to all jurisdictions in Canada.

Normal cost

The ongoing cost to fund the benefits that members are accruing in a pension plan, calculated by an actuary.

Pension Benefits Act (PBA)

The Ontario legislation that establishes minimum standards for registered pension plans.

Single-employer pension plan (SEPP)

A pension plan covering workers employed by a single employer or by employers that are affiliated.

Specified Ontario Multi-Employer Pension Plan (SOMEPP)

Until August 31, 2017, a multi-employer pension plan can be a SOMEPP if the administrator files an election and the MEPP satisfies the following criteria (s. 6.0.2 of Regulation 909 under the PBA):

1. At the end of the previous year, no more than 95 per cent of the members of the plan were employed by one employer.
2. During the previous year at least 15 employers made contributions to the plan or at least 10 per cent of the members of the plan were employed by two or more employers.
3. All or substantially all of the employers who make contributions to the plan are persons who are not exempt from tax under Part I of the Income Tax Act (Canada).
4. All employers make contributions to the plan pursuant to one or more collective agreements.
5. The employers' contributions to the plan are limited to a fixed amount set out in one or more collective agreements.
6. Under the plan, the administrator is authorized to determine the benefits that are to be provided under the plan, whether or not a collective agreement imposes restrictions on the exercise of that authority.

7. Nothing in the documents that create and support the plan prevents the administrator from reducing the amount of or the commuted value of a pension benefit, a pension, a deferred pension or an ancillary benefit in the circumstances described in subsection 14 (2) of the Act.

Solvency funding

This method of valuation for a defined benefit plan assumes the plan is being wound up as of the valuation date so that its assets will have to be used immediately to meet its existing liabilities. Solvency funding requirements are meant to help ensure that the plan assets could fund all liabilities if the plan were to wind up.

Target benefit pension plan

A pension plan whose goal is to provide its members with a specified monthly pension on retirement, but is funded with fixed contributions and can address funding shortfalls by reducing accrued benefits.

Transfer ratio

The market value of plan assets divided by the wind up liabilities calculated as of a particular valuation date. Liabilities are calculated using solvency methods.

Valuation report

A report prepared by an actuary that determines the financial status of a pension plan at a certain date of calculation and the required contributions for a period of time after the date of calculation. Defined benefit pension plans are required to file a valuation report at least once every three years with the regulator.

Appendix A:

Recommendations cited from A Fine Balance, the Report of the Expert Commission on Pension (draft)

Recommendation 4-9

Following consultation with Ontario's multi-employer pension plans, special legislation and regulations should be developed relating to all aspects of their funding, regulation and governance. The basis for such legislation and regulations should be the Specified Ontario Multi-employer Pension Plan regulation of 2007. After five years, the practical effects of these arrangements should be assessed.

Recommendation 4-10

Multi-employer pension plans should be required to fund only according to going concern valuations, but should continue to provide solvency valuations for the information of the regulator as well as their active and retired members.

Recommendation 8-7

All policies, statements or reminders required by current law or provided by multi-employer and jointly sponsored plans pursuant to these recommendations should be communicated to plan members and beneficiaries and filed with the regulator. The regulator should have the power to sanction violations of both statutory requirements and plan policies.

Recommendation 8-22

Plan board members, governors or trustees should prepare, file with the regulator and make available to active and retired members at three-year intervals (or more often, if material changes have occurred) the plan's detailed governance, funding and investment policies. Particulars of the matters to be addressed by these policies should be developed by the pension regulator in consultation with the stakeholders. Template policy statements should be developed for the assistance of smaller plans.

Recommendation 8-27

The sponsor of a single-employer pension plan may enter into an agreement with a trade union, or other union-like organization that represents plan members, to establish a jointly governed target benefit pension plan. Such plans should (a) be governed by a board of trustees or comparable body on which representatives of plan members and retirees should comprise not less than one-half of its members, (b) offer target benefits, and (c) be funded on the same going concern basis as multi-employer and jointly sponsored plans.

Recommendation 8-30

Retired plan members should be eligible to participate in any plan governance process in which active plan members are eligible to participate. The extent of their representation and participation in governance should be determined by the governing body of each plan, but must be sufficient to ensure that their voice is heard and their interests protected.

Appendix B:
Summary of Questions

Introduction

1.1. In addition to the principles outlined above, what other principles are important to consider when developing a regulatory framework for target benefit MEPPs?

1. Funding

1.1. How should a plan's PfAD be calculated? What aspects of the plan (e.g., plan maturity and demographics) should determine the PfAD, and how much weight should be given to each factor?

1.2. How frequently should target benefit MEPPs file valuation reports? Do triennial valuations for a well-funded target benefit MEPP provide sufficient disclosure to plan participants?

1.3. What limits should there be on uses of excess assets? Should there be a required order of priority for using excess assets (e.g., previously reduced benefits must be restored before additional benefit improvements can be made or a contribution holiday is taken)?

1.4. Should a plan be required to maintain a funding reserve larger than the PfAD after making a benefit improvement?

1.5. If employees are making contributions, should there be a requirement that members share contribution holidays with employers?

1.6. Are there any other funding rules which should be considered to encourage plans to develop a substantial reserve to reduce the risk of benefit reductions?

1.7. Should special payments for going concern unfunded liabilities be amortized over 12 years, or a different period of time, e.g., 10 years?

1.8. Should new funding rules for target benefit MEPPs differ from the funding rules for SOMEPPs in ways different from the description above? How would these changes help promote benefit security?

1.9. How should the regulations ensure that target benefit MEPPs reduce benefits in a timely way when needed to meet funding requirements? For example, should the regulations include a default method for reducing benefits?

1.10. To guide target benefit MEPPs in developing funding policies, should the regulations establish a priority sequence for which benefits should be reduced?

1.11. Should lump sum values paid from target benefit MEPPs be calculated using the CIA commuted value standards or using the plan's going concern assumptions? Should lump sum values be reduced to reflect the funded ratio of the plan, and if so, how?

1.12. Given plan participants of a target benefit MEPP could only be entitled to receive a commuted value that reflects the funded status of the plan on termination of membership, should target benefit MEPPs be required to file periodic updates on their funded position (e.g., every 3 months) to ensure that commuted value transfers better reflect the funded position of the plan at the time of transfer?

1.13. What options for entitlements should different plan participants have when a target benefit MEPP winds up?

1.14. How should the value of entitlements of plan participants be determined when a target benefit MEPP winds up?

1.15. What adjustments should be made to the "50% rule" for target benefit MEPPs?

1.16. Should other limits be placed on the extent to which member contributions may fund benefits? For example, should there be an explicit requirement that member contributions be required to be limited to, at most, employer contributions?

1.17. What regulations, if any, are needed regarding actuarial assumptions?

1.18. If target benefit MEPPs reduced their best estimate interest rate assumption by a margin for adverse deviations, should that affect the calculation of the plan's PfAD?

1.19. Under what circumstances should the regulator be able to order the board of trustees of a target benefit MEPP to prepare a new valuation report because of inappropriate assumptions?

2. Governance

2.1. Should the PBA continue to require that at least half of the board of trustees of a target benefit MEPP be representatives of plan members?

2.2. Should retired member representation on the board of trustees of a target benefit MEPP be required? How could representatives be selected to ensure retired member representation is effective?

2.3. What measures could be taken to ensure that the board of trustees adequately considers the interests of former members? Should former members have representation on the board of trustees?

2.4. What protections from legal liability, if any, should be given to trustees to encourage members' and retired members' participation in governance?

2.5. Should the proportion of representation on the board of trustees of members, former members and retired members be related to the proportion of liabilities for each group?

2.6. Would independent trustees improve the governance of target benefit MEPPs? If so, how should independent trustees be selected?

2.7. Should stress testing of target benefit MEPPs be required? For what factors (e.g., investment returns) should the regulations require stress testing?

2.8. If required, how frequently should target benefit MEPPs be required to perform stress testing?

2.9. If required, should the regulations specify whether the plans should perform deterministic or stochastic tests?

2.10. How should target benefit MEPPs be required to use the information provided by stress tests? For example, should the regulation specify what a plan should do to address problems identified in a stress test?

2.11. Should stress tests also be used in determining contribution requirements for target benefit MEPPs?

2.12. Should target benefit MEPPs be required to establish a governance policy, and if so, what issues should it address?

2.13. Should the governance policy also outline the roles of delegates, such as external service providers and consultants, with whom the board has contracted to help fulfil governance responsibilities?

2.14. Should filing of governance policies be required? How frequently should reviews of governance policies be required?

2.15. Should a target benefit MEPP framework require all trustees to complete training? If so, what topics should be addressed?

2.16. What information not currently required for SIP&Ps should be included in the investment policy for target benefit MEPPs, and why?

2.17. What methods of managing risk and promoting intergenerational equity could be included in an investment policy for a target benefit MEPP?

2.18. Should target benefit MEPPs be required to develop a funding policy? If so, what information should funding policies contain?

2.19. Should funding policies and amendments be filed with the regulator?

2.20. How often should the funding policy of a target benefit MEPP be reviewed?

2.21. Should the regulations specify a priority sequence for benefit reductions in target benefit MEPPs to manage concerns such as intergenerational equity?

3. Disclosure of Information

3.1. Do the proposed additional requirements listed above address the type of disclosure that would be of assistance to members who are new to a target benefit MEPP? Should additional information also be provided?

3.2. Do the proposed additional requirements listed above address the type of disclosure that should be included on an Annual Statement for members of a target benefit MEPP? Should any additional information also be provided?

3.3. When should the statements for target benefit MEPPs be sent so that members receive timely notice of benefit adjustments, whether reductions or increases? Would notice in addition to the normal periodic statements be needed?

3.4. What additional information, if any, should be included on termination, retirement and survivor benefits statements?

3.5. Do the proposed additional requirements listed above address the type of disclosure that should be included on a wind-up statement for a member of a target benefit MEPP? Should any additional information also be provided?

4. Regulatory Oversight

4.1. Under what circumstances should the regulator be able to order the wind up of a target benefit MEPP?

4.2. Under what circumstances should the regulator be able to replace the administrator of a target benefit MEPP?

4.3. Under what circumstances should the regulator be able to issue a special order for a target benefit MEPP to file a new valuation report?

4.4. To what extent should the regulator be able to enforce the terms of filed governance, investment and funding policies of a target benefit MEPP? For example, should the regulator be able to ensure that benefit reductions are carried out as specified in a plan's funding policy?

4.5. Are there disadvantages to allowing the regulator to enforce plan policies?

5. Issues for Multi-Jurisdictional Target Benefit MEPPs

5.1. Would either of the options described above allow multi-jurisdictional target benefit MEPPs to operate effectively while minimizing the disproportionate risk to Ontario members retired members and former members, both while a plan is ongoing and on wind up?

5.2. Under the first option, what measures may be needed for target benefit MEPPs whose membership changes so that the plan no longer passes the test?

5.3. Are there other options that should be considered that would reduce the additional risk to Ontario members in multi-jurisdictional target benefit MEPPs?

6. Transition

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6.2. Would transitional measures be required for MEPPs that would be eligible for target benefit status but were not previously SOMEPPs?

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7. Broader Target Benefit Issues

7.1. How much interest from MEPP plan participants and contributing employers would there be in target benefit MEPPs without the participation of a union?

7.2. What challenges to proper plan governance could arise if members are not represented by a union? How might they be addressed?

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