Bell Pensioners' Group

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June 23rd, 2014

The Honourable Kevin Sorenson, P.C., M.P.
Minister of State (Finance)
House of Commons
Ottawa, ON
K1A 0A6
Sent to: pensions@fin.gc.ca

Subject: BPG Response to "Pension Innovation for Canadians: The Target Benefit Plan Consultation Paper", Department of Finance Canada, April 2014

Attached is the response of Bell Pensioners' Group (BPG) to the above-referenced consultation, released on April 24th, 2014.

Once you have had an opportunity to review our comments, BPG would like to meet to explore ways in which we might contribute to this Government's efforts to improve the financial security of the private sector defined benefit pensions on which approximately 3 million Canadians rely for much of their retirement income.

BPG agrees that this response may be posted on the Department of Finance website and may be identified with Bell Pensioners' Group.

Sincerely yours

Daniel McDonald
President, Bell Pensioners' Group

www.bellpensionersgroup.ca

Bell Pensioners' Group

Together, Protecting our Pensions and Benefits

Response of

Bell Pensioners' Group

to:

"Pension Innovation for Canadians: The Target Benefit Plan Consultation Paper"

Department of Finance Canada

Released April 24th, 2014

June 23rd, 2014

TABLE OF CONTENTS

EXECUTIVE SUMMARY

Honouring Commitments to Pensioners

Bell Pensioners' Group represents the interests of the approximately 33,000 retirees receiving a defined benefit (DB) pension from Bell Canada's federally-regulated pension plan.

In total, 2.9 million Canadians are covered by private sector registered pension plans. The vast majority of this number are in DB plans. Including their families, an estimated six million Canadian voters could be affected if the proposals in the Consultation Paper are adopted.

Target Benefit plans (TB plans) represent a potentially helpful addition to the Canadian pension landscape, especially for companies without any form of pension plan – or, perhaps, as an alternative to a defined contribution (DC) plan.

The Consultation Paper, however, also envisages that a private sector sponsor could convert its defined benefit (DB) plan "*en bloc*" to a TB plan and eliminate the DB plan. BPG urges the Government to exclude this type of conversion from the framework.

If conversion from a DB plan to a TB plan is permitted under a new framework, consent to conversion must be an individual, informed choice. The DB plan would remain in operation for those who do not choose to convert.

In a message to voters in the election that brought him to power, Prime Minister Stephen Harper promised to stand up for everyday Canadians; "[t]he hardworking people who pay their taxes and play by the rules."[1] We wholeheartedly support such efforts. Bell pensioners worked hard and played by the rules, many of them for over 30 years. They participated in Bell's DB pension plan, deferring wages so they would be secure in retirement. Now retired, they are receiving the pension they were promised. After a lifetime of work, that's fair.

We all know what fair looks like. An Ipsos Reid survey conducted last week found that while a substantial proportion of Canadians (44%) recognize the difficulty employers may have in providing pensions for their employees and pensioners, many more – more than nine in 10 Canadians (94%) – agree that employers should live up to the commitments they have made to pensioners and employees. And Canadians are clear that they expect their Government to make sure this happens: 92% agree that in developing a new pension framework, the federal government should ensure that companies honour the commitments made to pensioners and employees.[2]

We ask Government to ensure that DB plan sponsors honour commitments made to pensioners.

Commentators have made dire predictions concerning the failure of many Canadians to save for their retirement. To help them, the Government has encouraged the introduction of workplace pension plans where none exist today, for example, by the introduction of the Pooled Registered Pension Plan framework. The Consultation Paper's proposal to allow conversion of DB plans to TB plans runs counter to this direction. Allowing such conversions does not enhance the coverage of workplace pensions, it merely shifts greater risk onto plan members. TB plans carry a much higher risk than do DB plans that plan members will not receive the pension their employer has promised to them. If implemented, this proposal would jeopardise the pensions of the millions of young as well as older Canadians in DB plans. For pensioners, it would shift financial risks onto them at a time of life when they need greater income security, not less.

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[1] "Stand up for Canada", Conservative Party of Canada Federal Election Platform, 2006

[2] http://ipsos-na.com/news-polls/pressrelease.aspx?id=6545

Underpinnings of the Consultation Paper

The Consultation Paper focuses on the economic challenges that have faced DB plan sponsors since 2008, and suggests that this period of instability brings into question the sustainability of the DB model. BPG disagrees. Far from being unsustainable – the vast majority of federally-regulated DB plans are successfully addressing the challenges of the recent economic environment. Where individual plans are in distress, measures already exist to help them.

According to OSFI's data, very few federally-regulated private sector sponsors of DB pension plans are close to financial crisis. For those that are in serious trouble, there are measures available in the *Pension Benefits Standards Act* (*PBSA*), including the actions that OSFI took last year to terminate three plans, and the potential to invoke the distressed pension plan workout scheme (DPPWS).

Certainly DB plan sponsors are challenged by low interest rates, volatile investment performance and increasing longevity. But, contrary to the assumption of the Consultation Paper, far from teetering on the brink of financial failure, most employers are meeting their commitments, weathering the economic storm and becoming stronger as a result. It should also be remembered that the best risk protection for a DB plan is a healthy sponsor. The same low interest rates that challenge companies from a pension funding perspective, also provide a low cost of debt, helping those same companies to grow and prosper.

Although interest rates are expected to stay low, experts expect some movement. For DB pension funds, there is light appearing at the end of the tunnel. Even a modest improvement in rates can turn a pension deficit into a surplus.

Key Issues Regarding Consultation Paper Proposals

The comments below are offered in the context that the Government's TB framework will adopt the principle that individual choice is to be respected. In particular, a member of a DB plan must be permitted to remain in the DB plan if he or she so chooses. For those that opt to convert to a TB plan, plan elements would be developed through negotiations among all stakeholders.

Consent process:

There must be a process for individuals to provide their informed and explicit consent to convert from a DB plan to a TB plan. This would include, but not be limited to, the following elements:

- Each pensioner would make an individual, informed choice about whether to convert to a TB plan.
- Individual consent to convert to the TB plan must be written and witnessed.
- Prior to consenting to conversion to a TB plan, the pensioner should receive:
  - a copy of the pension plan text; and
  - personalized analysis showing the individual's current pension income and the pension income that would be paid by the TB plan under different scenarios (for example, payment of all benefits, payment of "base" benefits only, and payment of "base" benefits cut by various percentages).
- All documentation must be provided and returned in paper form.
- Only pensioners who explicitly consent to convert to the TB plan could be converted. On no account could a pensioner who does not provide consent be converted to the TB plan.
- The DB plan would remain in operation for those who do not choose to convert.

Funding Policy:

The Consultation Paper proposes that funding of a TB plan would be directed towards a target, calculated as the going concern valuation of the plan, plus a buffer. BPG recommends the following:

- Calculation of the buffer should use information and expertise available from OSFI as a guide to the development of a margin which is both actuarially sound and credible in light of actual plan experience.
- The bias at the outset should be to set a higher buffer. With experience over time it may be possible to negotiate a reduction in the amount of buffer.
- The going concern valuation should be calculated to include all “base” benefits and all “ancillary” benefits offered by the plan.
- Plan administrators should maintain a model of the TB plan that would proxy the plan’s valuation on a continuous basis (for example, daily).
- Regular stress testing should also be carried out following guidelines that would be established by OSFI, in consultation with stakeholders.
- A full valuation should be carried out at least annually.
- In bankruptcy situations, TB plan normal costs and arrears of contributions should be protected by a deemed trust.
- TB plan sponsors should provide solvency valuations to OSFI and plan members, on an annual basis. In this way all plan members will be aware of the pension loss they face should their plan be wound up.

Benefit Structure:

The Consultation Paper proposes that a TB plan pension would comprise two levels of benefit – a “base” level and an “ancillary” level. It suggests that “ancillary” benefits could include one or more of survivor pensions, death benefits, bridging benefits and indexation. In the event of a funding deficit, it proposes that “ancillary” benefits would be reduced to zero before “base” benefits would be reduced.

This proposal demonstrates a fundamental misunderstanding of the nature of benefits under most, if not all, DB plans. If implemented, it would raise issues of fairness of treatment between those who have opted to use their accrued pension to provide a death and/or survivor benefit in return for a lower “base” pension, and those who have opted not to receive these benefits, and, as a result, receive a higher “base” pension.

BPG believes that the only benefit which could possibly be regarded as “ancillary” is indexation. If it were agreed to by a majority of employees and a majority of pensioners, indexation could be classed as “ancillary” on a going-forward basis, following conversion to a TB plan.

Conversion of Pension Plans to Target Benefit Plans:

BPG proposes that all accrued DB benefits be treated as “base” benefits and transferred intact and unreduced to the TB plan. In the case that the DB plan has a solvency deficit at the time of transfer, in conformance with the s. 10.1(2) of the *PBSA*, the sponsor would be required to contribute to the DB plan sufficient funding so that the transfer out would not have the effect of lowering the solvency ratio of the DB plan.

At time of conversion, the employer would be required to meet or exceed the going concern target (including buffer), incorporating all benefits accrued under the DB plan. The amount required from the employer to make up any deficit must be paid in full as of the conversion date. A portion of the balance owing could be covered by a letter of credit.

Contributions:

Pensioners and beneficiaries must be included as stakeholders in the process for negotiating contribution arrangements. Pensioner representatives should also have the power to veto any negotiated contribution arrangement that could be expected to result in the going concern ratio falling below the minimum level for full payment of benefits (including buffer).

BPG considers that employers should, at a minimum, be required to make an annual payment into the fund comprising 100% of normal costs, plus up to a pre-negotiated percentage of going concern liabilities in any year where the going concern valuation showed a deficit as compared to the target funding ratio.

Funding deficit recovery plan:

If the funding ratio fell below the target level (including buffer), then all parties (employer, employees, pensioners and other beneficiaries), would be involved in the process of restoring the plan to full health. BPG recommends the following approach:

- Step One would be to increase employer contributions, up to the negotiated limit established for those contributions, as set out in the plan text.
- If Step One proves insufficient to bring the plan to full-funding, measured according the going concern valuation plus the buffer, then Step Two would be to increase employee contributions to the plan, within the constraints, if any, set out in the plan text.
- In the event that the funding limits of Steps One and Two have been exhausted and have proven insufficient to bring the plan to full-funding (target level, including buffer), Step Three would be invoked and benefits would be reduced.
- At no time should pensions be cut without at least 180 days' advance notice. A cut of more than 10% should require at least 360 days' notice.

Funding surplus utilization plan:

Where, as part of a funding deficit recovery plan, either pensions have been cut or employee contributions have been increased it would be appropriate to fully or partially reverse these measures at a level of 5% above the fully-funded level (including buffer).

Caution should be exercised in introducing any new benefits when a plan has a surplus. It would not be prudent to introduce a new benefit, only to have that benefit cut back a year later, for example, should it no longer prove possible to fund that new benefit.

There should be no provision for normal cost holidays ("contribution holidays", so-called) under a TB plan.[3]

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[3] This would require revisions to the *Income Tax Act*. Until such time as these revisions were enacted, the rule could be that contribution holidays would not be permitted until the solvency ratio of the plan exceeded 125%.

1. TB PLANS HAVE A PLACE, BUT COMMITMENTS MUST BE HONOURED

1.1 Introduction

Bell Pensioners' Group (BPG) represents the interests of the approximately 33,000 retirees receiving an average defined benefit pension of about $22,000 from Bell Canada's federally-regulated pension plan.[4] Since it was formed in 1995, BPG has been an active advocate for improved legislation and regulations relating to defined benefit plans (DB plans) sponsored by private sector employers. In particular, BPG made representations during the Government's 2009 consultation process that led to significant changes in the rules governing private sector pension plans. One such change, the distressed pension plan workout scheme (DPPWS), is designed to address many of the same issues raised in the "The Target Benefit Plan Consultation Paper" (the Consultation Paper).

BPG is pleased to provide the Department of Finance Canada with its response to the Consultation Paper. Target Benefit plans (TB plans) represent a potentially helpful addition to the Canadian pension landscape, especially for companies without any form of pension plan – or, perhaps, as an alternative to a defined contribution plan (DC plan).

Our request is that, in developing any new pension framework, the Government require companies to honour the commitments they have made to pensioners and employees. Most importantly, the Consultation Paper envisages that a private sector sponsor could convert its DB plan "*en bloc*" to a TB plan and eliminate the DB plan.[5] BPG urges the Government to exclude this type of conversion from the framework.

If conversion from a DB plan to a TB plan is permitted under a new framework, consent to conversion must be an individual, informed choice. The process by which this consent would be obtained and assessed is critical. The DB plan would remain in operation for those who do not choose to convert.

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[4] OSFI Registration #55077

[5] The Financial Consumer Agency of Canada (FCAC) provides information on company pension plans to consumers planning their retirement (see.http://www.fcac-acfc.gc.ca/Eng/forConsumers/lifeEvents/planningRetirement/Pages/CompanyP-Rgimesde.aspx). According to FCAC, under a DB plan employer contributions (and employee contributions, if any) are pooled into a retirement fund and managed by the employer. The pensioner receives a guaranteed pension income depending on a formula generally based on income and years worked. According to FCAC, the disadvantage of this arrangement is that if the fund is not managed properly and/or the employer experiences financial troubles or bankruptcy the amount of pension may be adversely affected. In contrast under a DC plan, FCAC explains that the employee chooses where to invest employer and employee contributions among a number of options offered by a financial institution. In a DC plan, the value of the employee's pension is based on the performance of these investments and is not guaranteed.

From a plan sponsor's viewpoint, converting a DB plan to a TB plan may be seen an opportunity for significant cost savings, whether or not the sponsor is having financial difficulties. Even if, at the outset, a sponsor decided not to convert its DB plan to a TB plan, should the legislation permit it, the temptation to convert would remain. In the future the sponsor could exercise this option as a means to cut its business costs, and/or as a means to voluntarily wind up its plan while avoiding the requirement under a DB plan to cover plan liabilities on wind-up. At any time the employer could step away from its commitments to employees and pensioners.

BPG is a founding member of the Canadian Federation of Pensioners (CFP) which represents about 250,000 members[6] of both federally- and provincially-regulated DB plans. CFP is also submitting a response to the Consultation Paper. BPG endorses and adopts the views expressed by CFP.

Millions of Canadian pensioners and employees, their dependents, families and communities could be affected if it were possible for an existing DB plan to be converted "*en bloc*" to a TB plan. Federally-regulated DB plans cover 512,000 Canadians.[7] The Consultation Paper envisages that TB plans could also be adopted by other Canadian jurisdictions. In total, 2.9 million Canadians are covered by private sector registered pension plans.[8] The vast majority are in DB plans. Including their families, BPG estimates that approximately six million Canadian voters could be affected if these proposals are adopted.

- In the balance of section 1, BPG addresses the underpinnings of the Consultation Paper to show that – far from being unsustainable – the vast majority of federally-regulated DB plans are successfully addressing the challenges of the recent economic environment. Where individual plans are in distress, measures already exist to help them.

- Section 2 addresses specific issues raised by the Consultation Paper. The comments are offered in the context that the Government's TB framework will adopt the principle that individual choice is to be respected. In particular, a member of a DB plan must be permitted to remain in the DB plan if he or she so chooses. For those that opt to convert to a TB plan, plan elements would be developed through negotiations among all stakeholders.

  Section 2.2.1 addresses the important issue of the process to be used to ensure individual consent where a TB plan is being offered as an alternative to an existing DB plan.

- Section 3 provides some thoughts on the policy implications of the TB plan initiative. If implemented without informed individual consent, this initiative would force older Canadians to take on more financial risk at a time of life when they need greater financial security, not less.

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[6] In this response, unless otherwise qualified, BPG uses the term "plan member" to include all employees, retirees and beneficiaries (i.e., survivors and deferred pensioners) in the plan.
[7] OSFI Annual Report 2012-2013, p.23
[8] "The Third Rail", Jim Leech & Jacquie McNish,[8], McClelland & Stuart, 2013 (hereinafter, "Leech & McNish"), p. 29

1.2 Private sector plans are successfully addressing financial challenges

The "Introduction" to the Consultation Paper suggests that some plan sponsors are facing financial failure as a result of the cost pressures of funding DB plans:

> "Recent low interest rates, volatile equity markets and increasing longevity have put significant cost pressures on some plan sponsors to meet the funding requirements of defined benefit (DB) plans. Such requirements can affect the business operations and viability of the sponsor, which can in turn put pension benefits at risk."

This statement conveys the impression that DB plans are making good companies go bad. This is not the case. All DB plan sponsors face the challenges presented by low interest rates, volatile investment performance and increasing longevity. But far from teetering on the brink of financial failure, most employers with federally-regulated private sector pension plans are meeting their commitments, weathering the economic storm and becoming stronger as a result.

On April 16th, 2014,[9] the Office of the Superintendent of Financial Institutions (OSFI) released preliminary 2013 data for the average estimated solvency ratios (ESRs) of federally-regulated DB pension plans.[10] As of December 2013, the average ESR for all these plans was 98% (as compared to 83% a year earlier). OSFI only considers that a plan is materially underfunded when its solvency ratio falls below 80%.[11] Just 7% of plans had a solvency ratio below 80%, as compared to 61% a year earlier. OSFI attributes this turnaround to an increase in discount rates, strong equity returns and employer contributions.

As of March 31st, 2013, there were 1,234 federally-regulated private pension plans registered under the *Pension Benefits Standards Act, 1985* (*PBSA*). Of this total, 447 plans were DB plans or combined DB/DC plans[12]. The remaining 787 plans were DC plans. From this data, BPG concludes that no more than 31 plans,[13] had a solvency ratio below 80%, giving rise to concern of material underfunding. Of course, the mere fact that a solvency ratio is below 80% does not mean that the plan or the sponsor is financially frail. For example, in 2008, the DB component of the Bell Canada plan had a solvency ratio slightly below 80%, but for 2013 it will have a solvency ratio of about 93%.

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[9] This information has since been confirmed in OSFI's "InfoPensions", Issue 11, May 2014, released on May 29th, 2014.
[10] The solvency ratio of a plan measures the ratio of plan assets to plan liabilities on the assumption that the plan will close ("wind-up") at the date of the valuation. A ratio of 100% means that the plan is "solvent" because, as of the date of the valuation, it has sufficient plan assets to meet its liabilities.
[11] See, for example, OSFI's Annual Report for 2009-2010, p. 39.
[12] 347 DB plans plus 100 combined DB/DC plans
[13] 7% of 447 plans

Even in the worst of times, OSFI took action to terminate just three plans, or less than one quarter of one percent of the plans that it regulates. During 2012-2013, after recording probably the worst ever ESR results for federally-regulated plans in June 2012, OSFI stated that it "…intervened with respect to high-risk pension plans, including to restrict portability of benefits in order to stop the impairment of the pension fund, and to terminate three plans. These actions were taken to ensure equitable treatment of all members."[14] [Emphasis added]

OSFI provides a database of federally-regulated pension plans.[15] Although this does not indicate whether a plan is a DB plan, a DC plan or a DB/DC combination, based on the companies and alliances that responded to the Government's 2009 consultation process, private sector companies with DB plans would likely include not only Bell Canada but also some or all of the following: Air Canada, members of the Canadian Bankers' Association,[16] members of the Canadian Trucking Alliance, the Iron Ore Company of Canada, members of the Maritime Employers Association, NAV Canada, members of the Canadian Airports Council, Purolator Courier Ltd., Telus, Canadian National Railways, Canadian Pacific Railway Ltd., Western Grain Elevator Association, and MTS Allstream.

To BPG's knowledge only Air Canada has sought relief due to the impact of its pension plan on its financial position. On January 22nd, 2014, the Financial Post reported that Air Canada "had finally got a hold on its massive pension obligations, and that at the start of 2014 it estimated its employee's plan was actually in a small surplus position for the first time in years."[17]

When it comes to DB plans, the best risk protection is a healthy sponsor. While low interest rates are a challenge from a pension funding perspective, they also provide a low cost of debt, helping companies to grow and prosper. In this regard, during BCE's Q4 2013 Results and 2014 Guidance Conference Call on February 6th, 2014, Siim Vanaselja, Chief Financial Officer stated:

> "Our average after-tax cost of debt is attractive now at about 3.5%. That is our lowest level in over 50 years. All of that being a very solid foundation, I think, for our 2014 business plan and for our increased common share dividend, which George [Cope] announced."

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[14] http://www.bankofcanada.ca/wp-content/uploads/2014/04/remarks-240414.pdf
[15] http://www.osfi-bsif.gc.ca/Eng/wt-ow/Pages/swwr-rer.aspx
[16] These include the "big six" banks, Bank of Montreal, Bank of Nova Scotia, Canadian Imperial Bank of Commerce, National Bank of Canada, Royal Bank of Canada and Toronto-Dominion Bank. On March 27th, 2013, the Superintendent of Financial Institutions declared these banks as "systemically important" – in other words, "too big to fail". See "Top banks too big to fail: watchdog", Julian Beltrame, Winnipeg Free Press, March 27th, 2013.
[17] "Air Canada eliminates $3.7-billion pension deficit, reports small surplus at start of 2014", Scott Deveau, Financial Post, January 22nd, 2014

Thus low interest rates help businesses. This is the reason they have been used by governments around the world to aid recovery from the economic crisis of the last few years.

Although rates are expected to stay low, experts expect some movement. For DB pension funds, there is light appearing at the end of the tunnel. Even a modest improvement in rates can turn a pension deficit into a surplus.[18]

On the same day, April 24th, 2014, that Minister of State Sorenson announced the TB plan consultation, Stephen Poloz, Governor of the Bank of Canada, speaking to the Saskatchewan Trade and Export Partnership, stated: "Our forecast is that, as a result of higher consumer energy prices, total inflation will rise in the next few quarters". He added the following:

> "… [W]e are still a long way from home, as it will take until early 2016 to get underlying inflation back up to 2 per cent. Our economy has room to grow. And, when we do get home, there is a growing consensus that interest rates will still be lower than we were accustomed to in the past – both because of our shifting demographics and because, after such a long period at such unusually low levels, <u>interest rates won't need to move as much to have the same impact on the economy</u>." [Emphasis added]

In other words, while interest rates can be expected to remain low relative to pre-recession levels, a relatively small increase from the current level can have a significant impact. On May 12th, speaking about the recent weak performance of pension plans, Don Drummond, a former associate deputy minister to the department of finance and TD Bank Executive, now Matthews Fellow on Global Public Policy at Queen's University, said that it is pension liability that is the problem, but that government bonds won't stay at two-per-cent rate of interest for ever.[19,20]

In summary, according to OSFI's data, few federally-regulated private sector sponsors of DB pension plans are close to financial crisis. For those that are in serious trouble, there are measures available in the *PBSA*, including the actions that OSFI took in three cases last year, and the potential to invoke the DPPWS.

Those sponsors that are not in financial trouble, but see forced conversion of a DB plan to a TB plan as an easy way to reduce costs at the expense of their employees and pensioners, should consider

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[18] For example, see statement by BCE's CFO quoted in the next section.
[19] The Hill Times, May 12th, 2014, p.31
[20] See also "Results of the Department of Finance's June 2014 survey of Private Sector Economists", June 17th, 2014.

the detrimental impact that breaking their pension promise without 100% informed consent could have on their business reputation and reputation as employers.

An Ipsos Reid survey conducted last week found that while a substantial proportion of Canadians (44%) recognize the difficulty employers may have in providing pensions for their employees and pensioners, many more – more than nine in 10 Canadians (94%) – agree that employers should live up to the commitments they have made to pensioners and employees. And Canadians are clear that they expect their Government to make sure this happens: 92% agree that in developing a new pension framework, the federal government should ensure that companies honour the commitments made to pensioners and employees.[21]

An example of a pension plan sponsor that is effectively managing its DB pension obligation is Bell Canada.

1.3 Bell Canada is meeting its commitments to pensioners

On February 6th, 2014, Siim Vanaselja, Chief Financial Officer of BCE Inc., announced that the solvency ratio of Bell Canada's DB plan for year end 2013 was 93%.[22] He even looked forward to the possibility of a contribution holiday with regard to the payment of current service costs,[23] should there be a further modest discount rate increase:

> "The funded status of Bell's defined benefit pension plan has improved considerably. With the increase in government bond yields, our solvency discount rate increased 70 basis points last year, and that improved our solvency ratio to 93%, lowering our solvency deficit to approximately $1 billion. Given the plan's strong valuation position and the market's expectation for higher interest rates over the medium term, we see no further voluntary pension funding requirements. Total cash pension funding, therefore, for Bell in 2014 is estimated to remain stable at around $350 million for regular pension funding.
>
> Looking forward, Bell's solvency deficit would, in fact, be eliminated in the event of about a further 50 basis point increase in the discount rate, and should we see the plan get to a surplus of 105%, there would be an opportunity to reduce Bell's ongoing annual pension funding requirement by close to $200 million and that stems from the fact that we would no longer be obligated to pay are [our] annual current service costs."

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[21] http://ipsos-na.com/news-polls/pressrelease.aspx?id=6545
[22] BCE's Q4 2013 Results and 2014 Guidance Conference Call
[23] For more on contribution holidays, see section 1.4 below.

How has Bell Canada achieved this? In BPG's view by responsible, proactive expert plan management, appropriately-risked investment strategies and a determination to honour the company's commitments to its employees and pensioners. For example:

- Bell Canada's DB arrangements neither require nor permit employee contributions to the plan. This has meant that the company has not been exposed to the need to make up solvency deficits should employee contributions be insufficient.

- At retirement, the maximum income covered by a Bell DB pension is about 50% and for most retirees is 40% or less. This contrasts with other plans that reportedly provide coverage of 60% to 70%.[24] The average annual DB pension income from the Bell plan is about $22,000 – or about $23,000 for retirees and $14,000 for survivors.

- Options available at retirement under the plan have evolved over the years in line with changes in pension legislation, changes to government benefits, the company's need to restructure its workforce, and retirees' family situations. Death, spousal and bridging benefits are payable out of a retiree's pension entitlement at retirement – or, in the case of early retirement, through a reduced pension entitlement. Contrary to the suggestions in the Consultation Paper, none of these benefits is "ancillary". This will be discussed further in section 2.6.1 below.

- Indexation is not automatic and is capped at a level below increases in Statistics Canada's Consumer Price Index.

- Bell provides relevant and timely information on each individual's pension as well as the overall health of the plan. On an annual basis, Bell provides each employee with information on the amount of pension accrued to date. Pensioners receive confirmation of the amount of their pension in the coming year. Employees and pensioners also receive an annual report on the financial health and membership status of the plan.

- When Bell introduced the DC component of its plan starting in 2004, it required that all new employees join the new plan, but it allowed existing DB members to choose whether to continue as DB members, or to become DC members. Even where employees chose to transfer to the DC option, they retained their accrued DB benefits. To assist employees in making their decision, Bell provided each employee with a personalized information package and access to human resources personnel to answer any questions.

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[24] Leech & McNish, p. 18

BPG recognises that some employers who are considering grandfathering their DB plan may be seeking another option to a DC plan, and that the TB option contemplated in the Consultation Paper may better meet their needs. The merit of Bell Canada's approach is not that a DC option is necessarily preferable to a TB option but that Bell made it voluntary for existing employees either to switch to the new type of plan or to stay with their DB arrangements.

- For each of the four years from 2009 to 2012,[25] Bell Canada made annual voluntary contributions to its plan. These pre-payments are being used to meet contribution obligations in future years. This action kept the solvency ratio of the plan close to or above 80% throughout this difficult period.

- For 2012, Bell adopted an OSFI-approved replicating portfolio approach to fine-tune the calculation of solvency liabilities.

- Bell is de-risking its plan, recognizing the increasing average age of its members. As the solvency ratio rises and market conditions permit, Bell is switching from more risky to less risky investments.

- Bell has adopted updated Canadian Institute of Actuaries' mortality tables on a timely basis.

Bell Canada is transitioning its pension arrangements from DB to DC relatively smoothly and in a manner which has met company objectives as well as honoured commitments made to pensioners. At the end of 2012, just 8 years after DC arrangements were introduced, more than 50% of Bell employees were on the DC plan. There were 15,916 employees accruing DC service and 15,166 employees accruing DB service.

As regards pensioners: at the end of 2012, there were 33,085 retirees and survivors receiving a pension from the DB component of the Bell plan.[26] The average age of pensioners was 70 years for retirees and 76 years for survivors. The most senior member of the plan was aged 107 years.[27]

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[25] BCE News Releases dated December 17th, 2009, December 10th, 2010, December 8th, 2011 and December 11th, 2012

[26] The data provided here is for year-end 2012, the most recent available to BPG at time of writing. It is taken from the Bell Canada Pension Plan Pension Information Committee Report as at December 31st, 2012, and the Bell Canada Pension Plan Actuarial Valuation as at December 31st, 2012 (issued June 25th, 2013).

[27] A further 6,863 individuals were entitled to a deferred pension.

The Bell Canada DB plan is sustainable. Bell pensioners and employees have earned their pensions through a lifetime of work. They rightly view their pensions as deferred wages and trust Bell Canada to pay them what they are owed.

1.4 Consultation Paper overlooks contribution holidays

The Consultation Paper, by focusing on recent challenges and largely ignoring past experience, has overlooked the "up side" of the DB plan experience for federally-regulated private sector plan sponsors – namely the opportunity to take contribution holidays.[28]

Under a DB plan, the employer makes the following two main types of contribution:

- "Normal costs", sometimes called "current service costs". These are contributions to cover a portion of the annual costs of the pensions being accrued by active members (i.e., employees).
- Special payments. These are contributions required to address going concern or solvency deficits. Solvency special payments are set at 20% of the plan's solvency deficit for the average of the previous 3 years.[29]

If, however, the plan has a solvency surplus of greater than 100%, it does not have to make solvency special payments. Moreover, once it reaches a solvency surplus of 105%, it can a take a "contribution holiday" on the payment of normal costs.

Contribution holidays were common prior to 2005. For example, it is BPG's understanding that Bell took full contribution holidays for each of the years 1989 to 2004, and a partial holiday for 2006.[30]

1.5 The Government has taken measures to help sponsors affected by 2008 crisis

The Consultation Paper only makes passing reference to the fact that plan sponsors have recently benefitted from a number of measures introduced to address the challenges it raises. In January 2009, the former Minister of Finance, the late Jim Flaherty, initiated a major review of the *PBSA* and the *Pension Benefits Standards Regulations, 1985* (*PBSR*) with a view to improving the

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[28] *Pension Benefits Standards Regulations, 1985 (PBSR),* s. 9(5)(b)
[29] *PBSR ss. 9(4) and 9(8)*
[30] Bell Pension Information Committee Reports for 1998-2012. In some of these years, under the *Income Tax Act*, Bell was actually not permitted to make contributions because its surplus exceeded 10% of actuarial liabilities. This limit has since been raised to 25% (see next section).

framework for federally-regulated private sector pension plans. This followed a period when the Government had provided temporary solvency relief to plans that had been adversely affected by economic conditions. The Government issued a discussion paper for comment, and received submissions from a wide range of stakeholders, including BPG. There were cross-Canada consultation meetings and consultations with the provinces.

On October 27th, 2009 Mr. Flaherty announced a package of measures designed, among other things to reduce funding volatility for DB plans. These measures included:

- A "fresh start" funding formula which allowed a plan sponsor to bring the plan to full founding over time. In each succeeding year the sponsor is required to eliminate only to 20% of a plan's solvency deficit (excess of solvency liabilities *less* solvency assets);
- The ability to use solvency ratios averaged over a 3 year period to calculate solvency funding requirements;
- Provisions to allow sponsors to use properly structured letters of credit to satisfy up to 15% of solvency payments; and
- An increase in the pension surplus threshold in the *Income Tax Act* from 10% to 25%.[31]

Measures were also included to make it easier for participants to negotiate changes to their pension arrangements. These included a workout scheme for distressed pension plans (now the DPPWS) to help facilitate the resolution of plan-specific problems that arise in some circumstances when a particular plan sponsor cannot meet near term funding requirements.

Over the following months the necessary legislation was passed and a series of "tranches" of regulations were incorporated into the *PBSR* to allow the legislation to take effect. This work was largely completed by July 2011.

In 2013 the Government initiated a consultation concerning proposed changes to the DPPWS which would allow sponsors to avail themselves of the scheme without being required to declare financial distress.[32] The CFP filed comments supporting the objective of the amendments under consideration. To BPG's knowledge, a report of the findings of this consultation has not yet been issued.

[31] *Income Tax Act*, s. 147.2(2)(d)
[32] http://actionplan.gc.ca/en/initiative/options-troubled-pension-plans

Where a sponsor sincerely believes that its DB plan is not financially sustainable, then the appropriate course of action would be for the sponsor to demonstrate that fact to its plan members, invoke the DPPWS process, and come to an accommodation with them that would permit the sponsor to meet its commitments without jeopardizing its financial future.

Despite the availability of the DPPWS and the other changes made to the *PBSA* to help plan sponsors, corporate Canada continued to lobby for further easing of its pension obligations. On August 7th, 2012, the Globe and Mail reported that a number of Canadian corporations were asking for further relief to allow plans to remain underfunded for longer – or, in the alternative, they wanted to be able to use a higher discount rate to calculate pension liabilities. Minister of Finance Jim Flaherty held firm, stating: "We're not looking at any changes… At the end of the day, these are pension funds that need to be worked out between the employers and their employees. It's a private matter, except that there's a legislative vehicle in place, if they want to follow the distressed pension plan model. There's a way of proceeding."

Now less than two years after Minister Flaherty's rejection of further compromise on solvency funding, the Consultation Paper suggests an option for plan sponsors to convert DB plans to TB plans "*en bloc*" which, if adopted, would abandon any measure of or requirement for solvency funding, and would significantly increase the risk that pensioners' income would be reduced at a time in their lives when they are least equipped to deal with such reductions.

1.6 Early adopter TB pension regimes are in their initial fragile stages

The Consultation Paper cites New Brunswick and the Netherlands as examples to follow of jurisdictions that are introducing a TB plan framework to deal with issues of DB plan sustainability. These examples need to be treated with caution. Simply because there are a few examples of plan failure does not mean that all plans are in trouble – or that all – or, indeed, any – private sector DB plans should be converting "*en bloc*" from a DB plan to the TB model.

First, New Brunswick and the Netherlands have been characterized by Leech & McNish as situations where some or all of benefit excesses, lax plan administration, failure to adopt updated mortality assumptions, high risk investment practices, generous use of contribution holidays, and poor oversight have been major contributors to DB plan failure.[33] In BPG's view, poor oversight is not a characteristic of today's federal regulatory regime. Moreover, recent reforms such as the introduction of the requirement for plan sponsors to file annual valuations have enabled OSFI to

[33] See for example, Leech & McNish Chapters 2 & 4, especially pp. 36-38, 46, 50, 114, 117-118, 126.

identify problems and intervene to assist sponsors and protect pensioners on a timely basis. And, while there is always room for improvement in plan management, the data suggests that few federally-regulated DB plans are failing in the spectacular manner described by Leech & McNish.

Second, in the case of New Brunswick, there was no equivalent to the *PBSA*'s DPPWS available to be invoked when the crisis struck.

Third, New Brunswick and the Netherlands do not provide all the answers. For example, it remains to be seen whether New Brunswick and the Netherlands have put in place the necessary "rigorous governance and regulation".[34] These new pension regimes are in their early fragile days. Leech & McNish report that each jurisdiction continues to face legal and political challenges.[35,36]

If TB plans are to be implemented for federally-regulated plans, they must be built on solid foundations. In particular, as the Consultation Paper recognizes, this must include the requirement for individuals to provide their consent to conversion to a TB plan. In this regard New Brunswick should not be emulated because its legislation does not contain reference to, or provisions whereby, DB plan members would be required to provide their consent to conversion to a TB plan. Such a high-handed, undemocratic approach is not acceptable.

Furthermore, with regard to a framework for private sector TB plans, it appears that New Brunswick's Shared Risk Pension Plan model has so far only been taken up by public sector sponsors. For example, the province's *Public Service Superannuation Agreement Act* was converted to a Shared Risk Plan in January 2014. BPG has tried, so far without success, to determine whether there has been interest in this model from New Brunswick's private sector. On May 18th last, BPG submitted an inquiry to the Financial and Consumer Services Commission of New Brunswick (FCNB), requesting information on the uptake of the "Shared Risk Pension Plan" approach in the private sector. On June 3rd, BPG followed up with a similar request to the Deputy Director of the Pensions Division of FCNB. At time of writing, BPG has not received a response to either of these queries.

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[34] See, for example, Leech & McNish, p.162.
[35] Leech & McNish, p. 140. See also www.pensioncoalitionnb.ca.
[36] In the case of the Netherlands the "contours of reform" were to be unveiled in summer 2013, with legislation being put in place no earlier than 2014. When writing in 2013, Leech & McNish cautioned that important issues concerning future benefits and funding security guidelines were still to be resolved (p. 124).

2. COMMENTS ON CONSULTATION PAPER PROPOSALS

According to the News Release issued with the Consultation Paper, TB plans would be a "middle ground" between DB plans and DC plans.[37] *Unlike DB plans, benefit levels would be "targeted" rather than "defined". No attempt would be made to protect any solvency level of a plan in the event of sponsor bankruptcy. Funding would be based on the assumption that the plan's sponsor would continue to provide funding, up to a negotiated capped level, in perpetuity. If the employer went bankrupt it would be a case of "what you see is what you get". There would be no legal recourse to recover any amount over and above what is left in the plan.*

Employees would also be required to contribute.

Eventually, if total employer and employee contributions proved insufficient to pay the agreed TB plan pensions, the pension income of retirees and their survivors would be cut. It is also proposed that certain so-called "ancillary" benefits would be cut before so-called "base" benefits. For example, survivor pensions could be regarded as "ancillary" and reduced to zero in the first round of cuts.

BPG notes that it regards "retirees" as plan members with concerns equal to if different – and in some cases greater – than those of employee members. In this response, unless otherwise qualified, BPG uses the term "plan member" to include all employees, retirees and beneficiaries (i.e., survivors and deferred pensioners).

BPG's comments in this section are offered in the context that the Government's TB framework will adopt the principle that individual choice is to be respected. In particular, a member of a DB plan must be permitted to remain in the DB plan if he or she so chooses.

2.1 Introducing a TB plan

There could be three main scenarios for introducing a TB plan. The first is where the employer does not yet offer any plan. The second is where the employer is grandfathering an existing plan, likely a DB plan, and introducing a TB plan for new employees. The third is where the employer has an existing DB plan and wants to convert as many members as consent (employees and retirees) to a TB plan. In each case, once an employer has decided to implement a TB plan, the first step will be to establish the plan framework. In the first two scenarios, one would expect this to be done in consultation and negotiations with employees. It could also be of value to include an independent expert familiar with the issues faced by pensioners in these scenarios.

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[37] Frequently Asked Questions on Proposed Target Benefit Plan (TBP) Framework, Department of Finance Canada, April 24th, 2014

In the third scenario, it would of course be essential to include pensioners in the consultation and negotiation process. To facilitate the negotiation process, and with OSFI approval, a group such as BPG could be selected to represent pensioners. Expenses of those negotiating on behalf of pensioners should be paid by the plan sponsor. It may also be necessary for experts in pension plan design to assist during the negotiations. These experts should be paid for by the plan sponsor.

As envisaged by CFP in section 3.1 of its response to the Consultation Paper, we would expect design and introduction of a TB plan to be multi-stage process. The first stage would "kick off" the process to introduce the plan and identify the parties who would establish the elements of the plan. The second stage would be the negotiation of the elements of the plan. Once all elements of the plan had been agreed, and clearly set out in the plan text, this document would be submitted to OSFI who would advise on its conformity with the law and regulations. For the first two scenarios it would then be a matter of communicating the TB plan to the employee base and signing up employees to the plan.

For the third scenario there would be the additional step of seeking the consent of members to conversion from a TB plan to a DB plan under the terms negotiated.[38]

- Section 2.2 addresses some important requirements for obtaining consent to conversion from a TB plan to a DB plan.
- Sections 2.3 to 2.12 address the TB plan elements which would come into effect for those individuals who agreed to convert from a DB plan to the TB plan, and for new employees joining the TB plan.

2.2 Securing individual consent for conversion from a DB plan to a TB plan

Section 4.8 of the Consultation Paper addresses the conversion of an existing DB or DC plan to a TB plan. At the outset it states that such a conversion would be "subject to the consent of plan members and retirees".

2.2.1 Consent must be obtained, informed, individual

BPG believes it will generally not be in the best interests of pensioners who are under a DB plan to be converted to a TB plan. Individual DB plan members may, however, view things differently –

[38] One could envisage two questions being asked during the consent process: the first would be whether the individual wished to convert to the TB plan. Those individuals who answer "yes" to this question would then be asked whether they agree to the plan text. If either a majority of pensioners and/or a majority of employees who wished to convert did not agree to the plan text, there would be a second negotiation process to arrive at a new plan text, followed by ratification by the employees and pensioners who had agreed in principle to convert to the TB plan.

for example, there could be some members of a DB plan who would be attracted by the opportunity under a TB plan to benefit from any plan surplus. If conversions from DB plans to TB plans are allowed, it is critical that pensioners be able to make their individual choice either to stay with their DB plan or to convert to the TB plan, and that they be fully informed of the implications of choosing the TB plan. Moreover, those who prefer to do so must be free to remain part of the existing DB plan. The DB plan would remain in operation for those who choose not to convert.

The matter of the process to be used to obtain consent to conversion is critical and requires careful attention. It is not a matter to be ignored, even though the Consultation Paper does not specifically address it. Failure to recognise the importance of clarity around the consent process has already stalled one government's attempt to pass legislation allowing conversion of private sector DB plans to TB plans:

- ❖ In April of this year, the Government of Alberta attempted to enact legislation in Bill 10, the *Employment Pension Plans Amendment Act*, which would have allowed private pension plan sponsors to convert previously accrued defined benefits into targeted benefits.[39] On May 6th, 2014 Alberta's Minister of Finance halted the progress of this legislation by referring it to Standing Committee for further consideration. The Minister's Press Secretary acknowledged that, although the Bill would require the consent of plan members to a conversion, the formula for achieving that consent was not clear.[40]

- ❖ As noted earlier, New Brunswick's Shared Risk Pension Plan legislation is seriously deficient in that it does not provide for member consent to convert from a DB plan to a Shared Risk Pension Plan.

To reiterate, the important thing is for each and every plan member (whether an employee, a retiree, a survivor, or a deferred pensioner) to voluntarily make his or her own informed decision based on full disclosure by the plan sponsor of the impact on the individual concerned. Negative option conversion must not be permissible. Rather, the individual must provide written consent, endorsed by their spouse (if any) and witnessed by a lawyer. Where an individual has been deemed not competent to make decisions concerning his or her financial affairs, this decision would need to be made by the person designated by law to act for that person. Unbiased experts should be made available free of charge to explain the TB plan to pensioners (including survivors) and/or their designated representative.

[39] See, for example, "Alberta introduces pension reform bills", Global News, April 16th, 2014.
[40] "Proposed pension changes affect more than public sector", Athabasca Advocate, May 6th, 2014

For pensioners, all the requisite papers, information and forms should be sent by registered mail. This should include a copy of the pension plan text, as well as personalized analysis showing the individual's current pension income and the pension income that would be paid by the TB plan under different scenarios (for example, with full payment of "base" and "ancillary" benefits, payment of "base" pension only, and payment of "base" benefits cut by various percentages). The pensioner's information package should include a pre-addressed, pre-paid, registered post, return envelope for submission of the requisite completed forms.

For a pensioner with survivor coverage under his or her DB plan, the implications for the survivor's pension should also be clearly set out. For example, if survivor pensions were to be treated as "ancillary", as contemplated in the Consultation Paper" (pp. 19 & 26), it should be made very clear that the pensioner could no longer rely on his or her survivor receiving the survivor pension promised under the DB plan. Where the pensioner has survivor coverage under the DB plan, both the pensioner and potential survivor should be required to consent to the conversion.

The employer should provide a toll-free number where information can be obtained from knowledgeable individuals on a secure, unbiased and confidential basis.

An employer may also choose to make the plan text and requisite forms available on a website. The website should not, however, be a replacement for providing and returning documentation in paper form. Many pensioners have only limited computer skills, if any. Even those with some skill may not have easy access to computers, or may not have the Internet service or the software or equipment necessary to access, download and print documents. Moreover, pensioners are well aware of the financial "scams" being perpetrated over the Internet and, for good reason, are not prepared to provide or discuss financial information via the Internet. Personal financial information should not be sent over the public Internet.

The Consultation Paper (pp. 27-28) appears to suggest that, in advance of the conversion to a TB plan, sponsors would merely have to provide plan members and beneficiaries with the web page address of the Financial Consumer Agency of Canada. This would be completely inadequate and unacceptable, for all of the reasons explained above.

In order to ensure that the process of obtaining consent to a conversion is conducted on an unbiased basis, and since only the former employer or DB plan administrator will have contact information for all pensioners, BPG recommends that the rules provide that the process of gathering consent should be conducted at arm's length by a third party (for example, an accounting firm), retained at the sponsor's expense.

It is critical that those pensioners (including survivors) who do not explicitly choose to convert to a TB plan remain on the DB plan. Only those who explicitly opt to convert to the TB plan should be converted. On no account should a pensioner who does not respond to the information package be converted to the TB plan. Their benefits under the DB plan must continue to be paid according to the terms of the DB plan. Nor should DB pension payments be stopped for those who do not respond. This is no idle concern: in November 2013, OSFI reported that it had come to its attention that some plan administrators were stopping benefits to retirees and survivors who had not responded to audits.[41]

For those who do not convert to the TB plan, the DB plan would remain in place.

2.3 Administration and governance

Section 4.1 of the Consultation Paper sets out proposals for the administration and governance of TB plans. These envisage a governance body in the form of a board of trustees.

For discussion of the governance and administration processes for establishing a TB plan, please see sections 2.1 and 2.2 above and sections 3.1.1 and 3.1.2 of CFP's response to the Consultation Paper.

For ongoing administration of the plan, BPG believes that the framework proposed in section 4.1 of the Consultation Paper is generally appropriate. We have particular comments as follows:[42]

- Representatives of all stakeholder groups must be included on the board of trustees. As applicable, this would include the plan sponsor, unionised and non-unionised employees who are members of the TB plan, retirees receiving a pension from the TB plan, those receiving a survivor pension from the TB plan, and those entitled to a deferred pension from the TB plan. The level of representation of each party should be determined through negotiations and should reflect the relative size of each constituent group.

- Appointment of independent trustees should be permitted. For example, these could include investment experts, actuaries, lawyers, experts in dispute resolution, communications experts,

[41] "InfoPensions", Issue10, pp. 3-4
[42] See also CFP's response to the Consultation Paper, section 3.1.3.

etc. These trustees would not be permitted to vote. Compensation for such experts should be paid by the plan sponsor.

- As the Consultation Paper proposes, the board of trustees should not have the power to amend plan documents. This would be the prerogative of the employer, employee members of the plan and retired members of the plan. The Board could, however, recommend amendments.

- The support level required for changes to plan documents should be the support of both a majority of employee members *and* a majority of retired members.

- Where a plan change affects only a sub-group of members – for example those receiving, or entitled to, a survivor pension – the support of a majority of this sub-group would also be required for the change.

- Retirees could opt to be represented in negotiations by an organization such as BPG, subject to the approval of the Superintendent of Financial Institutions. In this case, the employer would be required to provide that organization with current contact details for all retirees. This would be used by the organization to canvass individual retirees as to whether they wished to be represented by the organisation. Ultimately, the Superintendent would either approve this organisation to represent pensioners, or would establish some other arrangement.

- Compensation and expenses arrangements for stakeholder representatives should be negotiated and set out in the plan text.

2.4 Funding policy

Section 4.2 of the Consultation Paper proposes that funding of a TB plan would be directed towards a target, calculated as the going concern valuation of the plan, plus a buffer. The buffer would be calculated using a complex and judgmental approach developed by actuaries, or some other approach, and would be subject to negotiation. If the target going concern level was missed, employees and the employer would negotiate to provide increased contributions. Absent sufficient increases in contributions, pensions would be reduced, starting with any benefits that are deemed "ancillary", and proceeding to reductions of "base" benefits, until reduced to the level which could be met from the plan's funds.

2.4.1 Going Concern is incomplete and potentially misleading indicator of plan health

For those who convert from a DB plan to a TB plan, the approach set out in the Consultation Paper would mean a downgrade from the solvency-based level of pension protection in place for DB plans.

One of the most important management tools for pension plans is plan valuation. Two valuation approaches are used for DB plans. Going concern valuation assumes the pension plan will continue indefinitely. Solvency valuation assumes that the plan will close ("wind-up") at the date of the valuation. The key difference between these approaches is the discount rate used for liabilities. Going concern valuation uses the expected investment return on the assets of the plan. Solvency valuation uses an annuity-purchase proxy rate, assuming that, on plan termination, pension liabilities would be settled by the purchase of annuities. Actuaries may argue about the precise approach to making these valuations. The key fact, however, is that when a plan has to be wound up because it cannot meet its liabilities, it is the solvency valuation which will determine whether there are sufficient assets to pay members the pensions they have been promised.

If the solvency position of the plan is not known, because it is not being measured – or it is being measured and the valuation is simply being ignored by plan management – there is a good chance that, absent regulation to require the plan sponsor to make good the deficit, pensions will have to be reduced on wind-up. In recent years the gap between the going concern and solvency valuations of plans has been significant. For example, for the Bell Canada plan, the going concern valuation has shown a surplus in all but one of the last six years since 2008, whereas the solvency valuation has shown a deficit in each of those six years of up to 20%. The average solvency deficit has been about 15%. If no contributions had been made to reduce the solvency deficit, the solvency of the plan would undoubtedly have deteriorated.

Thus, going concern valuation and solvency valuation can provide contradictory signals. Relying on a going concern valuation could even result in the pay-out of a presumed surplus, whereas in fact the plan had a solvency deficit. For example, for the year ended December 31st, 2012, the DB component of Bell's plan had a going concern ratio of almost 109%, but a solvency ratio of 84%. If the TB plan allowed for payout of a surplus (or a contribution holiday) when the going concern ratio reached 105%, and if, seeing these results, a payout was made and/or a contribution holiday was taken, the actual solvency of the plan would deteriorate.

As to the appropriate manner to calculate the buffer for the going concern target, the Consultation Paper suggests two options. The first is the Provision for Adverse Deviation, or PfAD, approach, developed by the Canadian Institute of Actuaries which attempts to develop a buffer to allow the plan to remain adequately funded despite potential unpredicted future changes in economic or other factors.[43] The other option is for a probabilistic approach relying on individual actuarial judgment. BPG has been advised that, at this time, the probabilistic approach is only a concept. The Consultation Paper confirms that no professional actuarial standards exist for a probability test.

BPG expects that actuarial bodies will respond to the Consultation Paper and provide their professional opinions on the preferred approach. When deciding on the best approach we urge the Government to also make use of the extensive information and expertise available from OSFI as a guide to the development of a margin which is both actuarially sound and credible in light of actual plan experience.

❖ For example, as noted above, according to OSFI, a plan with a solvency ratio below 80% is materially underfunded. For 2011, Bell's DB plan had a solvency ratio of 80% and a going concern ratio of 103%. On this basis alone, a going concern ratio of 105% should be the minimum benchmark for material underfunding, at least for that plan. Given the time it would take to negotiate and give notice of additional contributions and/or pension reductions – during which time benefits must continue to be paid out – it appears to BPG that a going concern buffer of at least 30% (i.e., a going concern ratio of assets to liabilities of at least 130%) should be the minimum level required to provide a reasonable certainty of adequate funding.

In the final analysis the level of the buffer will be a matter for negotiation. It can be expected that the appropriate buffer level will vary depending, for example, on factors such as the level of investment risk inherent in the TB plan's investment strategy, and the age profile of plan members. The bias at the outset should be to set a higher buffer, to avoid the plan being "under water" at the outset. Over time it may be possible to negotiate a reduction in the amount of buffer.

The going concern measure should be calculated to include all "base" benefits and all "ancillary" benefits offered by the plan, including any indexation. Going concern valuations should be calculated on both a closed group and an open group basis. Funding requirements would be established based on the valuation (open group versus closed group) which had the greater deficit as compared to the target level (including buffer).

The board of trustees (or, with the agreement of the board of trustees, the sponsor, or an independent expert) should maintain a model of the TB plan that would proxy the plan's valuation on a

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[43] Consultation Paper, p. 14

continuous basis (say, daily). Regular stress testing should also be carried out following guidelines that would be established by OSFI, in consultation with stakeholders. A full valuation should be carried out at least annually with results being provided to members within 6 months of the relevant year end. A full valuation should also be required before any cuts to pension benefits could be made or surpluses distributed.

2.4.2 Pensioners will fare worse in bankruptcy situations under a TB plan

There is no doubt that perhaps the greatest risk facing private sector DB plan members is that their sponsor should fail when their plan is underfunded. This would almost certainly result in pensions being reduced below the level promised by the plan.

The Consultation Paper suggests that TB plans would be "sustainable" – implying that they offer a solution to the risks of sponsor failure. This claim is highly misleading. In the case of sponsor failure, pensioners could in fact expect to fare worse if converted to a TB plan, than they would have under their DB plan.

The Consultation Paper has a "waive the wand and it is gone" approach to dealing with the risk of pension loss raised by a sponsor's financial failure: a TB plan simply would not have a solvency funding requirement.[44] Rather, in the case of sponsor bankruptcy, TB plan members would only be entitled to what is left in the plan's fund. Since employers would no longer need to make special payments towards a solvency deficit, the amount left in the fund would be lower than if special payments had been made.

Pensioners would suffer financially as a result of sponsor bankruptcy whether they are in a DB plan or a TB plan, but they will inevitably lose more if under a TB plan at the time of that bankruptcy.

Private sector pensioners are well aware of the risks they face should their DB plan sponsor get into financial difficulties, possibly leading to corporate restructuring or bankruptcy. BPG has long advocated for pensioner liabilities to have a higher priority in proceedings under the *Bankruptcy and Insolvency Act* (*BIA*) and *Corporate Companies' Creditors Arrangement Act* (*CCAA*). Following the Quebec Superior Court's November 20th, 2013 judgment in the case of Aveos Fleet Performance Inc., BPG has also become concerned about possible loopholes in the deemed trust provision for arrears of special payments in the *PBSA*.

[44] Frequently Asked Questions on Proposed Target Benefit Plan (TBP) Framework, Department of Finance Canada, April 24th, 2014

In bankruptcy situations, a TB plan's normal costs and arrears of contributions should be protected by a properly constructed deemed trust and given priority status in proceedings under the *BIA* and *CCAA*.

The Consultation Paper does not offer a solution to the risks to pensioners posed by sponsor bankruptcy, but instead whisks the problem away. This may raise legal issues concerning abrogation of pensioner rights, for example, in cases where an individual's consent to conversion from a DB plan to a TB plan has not been explicitly obtained, or where consent has been obtained but the individual has not been provided with adequate information on the risks of his or her choice.

BPG believes that perhaps the most significant problem with the TB framework described in the Consultation Paper is the proposal to abandon any semblance of funding on a solvency basis. For this reason alone, individual DB plan members must be permitted to remain on a DB plan and not be forced to convert to a TB plan.

BPG agrees with the Consultation Paper that TB plan sponsors must still provide solvency valuations, at least on an annual basis. These valuations should be provided to OSFI as well as to plan members (employees and retirees), no later than 6 months after the end of the calendar year in question. In this way all plan members will be aware of the pension loss they face should their plan be wound up.

2.5 Plan termination and wind-up

In section 4.11, the Consultation Paper proposes a measure to prevent plan sponsors from converting a DB plan into a TB plan in order to avoid terminating the DB plan under PBSA rules which require the sponsor to make good any solvency deficit within five years of plan wind-up.[45] *The Consultation Paper proposes that there should be a five year probation period during which, if a TB plan created through a conversion from a DB plan is terminated, the plan would be terminated under the PBSA rules for termination of a DB plan. There would also be a requirement for a TB plan to track its solvency valuation following conversion from a DB plan.*

The measure proposed by the Consultation Paper is inadequate. Five years is a very short time in the life of a pension plan and is much too short a period to eliminate the type of behaviour that the Consultation Paper is rightly concerned with trying to prevent. A sponsor would simply have to convert the DB plan to a TB plan, run it for five years as a TB plan – which would not require the payment of any special payments to make up a deficit – and then, in the sixth year, terminate the

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[45] *PBSA* s. 29(6.1) to s. 29(6.5) and *PBSR* s. 24.1

plan under the rules for a TB plan. The TB rules are "what you see is what you get". In BPG's view, a "probationary" period would need to be many years long, certainly more than 10 years, in order to have any chance of being a disincentive to mischievous conversion.

See also section 3.10 of CFP's response to the Consultation Paper.

2.6 Benefit structure

Section 4.4 of the Consultation Paper proposes that a TB plan pension would comprise two levels of benefit – a "base" level and an "ancillary" level. Neither level of benefit would be guaranteed by the employer, regardless of the employer's financial position.

If plan performance deteriorated below the "trigger" level, as measured by its going concern valuation, a number of measures could be taken to restore the plan to health. These would have to be negotiated between all plan members and the plan sponsor, and could include increased contributions from the employer, contributions from employees, or reductions in pension benefits (including reductions to pensions being paid to retirees and survivors). So-called "ancillary" benefits would be reduced first but "base" benefits could be reduced once all "ancillary" benefits had been eliminated.

The Consultation Paper suggests (pp. 19-20) one or more of the following would be treated as "ancillary":

- *Spousal pensions (i.e., survivor pensions)*
- *Death benefits*
- *Bridging benefits (BPG understands this refers to benefits paid to early retirees until they reach age 65)*
- *Indexation*

In section 4.7 of the Consultation Paper it is proposed that pensioners would be provided with just 180 days' advance notice of reductions to their pensions.

2.6.1 Distinction between "base" and "ancillary" is based on a fundamental misunderstanding

The Consultation Paper's proposal to split benefits into "base" and ancillary demonstrates a fundamental misunderstanding of the nature of benefits under a DB plan, such as the Bell Canada DB plan. If implemented, it would raise serious issues of fairness of treatment between those who have opted to receive, and are paying for (through a reduced annual pension), benefits such as death benefit and survivor pensions, and those who have opted not to receive these benefits, and, as a result, receive a higher "base" pension.

When an employee is about to retire, the employer calculates the accrued value of the employee's pension. Then, based on actuarial advice, the employer sets out the various plan options which are available to the employee. The employer is indifferent to the option chosen. The options do not vary in their overall value; they differ only in the means of delivering the value, and the timeframe over which that value is delivered. There is no reasonable basis on which one might determine which is a "base" and which is an "ancillary" benefit. For example:

- Under Bell Canada's DB plan, prior to retirement an employee receives annual information providing the estimated pension that he or she will receive upon retirement at age 65. This estimate uses a formula based on income and years worked. When an employee is about to retire, Bell calculates the accrued DB pension payable to the individual. The Bell plan also makes provision for retirement before the pensionable age of 65. Employees may retire as early as age 55 provided they have a minimum of 30 years of service. In the case of early retirement, the pension payable is reduced by 0.25% per quarter for every quarter by which the employee's age at retirement falls short of the pensionable age of 65 years.

  The retiring employee then chooses among various options. If retiring before age 65, he or she may choose whether to receive a "levelized" pension or a pension which is higher until age 65 and then drops down to a lower amount which, when combined with CPP and OAS (assumed paid at the maximum level), will keep pension income stable.

  An employee with a spouse may opt for that spouse to receive a survivor pension. A survivor pension is paid at 60% of the rate that was paid to the retiree prior to his or her death. Where an employee takes the survivor pension option, the annual pension payable to the retiree is reduced to pay for that option. Similarly, where a pensioner chooses an option which provides for a death benefit, his or her annual pension is reduced to pay for that option.

  Once the employee has selected the appropriate option, he or she is required to sign a form requesting that the "benefits to which I am entitled under the Plan be paid according to option letter [X], effective [date of retirement]", where X is the letter designating the option chosen. The signed form must be endorsed by the employee's spouse (if any), certified, and returned to the Bell Benefits Administrator.

As can been seen from the above, if death benefits or survivor benefits were to be treated as "ancillary" it would be grossly unfair to those who have selected these options and are receiving a lower annual pension as a result in order to pay for them. These pensioners could end up not only receiving lower annual pension amounts than are received by their peers who did not select these options, but also with a much greater risk of losing some or all of certain benefits they have been paying for. There would undoubtedly be demands from affected former members of the DB plan for restoral of their “base” pension to the level enjoyed by those who had opted not to receive either spousal or death benefit – as well as demands for the reimbursement, with interest, of all amounts that had been deducted from their pension to pay for benefits that have now been relegated to “ancillary” status.

Moreover, in addition to being grossly unfair, such an approach could have devastating impacts on the lives of pensioners:

- ❖ Imagine an 85 year old pensioner, in the final stages of cancer, who has been expecting that his 80 year old widow will receive a survivor pension of $1,000 per month and the $10,000 one-time death benefit. He knows that the $1,000 survivor pension and the income from investing the death benefit will be just enough to allow his widow to stay in their present seniors’ accommodation where she has friends and can participate in the activities she enjoys. Now, with no time to make alternative financial arrangements, at a stroke, these amounts are no longer certain. The pensioner will be devastated. The plans he had made are now in shreds and his trust in his plan sponsor is broken.

Similar situations would be repeated for thousands – possibly millions – of seniors across Canada. Some may take legal action but the advantage in such cases will lie with the employer who has much deeper pockets to fight legal battles than does the individual pensioner – or even pensioners banding together.

The Consultation Paper’s proposed benefit structure would incent employees who retire under the TB plan to pick “base” options, and reduce the amount of their pension spend on “auxiliary” benefits. In other words, if survivor and death benefits were to be treated as “ancillary”, faced with retirement options, the employee would simply pick the option with the largest level of “base” benefits, having made his or her own arrangements for life insurance and/or survivor income. This would not reduce plan costs: it would simply shift plan liabilities from the “ancillary” category to the “base” category.

“Bridging benefits”, so-called, allow pensioners to retire a few years early and to receive an immediate pension, albeit a lower amount than if they had worked until age 65. For the most part, this type of provision has been used by employers to facilitate the achievement of corporate objectives, such as down-sizing and/or workforce restructuring. If these bridging benefits could be removed from pensioners after being paid for as short a period as 180 days, the effectiveness of such programs would evaporate overnight. In any event, it is not necessary to create a TB plan in order to change bridging benefits. This can be done under a DB plan by making changes on a going-forward basis, provided the plan continues to meet the requirements of s. 16 of the *PBSA*.

As to indexation, not all DB plans provide it, and at least some that do, such as the Bell DB plan, cap the amount of indexation at a level below the increase in the cost of living.[46] Moreover, it is not necessary to convert a DB plan to a TB plan in order to remove or limit indexation payable from the plan on a going-forward basis. This could be done by amending the DB plan.[47] In any event, merely cutting new indexation payments is unlikely to solve the problems of a plan which is in trouble. At today's low levels of inflation, new indexation payments for a given year are seldom above 1% or 2%, if payable at all.[48]

It could be that the Government envisages that on conversion from a DB to a TB plan, sponsors would be allowed to cut indexation on a retroactive basis, as well as going forward. This would be unacceptable. It would of course have the greatest immediate effect on the most senior retirees, since those who have benefitted from indexation for the greatest number of years would be hit the hardest. For example, assuming a pensioner had benefitted from indexation of 1% per annum for 30 years, about one-third of his or her pension would be treated as "ancillary", and be first in line to be cut.

The proposed "ancillary"/"base" benefit structure also raises serious issues of the intergenerational fairness which the Consultation Paper (see p. 9) is at pains to avoid. When it comes to deciding which "ancillary" benefits should be cut and on what basis (retroactively and/or going forward), and/or to what degree current employees should have to make contributions where they do not now, or should make increased contributions, each option will hit some people and generations harder than others. There is no escaping this.

BPG believes that, at least for plans where bridging, death and survivor benefits under a DB plan are in no sense "ancillary" to other pension income, all such benefits should be treated as "base"

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[46] The Bell DB plan provides partial coverage for increases in the "pension index" (currently Statistics Canada's Consumer Price Index). The rules for this indexation are:

- For those who have not reached 65 years, the "pension index" limited to a maximum of 2%
- For those 65 and over, the greater of
  - 60% of the "pension index", limited to a maximum of 4%
  - the "pension index" limited to a maximum of 2%

[47] Although, of course, removing indexation is likely to result in strong opposition from employees and pensioners, whether it is done as a change to their DB plan or is a consequence of a conversion from a DB plan to a TB plan.

[48] For example, for the Bell DB plan for year ended December 31st, 2012, the incremental cost of indexation of pensions payable by the plan sponsor represented less than 0.5% of going concern assets. This raises another issue. Where a reduction in benefits results in a reduction in sponsor contributions to the assets of the plan, the position of the plan can be expected to deteriorate (since the liability to pay indexation would continue to exist, at least for future years).

benefits on conversion to a TB plan. Provided that individual informed consent to convert from a DB plan to the TB plan has been obtained, TB plan members would be able to negotiate a new arrangement where such benefits are treated as "ancillary", but only for future retirees.

In BPG's view, the only benefit which could possibly be regarded as "ancillary", and then only on a going-forward basis following conversion to a TB plan, would be indexation, if it were agreed to by all plan members (employees and pensioners).

The proposed 180-day notice may be inadequate. Affected pensioners will need lead time to complete the application process for GIS and other benefits. They may be forced to sell their homes and move into less costly accommodation, or to move in with their children, in order to deal with the cuts. At no time should pensions be cut without at least 180 days' advance notice of such cut. A cut of more than 10% would require at least 360 days' notice.

2.7 Conversion of Pension Plans to TB Plans

Section 4.8 of the Consultation Paper (p. 29) proposes that "the conversion provisions allow for a reduction in accrued benefits", making it clear that pensions could actually be reduced at time of conversion. Unlike elsewhere in the Consultation Paper, however, there is no reference to a requirement to give any prior notice of such reductions. In the next paragraph it states that any going concern deficit would be required to be made up by the employer at the time of conversion, "taking into account changes to plan provisions such as benefit reductions":

> *"The federal framework would require that plans be fully funded on a going-concern basis upon conversion (taking into account changes to plan provisions such as benefit reductions). Any going concern deficit would be required to be made up by the employer at the time of conversion. The federal framework would also require that all accrued benefits at the time of conversion be considered 'base' benefits, which can be reduced. Future indexation for retirees would be considered an ancillary benefit."*

2.7.1 At conversion accrued benefits should be treated as "base" benefits; deficit be made up by plan sponsor

It appears from the Consultation Paper that the conversion process would establish a funding benchmark which would not only be below the level of the solvency requirement of the former DB plan, but actually below the going concern requirement under the DB plan.[49] The TB plan would thus be "below water" from the outset. There would be little chance that pensioners would recoup accrued pensions lost at conversion, once that liability has been removed from the equation.

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[49] Since section 4.8 states that "the conversion provisions allow for a reduction in accrued benefits".

Furthermore, reducing accrued benefits would be an instance of an intergenerational transfer of the kind that the Consultation Paper is concerned to avoid. If accrued benefits are reduced, then retirees and employees with more years of service would be giving up benefits so that the employer and employees with fewer years of service could make lower contributions to the plan than would otherwise be the case.

By allowing accrued benefits to be reduced, the Consultation Paper contemplates a “direct hit” on pensioners’ income, breaking the pension promise from the outset. This also raises tax issues. Pensioners’ annual RRSP contribution limits – or “head room” – during their working years were reduced based on their accrued DB plan benefits. At a minimum, this head room would have to be restored when the accrued benefits were reduced. Unfortunately, most pensioners would no longer be in a position to benefit from this restoral.

BPG proposes, that all accrued DB benefits be treated as “base” benefits and transferred intact and unreduced to the TB plan. In the case the DB plan has a solvency deficit at the time of transfer, in conformance with the void amendment provisions of the *PBSA* and PBSR, [50] the sponsor would be required to contribute to the DB plan sufficient funding so that the transfer would not have the effect of further lowering the solvency ratio of the DB plan.

At time of conversion, the employer would be required to make up the going concern deficit (including buffer), including all benefits accrued under the DB plan. For greater certainty, all pension benefits accrued under the DB plan must be included in the liabilities used to calculate the TB plan going concern deficit. The amount required from the employer to make up the deficit must be paid in full as of the conversion date. A portion of the balance owing could be covered by a letter of credit.

As noted in section 2.6.1 of this response, at no time should pensions be cut without at least 180 days’ advance notice. A cut of more than 10% would require at least 360 days’ notice.

2.8 Contributions

Section 4.3 of the Consultation Paper sets out the Government’s proposed approach to achieving the contributions necessary to fund a TB plan. Contributions would be required over and above normal costs in order to provide for the buffer established as part of the funding policy. Essentially, funding arrangements would be negotiated between employer and employees. Once negotiated,

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[50] *PBSA* s. 10.1(2) and *PBSR* s. 9.3

these arrangements would be "clearly outlined" in the plan text. Contribution components would be:

- *Fixed or variable contributions from employers. Variable contributions could be subject to a cap; and*
- *Contributions from employees that could be increased or decreased.*

BPG notes that the Consultation Paper does not contemplate that pensioners and other beneficiaries would be included as parties in the negotiation of contribution arrangements. This is unacceptable. Employers have an interest in keeping their contributions low. Employees, particularly young employees, may resist increases in contributions because they will not be immediately affected by the cuts to pensions that will result if the plan is underfunded, and have more flexibility to provide alternative financial arrangements for their retirement.

Pensioners and other beneficiaries must be included in the process of negotiating contribution arrangements. Moreover, they must have the power to veto any negotiated contribution arrangement that could be expected to result in the going concern ratio falling below the minimum level for full payment of benefits of, to give an example, 130% (including buffer). BPG considers that employers should, at a minimum, be required to make an annual payment into the fund comprising 100% of normal costs, plus a pre-negotiated percentage (say 5%) of going concern liabilities in any year where the going concern valuation showed a deficit as compared to the target funding ratio of 130%. Contribution holidays should not be permitted (i.e., normal costs would always be payable, even where the funding level is in excess of the minimum level of, say130%).[51]

If the funding ratio fell below 130% in our example, then all parties (employers, employees, pensioners and other beneficiaries), should be involved in the process of developing an agreed arrangement to restore the plan to full health, within a period of, say, no more than five years.

As contemplated, contribution arrangements must be set out clearly in the plan text, and be communicated to plan members prior to their being asked to consent to convert to a TB plan. Any amendments to these arrangements must also be negotiated and clearly communicated to members on a timely basis.

[51] This would require revisions to the *Income Tax Act*. Until such time as these revisions were enacted, the rule could be that contribution holidays would not be permitted until the solvency ratio of the plan exceeded 125%.

2.9 Funding deficit recovery plan

Section 4.5 of the Consultation Paper sets out proposals for a funding deficit recovery plan which would be established by each plan on a negotiated basis.

Unlike traditional DB plans, where the plan sponsor is solely responsible for funding the deficit, the shared-risk nature of TB plans implies that employees, retirees, survivors and deferred pensioners would also have a responsibility to fund deficits – either through contributions or through cuts to pensions.

The funding deficit recovery plan, including deficit recovery measures and their prioritization, should be negotiated jointly by the plan sponsor, employees, and pensioners (including survivors), prior to conversion of a DB plan to a TB plan. These measures and their prioritization should be clearly set out in the plan text.

The funding deficit recovery plan should contain the elements proposed in the Consultation Paper.

BPG recommends the following approach be adopted in funding a plan deficit:

- Step One would be to increase employer contributions, up to the negotiated limit established for employer contributions, as set out in the plan text.
- If Step One proves insufficient to bring the plan to full-funding, measured according the going concern valuation plus the buffer, then Step Two would be to increase employee contributions to the plan, within the constraints, if any, set out in the plan text.
- In the event that the funding limits of Steps One and Two have been exhausted and have proven insufficient to bring the plan to full-funding (target level, including buffer), Step Three would be invoked and benefits would be reduced.
- At no time should pensions be cut without at least 180 days' advance notice of such cut. A cut of more than 10% should require at least 360 days' notice.

As long as the plan text documents the deficit recovery plan, and the plan text is approved through the negotiation and ratification processes, then there should be no need to seek additional acceptance by the plan members. The board of trustees would be empowered to implement the plan.

2.10 Funding surplus utilization plan

Section 4.6 of the Consultation Paper contemplates that a plan could be considered to be in surplus at a level of 5% above the fully-funded level (including buffer).

BPG agrees that where, as part of a funding deficit recovery plan, either pensions have been cut or employee contributions have been increased it would be appropriate to fully or partially reverse these measures at a level of 5% above the fully-funded level (including buffer), i.e., 135% in our example. At this level, employers would not be making special contributions because the plan would be fully funded. Normal costs must however continue to be paid annually by the employer.

Caution should, however, be exercised in introducing any new benefits when a plan has a surplus. It would not be prudent to introduce a new benefit, only to have that benefit cut back a year later, for example, should it no longer prove possible to fund that new benefit.

The funding challenges faced by DB plans in recent years have not been helped by the fact that contribution holidays were common in the period between the late 1980s up until the mid-2000s,[52] leaving DB plans inadequately buffered when the economic crisis hit in 2008. Therefore, as proposed earlier, there should be no provision for normal cost holidays (so-called "contribution holidays") under a TB plan. This may require revisions to the *Income Tax Act*.

2.11 Disclosure and communications

Section 4.7 of the Consultation Paper sets a proposed list of new disclosure and communications requirements for a TB plan framework which would be in addition to those already set out in the PBSA. It is proposed to give 180 days' written "pre-notice" to members and retirees prior to the effective date of any changes in employee contributions or benefits in accordance with the plan's funding policy. It is proposed that plan sponsors would provide the address of the Financial Consumer Agency of Canada (FCAC) web page in advance of converting a DB plan to a federally-regulated TB plan.

BPG agrees with this list with the following comments:

- 180 days' notice would be insufficient where cuts to pensions would be particularly harsh. For example, if survivor benefits were deemed to be "ancillary" and they could potentially be subject to temporary or permanent suspension as part of a deficit recovery plan. The notice

[52] These "contribution holidays" were often forced, it is fair to say, by tax legislation which at the time restricted the allowed level of solvency valuation surplus to 10%.

period should be extended to 360 days or more for any negotiated reduction to benefits that could result in a reduction of greater than 10% in pension payments to any individual.

- Simply providing a reference to FCAC's web-site should, in no circumstances, be a replacement for providing comprehensive written communications and documentation.

- BPG agrees that the TB plan administrator should be required to report the solvency funding ratio of the plan in its annual reports and should provide these reports to OSFI as well as to plan members (employees, retirees, survivors and deferred pensioners).

2.12 Portability and locking-in rules, individual termination, application to multi-employer plans

BPG is in general agreement with the proposals set out in sections 4.10 and 4.11 of the Consultation Paper as they relate to portability and locking-in rules and individual TB plan terminations.

As to the proposals for application of TB plans to multi-employer plans, BPG is unfamiliar with the functioning of such plans and therefore has no comments to offer in this regard.

3. CONCLUDING COMMENTS

3.1 Equalizing downwards is not a sound basis for public policy

Equalizing downwards by eliminating successful private sector DB pension plans may perhaps relieve the "pension envy" of those who do not have any workplace pension. In BPG's view, however, pandering to such sentiments is not a sound basis for public policy. Moreover, if the pension envious believe that killing private sector DB pensions will reduce taxes, they are wrong. To the contrary, if the TB framework were to be implemented in the private sector it would almost certainly increase the tax burden, lead to reductions in tax revenues, and frustrate other Government policies.

First, there would be an increased burden on Government benefit programs and therefore pressure to increase taxes.

Leech & McNish point out that "[r]etirees with defined benefit pension plans are an important economic force in Canada" (p. 154). Moreover "[t]hey are so self-sufficient that only an estimated 20 percent of retirees with defined benefits are eligible for federal GIS supplements." This would change if DB plans were converted to TB plans. Converting a successful private sector DB plan to a TB plan can be expected to result in reductions in pension income, at least in the long run. After all, for the plan's sponsor, reductions in contributions, and hence in the funds available to pay pensions, would be the reason for a conversion.

Reductions in private sector pensions would inevitably result in increased Government expenditure on GIS payments. This would be particularly true for women, who tend to have fewer years of pensionable earnings and thus lower CPP income. In the case of female survivors, a group which would be hit particularly hard by the Consultation Paper's proposals, older women may receive little or no CPP income.

Second, tax revenues could be reduced to provide needed tax relief to those whose accrued benefits are cut on conversion to a TB plan. In the wake of the impact on pensioners of situations such as the Nortel bankruptcy, the Government has introduced measures (see, for example, p. 200 of the Budget Plan 2014) which provide tax relief for transfers out of underfunded pension plans on termination of those plans. The measures in the 2014 Budget alone will reduce federal revenues by $5 million per annum from 2014. These provisions would have to be extended to TB plans to cover situations where these plans are wound-up in an underfunded condition (or where individuals were transferred out of DB plans with less than their accrued benefits).

Third, there would likely be a reduction in the availability of long term capital in Canada. Leech & McNish (p. 156) emphasize, that DB pension funds are a major supplier of Canada's long term capital requirements. This is particularly true for federally-regulated plans. These plans represent 7% of all private pension plans in Canada, but account for approximately 12% of pension assets.[53] This source could be threatened by the changes proposed in the Consultation Paper.

Fourth, the effectiveness of the Government's efforts to encourage deferral of claims for CPP and OAS would be reduced. In recent years, the Government has been introducing measures encouraging Canadians to delay application for CPP and OAS beyond the age of 65. The success of these measures would be hampered by conversions from DB to TB plans, since retirees who might otherwise have delayed applying for CPP or OAS would have to take CPP or OAS earlier.

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[53] "Minister of Finance Releases Discussion Paper on Private Pensions", January 9th, 2009. According to Statistics Canada data released on June 10th 2014, Canadian employer-sponsored pension funds totalled $1.3 trillion at the end of 2013.

Fifth, Government policies to encourage saving for retirement would be frustrated. Commentators have made dire predictions concerning the failure of many Canadians to make adequate financial provision for their retirement.[54] In light of this situation, the Government has encouraged the introduction of workplace pension plans where none exist today, for example, by the introduction of the Pooled Registered Pension Plan framework. The Consultation Paper's proposal to allow "*en bloc*" conversion of DB plans to TB plans runs counter to this direction. Allowing such conversions does not enhance the coverage of workplace pensions, it merely shifts greater risk onto plan members. Compared to DB plans, TB plans carry a much higher risk that plan members will not receive the pension their employer has promised to them. If implemented, this proposal would jeopardise the pensions of the millions of young as well as older Canadians in DB plans. For pensioners, it would shift financial risks onto them at a time of life when they need greater income security, not less.

[54] See, for example, "Harper Government Consults on National Strategy for Financial Literacy", June 17th, 2014.