



**CPP
INVESTMENT
BOARD**

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**Pension Plan Investment in Canada:
The 30 Per Cent Rule**

**Consultation Response from the Canada Pension Plan
Investment Board (CPIB)**

September 2016

The Canada Pension Plan Investment Board (CPPIB) appreciates the opportunity to outline our views in response to the June 3, 2016 Finance Canada consultation document entitled *Pension Plan Investment in Canada: The 30 Per Cent Rule*.

The consultation document aptly notes that Canada has a sound retirement income system that is internationally recognized for its adequacy, affordability and sustainability. CPPIB agrees. It is therefore critical that any discussion related to the 30 per cent rule be firmly grounded in public interest: the ability for Canadian pension funds to generate the best long-term risk adjusted returns for contributors and beneficiaries, which includes virtually every working Canadian today.

Benefits of Active Management: Returns for Canadians

Canada's largest pension funds have evolved over the last two decades – moving from passive investors to become globally-recognized institutional investors with top-tier internal capabilities and investment strategies. These pension funds have pursued active management strategies, by which a fund actively makes investment decisions, as a means to seek higher returns for their beneficiaries. Indeed, Canadian pension funds have garnered international renown as “maple revolutionaries” for our successful model of building internal capabilities, managing portfolios internally and investing directly.

In the case of CPPIB, it has been over a decade since we adopted our active management strategy to take advantage of our comparative advantages of scale, certainty of assets and long-term investment horizon for the benefit of 19 million Canadians. Active management is the path that is most closely aligned with CPPIB's statutory objective to achieve a maximum rate of return without undue risk.

In our view, the benefits of active management are clear: higher returns. Compare CPPIB's active management strategy of actively selecting investments, monitoring those investments and timing the dispositions to the simple passive investment alternative that we chose not to pursue a decade ago. The value that we have generated over and above our benchmark for the decade, as well as our absolute 10-year return, signal that CPPIB is on track. Other benefits of an active management strategy include a more resilient, diversified portfolio that can better withstand market risks. While there is higher short-term volatility with an active management strategy, over the longer-term, when executed prudently, the expected benefits of higher returns justify and offset the impact of greater volatility.

CPPIB believes that active investing is necessary to generate appropriate risk-adjusted returns in order to provide funding to meet ongoing obligations to contributors to, and beneficiaries of, pension funds. Limiting pension funds to passive investing would have a significant detrimental effect on the ability of many to source and complete investment opportunities that offer the ability to meet these obligations responsibly.

Throughout our evolution, CPPIB has operated with a high level of transparency, ensuring that stewards of the CPP Fund and the 19 million Canadian contributors are apprised of changes to our investment strategy. We have been very transparent about why we believe in active management.

30 Per Cent Rule

Large Canadian pension funds, like CPPIB, with sophisticated internal investment teams and strong governance, have demonstrated that they can prudently invest directly on a global stage. We believe the 30 per cent rule serves no useful public policy purpose for organizations such as ours.

While the 30 per cent rule does not prevent Canadian pension funds from acquiring significant stakes in assets, it does impose substantial legal, tax and other costs and complexity to make these investments. In essence, it interferes with their ability to efficiently obtain significant stakes in large assets. Due to these costs and complexity, Canadian pension funds can be at a commercial disadvantage vis-à-vis others competing for good investment opportunities in Canada and abroad.

Amending the CPPIB regulations as well as other relevant federal pension regulations to repeal the 30 per cent rule provides the best opportunity for Canadian pension fund investors to fulfil their mandates of maximizing their returns without undue risk of loss.

Tax Considerations

CPPIB supports Finance Canada's three broad tax policy themes (tax fairness, market efficiency, and prevention of government revenue leakage in Canada). We ask Finance Canada to consider whether there is evidence that these three objectives are being undermined to an extent that demands a policy response that is aimed specifically at domestic pension funds or tax-exempts. We appreciate that in various circumstances Finance Canada may feel the need to bring forward legislation to guard against inappropriate behaviour that it is observing or anticipates in the near term. However, CPPIB believes this is not currently one of those circumstances. The existing tax framework reflects a reasonable balance between meeting tax policy objectives and allowing commercial flexibility for the Canadian pension fund sector. In this context, and having regard to the possibility of collateral effects as explained in further detail in this submission, it is appropriate to proceed with caution.

If the conclusion of this initial consultation process is that there needs to be tax policy changes in Canada, CPPIB believes that moving forward with these changes should be a multi-stage process. We would suggest that the first step is identifying in a more concrete way the nature of the problems, if any, that need to be addressed, the second is identifying the appropriate policy response to these issues and the third is crafting an appropriate legislative measure. CPPIB is of the view that given the importance of these matters to the pension fund community, and hence to millions of Canadians, and the possibility of unintended collateral damage, any process should proceed on a consultative basis.

CPPIB believes that it is important that any response be properly tailored to the issue identified and not cause unintended consequences and disruption to existing or future commercial arrangements in Canada or abroad. It is important that this objective be confidently met prior to implementation of any new rules.

CPPIB Responses to Consultation Paper questions

I. Prudential Considerations

1. Does the philosophy that plan administrators should act as passive investors continue to be valid. If not, why?

In 2006, CPPIB decided to adopt an active management strategy as a means of improving the overall returns of the CPP Fund. Prior to 2006, CPPIB managed the Fund passively, adopting a low-cost approach that favoured tracking existing indices rather than seeking out unique investment opportunities through in-house expertise and research. Given CPPIB's comparative advantages of a long investment horizon, the certainty of our cash flows and scale, management concluded that an active management strategy would be a responsible and appropriate choice, in the best interests of the CPP Fund and consistent with the specific legislation setting out the organization's mandate. By building broad internal expertise and strong relations with potential partners, and by applying a total portfolio approach, we felt confident we could achieve above-market returns over the long term.

Overall we have seen solid performance over the past ten-year period. Since fiscal 2006 we have generated cumulative net investment income after costs of \$125.6 billion. We have generated a nominal rate of return of 6.8%. And we've created \$17 billion¹ in dollar value-add which would otherwise not have been available through a passive portfolio. In other words, the CPP Fund – and the people of Canada – have benefited significantly from our active management approach.

In the context of many of our investment strategies, including our direct private equity, infrastructure and real estate investments, CPPIB uses active management to drive returns by undertaking strategic oversight corresponding to the significance of our stake in the business that is being acquired. In this role, CPPIB is an engaged owner of our investments, promoting enhanced governance, environmental, social and operational corporate practices.

However, this does not mean that CPPIB plays an active role in the actual operations of a business that we invest in. Investee entities, irrespective of transaction structure, operate independently from CPPIB. We support and respect the division of authority and responsibilities among the triad of interests that is the core of good governance – owners, directors and managers – based on the following premises: *CPPIB as shareholder* owns a stake in the company and elects *directors* to be stewards of the company; and *management* is responsible for developing and implementing the entity's strategy and for running its day-to-day operations. We do not seek to carry out the business of the investee entity, nor do we seek to implement CPPIB's policies and procedures for investee entities; those policies and procedures need to reflect the specifics of the entities' industries, locations and risks.

CPPIB supports high standards of governance irrespective of our level of ownership, exercising such governance via our position on the investee entity board, our specifically negotiated ownership

¹ All numbers listed since fiscal 2006 are as of March 31, 2016

rights and our investment monitoring processes. CPPIB and other owners influence the investment outcome through these channels. Our investee company boards, including any directors we nominate, are expected to act in the best interests of the entity itself versus any one shareholder, with each board establishing delegated authorities that provide management with clear guidance over decisions and shareholder reserved matters.

2. What are the benefits and risks of pension plans taking on a dual role of providing benefits to members and taking an active role in the operations of a business?

CPPIB does not provide benefits; it has an investment-only mandate and is not responsible for administering the Canada Pension Plan. This question is therefore largely inapplicable to CPPIB.

We expect that those pension funds that are involved in providing benefits to members would separate their investment management function, on the one hand, from the administration of the pension plan, on the other hand – *i.e.*, the groups of people who manage the fund investments will be distinct from the groups of people who administer the benefits to members of the plan. With the appropriate expertise, resources and processes, there should be no risks arising from the performance of each activity within one organization.

With respect to the investment management function of large Canadian pension funds, including CPPIB, the benefits of active management are described above. To reiterate, such active management activities are generally limited to oversight and governance of the investee entity rather than managing the day-to-day operations of businesses.

3. Are the prudent person and other PBSA standards sufficient to offset potential risks involved in pension plans acquiring a controlling stake in a corporation?

CPPIB believes that the standard of prudence that applies to all Canadian pension fund managers, including CPPIB, sufficiently addresses any concerns associated with their ability to make significant investments. This standard derives from principles of trust law, and has evolved over centuries in Canada, the United Kingdom and the United States through common law and legislative change. Guideline No. 6 published by The Canadian Association of Pension Supervisory Authorities specifically addresses the content of this standard, stating that it “. . . is a substantive rule of law that is intended to lead to balanced decision making, rather than dictate particular outcomes”. The rule “. . . focuses on behaviours and processes rather than solely on outcomes” and “. . . stresses the importance of having a good governance structure, deliberate decision making, appropriate documentation and record keeping.” The Guideline specifically contemplates active management, indicating that a prudent standard requires a manager to consider “. . . what expertise is required and whether the decision makers possess the necessary expertise.”

CPPIB refutes any suggestion that pension fund investors with sophisticated investment teams cannot prudently acquire significant stakes in investee entities. Capital markets involve many types of institutional investors across a diverse spectrum. There is nothing we can identify that would suggest that appropriately staffed pension funds would be less well positioned to undertake active strategies relative to other types of leading international institutional investors. CPPIB and other

large Canadian pension fund investors have demonstrated their ability to make these types of investments, benefiting from world-class investment teams with expertise that is both broad and deep. CPPIB and all Canadian pension fund investors are bound by the same standard of prudence. That standard necessarily requires each pension fund manager to assess whether the acquisition of a controlling stake in a corporation would be appropriate for the pension fund's size, expertise, investment horizon and risk appetite, and the manager's ability to make and monitor that type of investment, among other considerations.

If the law were to prohibit pension fund investors from making these types of investments directly, then those investors would need to pool their funds with other investors -- paying significant fees to third party managers of private equity and hedge funds -- so that third parties will make these types of investments on behalf of pension funds. We are not aware of any empirical evidence to support the position that the law ought to preclude every pension fund investor from acquiring significant stakes in investee entities and obtaining governance rights commensurate with the significance of those stakes, regardless of the pension fund investor's objectives and expertise.

4. If a pension plan's investment exceeds a certain threshold, should the plan be subject to additional requirements? If so, what should those requirements consist of and what would be the appropriate threshold?

No, we do not believe investments in excess of a certain threshold should subject pension funds to additional requirements. Additional requirements may cause it to be more difficult to make, and possibly preclude the making of, investments by pension funds necessary to generate appropriate risk-adjusted returns. As noted above, we are of the view that pension funds' prudential standards and other regulatory requirements (beyond the 30 per cent rule) are sufficient to address any concerns about the type of a particular investment (e.g. minority, controlling, etc.).

II. INVESTMENT PERFORMANCE

1. Does the 30 per cent rule impede pension administrators from obtaining appropriate investment returns? If so, why?

The 30 per cent rule in its current form does not prevent CPPIB and other Canadian pension fund investors from acquiring significant stakes in businesses and projects. It does however impose cost and unnecessary complexity for pension funds to make these types of investments.

The rule causes the incurrence of significant legal, tax and other transaction costs where pension funds obtain significant stakes in Canadian and foreign businesses; in essence, it interferes with their ability to efficiently obtain significant stakes in large assets.

In the current global environment, we believe the 30 per cent rule serves no useful purpose for CPPIB -- indeed for any large Canadian pension fund with a sophisticated investment team and strong governance framework. Repeal of the rule provides the best opportunity for Canadian pension fund investors to maximize their returns without undue risk of loss. CPPIB believes that investments in public and private assets in Canada and globally are necessary to generate

appropriate risk-adjusted returns in order to provide funding and ensure the long-term sustainability of the CPP fund.

2. What are the costs, if any, that the 30 per cent rule imposes for pension plans seeking active investments?

Commercially, Canadian pension funds incur significant transaction costs, borne indirectly by contributors and beneficiaries of the funds, to create and implement structures to comply with the 30 per cent rule, and are often at a commercial disadvantage vis-à-vis others competing for investment opportunities in Canada and abroad. We have not specifically tracked these costs to date. The complexity associated with the rule means that, all else being equal, a potential partner, counterparty or investee company may opt to pursue a transaction with another investor rather than a Canadian pension fund. We view elimination of the 30 per cent rule as a leveling of the playing field between Canada's pension funds and their international peers, none of which are subject to a similar rule.

3. Does the 30 per cent rule create inequities between large and small pension plans? Conversely, could its removal do so? If so, why?

We do not believe the 30 per cent rule currently creates, nor that removal of the 30 per cent rule would create, inequities between large and small pension funds. Both the existence and absence of the rule would apply equally to all funds (assuming all relevant legislation is changed), and the ability of large funds/inability of small funds to acquire significant stakes in businesses would not be changed simply because of the removal of the rule. To the extent smaller funds perceive themselves to be at a disadvantage in terms of making certain types of investments, including acquiring significant positions in investee companies, this is not as a result of the existence of the 30 per cent rule. Indeed, it would be a false presumption to maintain the 30 per cent rule on the basis that it somehow levels the playing field between large and small Canadian pension funds, when in reality it disadvantages all Canadian pension funds to the benefit of their international competitors.

As noted above, all Canadian pension fund investors are generally subject to the same standard of prudence. CPPIB recognizes that the size and scope of investments may be different for large and small funds. We expect each fund to consider the characteristics of an investment in the context of its overall assets and sophistication.

III. TAX POLICY CONSIDERATIONS

1. Are any of the tax policy concerns relating to the ability of tax-exempt pension plans to acquire controlling positions in taxable corporations (e.g., potential strategies to eliminate corporate-level taxation, which could provide an advantage to the plans or the businesses they control) material in nature?

As Canada's largest pension fund, which embarked on its active management strategy ten years ago, CPPIB has majority ownership of Canadian operating businesses. A review of CPPIB's privately held

Canadian portfolio indicates its profile does not, in our view, present in any material way the tax policy concerns raised by Finance Canada. In addition, we believe that our portfolio does not create economic distortions within corporate Canada and has not resulted in market inefficiencies.

We observe that Finance Canada notes the potential for an unlevel playing field between large and small pension funds. We suggest that the greatest concern arising from the inability of smaller funds to make proprietary investments is their inability to generate the returns and obtain the diversification that access to this important investment market provides. The tax considerations are second order, and the real issue is to find a way to get the smaller funds access to these markets (through pooling vehicles or otherwise). The "competitive advantage" issue is much broader than tax. In the context of Canadian pension fund policy the issue should be seen as one of disadvantage or lost opportunities for those not able to participate in this market, which is an international marketplace much bigger than just the larger Canadian pension funds. Penalizing larger funds because their size allows them to participate in this larger market would not be of any assistance to the smaller plans and would be counter-productive from a broader policy perspective.

2. How does the potential relaxation or elimination of the 30 per cent rule impact any concerns described in respect of the previous question?

Care should be taken not to bundle what we view as unrelated tax policy concerns with the 30 per cent rule analysis. This could lead to rules that are not properly fit for purpose. The 30 per cent rule does not itself have any material relevance to the tax status of CPPIB's private investments in Canadian operating businesses. This is borne out in our portfolio, which includes majority owned businesses.

It is our understanding that the 30 per cent rule is usually not a material impediment to direct investing, including control positions, by other Canadian pension funds. Accordingly, CPPIB does not expect that a change to the 30 per cent rule will have a material effect on the tax issues raised. For this reason, CPPIB is of the view that any proposed changes to tax treatment of pension funds should be evaluated in absolute terms and not on the basis that changes are appropriate to address changed regulatory circumstances. In other words, the tax policy decision process should be independent from decisions around the 30 per cent rule.

3. a. Should the Government consider implementing tax measures (e.g., thin capitalization restrictions, application of the SIFT tax to pension-controlled trusts and partnerships) to limit the ability of pension plans to undertake tax planning strategies to reduce or eliminate entity-level income tax on business earnings?

CPPIB's principal concern with respect to the possible introduction of any new Canadian tax rules as a result of this consultation process is that there may be a direct or indirect adverse effect on Canadian pension funds' foreign investments. It is for this reason CPPIB is concerned that any incremental improvement to the safeguards within Canada's tax regime (as is presumably intended by the introductions of new rules) would likely be outweighed by the broader long-term negative impact to the ability and flexibility of Canada's pension funds to invest globally.

As an example of a possible indirect effect, a specific set of prohibitive rules targeted at a class of investors (pension funds or tax-exempt entities) may set a bad precedent in the global tax community at a time at which the tax framework for investing is subject to unprecedented and fundamental review internationally. In the post-BEPS world, there is a clear trend for tax policy makers in one country to take notice of, and perhaps act upon the action of policy makers in another country. Finance Canada has a great deal of credibility amongst its OECD peers and is seen as influential voice on global tax policy matters. CPPIB is concerned that the introduction of restrictive tax measures in Canada targeted at a class of tax-exempt investors could lead to corresponding changes in other jurisdictions that negatively impact Canada's pension funds. We would not want to see source countries feel an entitlement to tax a Canadian tax-exempt pension fund on a more punitive basis than other non-resident investors. With over 80 per cent of CPPIB's portfolio being outside of Canada, the risk to the CPP Fund is an erosion of its tax-competitive standing in foreign markets. Therefore, we ask Finance Canada to be mindful of the potential broader influence of its domestic tax policy choices.

Both a SIFT tax and a thin capitalization rule targeted specifically at pension funds or tax-exempt entities have the potential to trigger the indirect consequence outlined above. In addition to these broader considerations, we discuss below a number of more specific and direct considerations relating to the proposals in the consultation document.

SIFT Tax

A rule aimed at flow-through entities could have relevance to both foreign and domestic investments, depending on its approach. In particular, CPPIB is of the view that the application of the Canadian SIFT regime to pension fund investors is not an appropriate solution for several reasons, including:

- A SIFT-type regime is a blunt instrument, which on a practical basis may not properly distinguish between a flow-through vehicle used to hold Canadian or foreign assets. It is not uncommon to insert a Canadian partnership or trust into a structure used to own foreign assets. There is a host of foreign tax or regulatory concerns to often manage on an investment and Canadian pension funds should not be constrained on having the structural flexibility to use a variety of types of Canadian entities, including partnerships and trusts, to facilitate international investments. The use of such entities are tax neutral to Canada's interests, but are an important tool to help Canada's pension funds navigate a myriad of evolving foreign tax and regulatory regimes.
- Any new tax rule should not make Canadian pension funds unattractive investors for pooled investment vehicles. A SIFT rule would do this by taxing the vehicle simply because some of its investors are pension funds or tax-exempt. This in particular has the potential to be a significant inhibitor to the ability of small Canadian pension funds to access investment pooling vehicles, which is a critical component of a planning for a diversified and resilient investment portfolio.
- The rule should not tax income that would be exempt if earned directly by a pension fund. The existing SIFT rules would not align properly with this objective. For example, a capital gain realized by a Canadian pension fund on the disposition of securities in a Canadian corporation is tax-exempt. However, if that same investment were held through a partnership subject to SIFT

rules, then that gain could be subject to tax. This is clearly an inappropriate result from a policy perspective.

- Also, there is no reason to establish a separate set of rules for real estate investing by pension funds that invest in real estate through flow-through entities that differs from the results if the pension fund were to invest directly in real estate. While the current SIFT regime does provide a carve-out for certain types of real estate investing, applying the existing regime to pension funds investing into domestic real estate would potentially create a risk for the unwary where currently none exists.

Additionally, there would be new and potentially significant costs arising from a necessity to engage advisors to navigate a SIFT tax rule applicable to Canada's pension funds for each investment. Such undue complexity can drive up transaction costs and potentially supplant the current costs incurred by pension funds to comply with the 30 per cent rule (should that rule be eliminated).

Thin Capitalization Rule

Other than the potential influential impact on global tax policy trends cited above, a thin capitalization rule is unlikely to have any relevance to international structuring. However, we urge Finance Canada to identify why it is not comfortable that there are sufficient safeguards within the existing domestic interest restriction regime to mitigate the policy concerns raised. If those existing rules are viewed to be insufficient, additional measures to constrain interest deductibility should be designed in a consistent and neutral manner relative to all investors and not just Canada's pension funds. We note the OECD's current recommendations on interest deductibility, as part of the BEPS project; do not distinguish between classes of investors.

However, should Finance Canada choose to introduce additional interest deductibility restrictions that are specific to pension funds, consideration should be given to a rule that is more nuanced than the current thin capitalization regime. The existing thin capitalization rules applicable to non-residents are very blunt in their application and caution should be applied before extending such a regime to domestic investors. For example:

- The current thin capitalization regime does not make allowances for capital intensive industries where a higher debt: equity ratio is commercially sustainable and in keeping with industry norms. Such may be the case for certain natural resources or infrastructure investments.
- At the same time, the existing regime may encourage behavior that seeks to apply an artificially high amount of leverage that is not appropriate for certain business enterprises with a weak balance sheet or interest coverage ratio.
- Also, the current thin capitalization regime does not take into account that pensions funds may find themselves both as debt and equity investors for business reasons that are clearly commercially motivated and nothing to do with tax planning. Such is the case for i) distress situations; ii) unrelated securities trading activities; iii) purchase of existing market debt; and (iv) a desire to invest at multiple levels in the capital structure at different points of time during the asset ownership lifecycle.

CPPIB appreciates that it is Finance Canada's intention to consider rules to specifically address Canadian tax leakage or other domestic policy concerns. However, for the reasons cited above, we do not believe an extension to Canadian pension funds and tax-exempt entities of the existing SIFT tax or thin capitalization regimes is the appropriate policy response. Both are blunt instruments and are at high risk of unintended consequences or inappropriate collateral effects, both with respect to domestic and international investing. The recent changes to sections 88 and 100 of the *Income Tax Act* (Canada) have addressed many of the policy concerns raised by Finance Canada as it relates to business acquisitions by pension funds. Therefore, the incremental benefit of additional rules is less than it would have otherwise been without those prior year's changes.

3. b. Are there other potential tax measures that the Government should consider in this regard? What considerations should be taken into account in the assessment of such potential measures?

New Canadian tax rules that are not sufficiently focused could have the potential to create additional compliance and cost burdens for Canadian pension funds, in circumstances that would not provide material tax revenues to Canada or correct significant market inequities. As noted above, we ask that Finance Canada base its tax policy decision on evidence of an observable trend in the Canadian marketplace that merits a course correction. CPPIB recognizes Finance Canada's obligation to raise adequate tax revenues fairly and create an equitable domestic tax system. However, any tax policy actions taken should be appropriately measured and, if possible, not targeted specifically at pension funds or tax-exempts because at the very least, the competitive position of Canadian pension funds when seeking international investments should be a primary consideration.

The consultation paper also makes reference to the U.S. 'unrelated business income' (UBI) regime. It does not propose its application in Canada, and CPPIB considers such a rule would be inappropriate for the policy reasons under discussion. The regime is so broad in its application that it can interfere with both domestic and international investing. Also, CPPIB understands that the UBI regime does not distinguish well between investment income and business income. Similar to the elusive concept of 'commercial activity' that is inherent in the US 892 regime applicable to foreign sovereigns investing in the US, there exists an ambiguity of interpreting what is UBI when faced with a variety of commercial arrangements. Such ambiguity in law is not a risk that pension funds can afford given the nature of their mandates. Therefore, a UBI type regime applicable to Canada's pension funds would inevitably lead pension funds to introduce unnecessary complexity into their investment holding structures to mitigate such risk. Similar to the issue cited above with a SIFT regime, such undue complexity can drive up transaction costs and potentially supplant the current costs incurred by pension funds to comply with the 30 per cent rule.

When considering any alternative solutions, the following additional points should be kept in mind:

- Canadian tax rules generally do not seek to limit tax-efficient outbound investing and, arguably, actively facilitate it. The treatment should be no different in this case of pension funds and tax exempts investing abroad.
- Structuring for foreign investing must respond to rules (tax, legal, regulatory, or commercial) in multiple jurisdictions and, often, multiple competing considerations from different

stakeholders. An additional layer of Canadian rules may disadvantage Canadian investors in a foreign marketplace. This will particularly be the case for smaller Canadian participants who are more likely to have a junior role in consortiums formed for significant transactions and thus less able to influence structuring to address issues that are particular to them as a result of their status as Canadian entities. This phenomenon has been experienced in the past. Various pre-implementation drafts of the foreign investment entity rules presented serious issues for Canadian tax-exempt entities seeking to participate in international transactions that employed trust structures, which are common in many jurisdictions.

IV. CPPIB SUMMARY RECOMMENDATIONS

CPPIB believes that the policy benefits of eliminating the 30 per cent rule are clear and that any tax policy initiatives that Finance Canada may be considering should be considered independently of the debate around the 30 per cent rule.

With respect to any tax policy initiatives that Finance Canada may consider, CPPIB's priority concern is that they not interfere unduly with international investment. In the international arena, Canadian pension funds compete for investment opportunities with large capital pools from around the world. We do not see any good Canadian public policy reason to disadvantage Canadian pension funds investing in this international market in competition with these investors. While we recognize it may be the intention of Finance Canada to restrict the focus of any new rules to domestic tax leakage and associated issues, we encourage an open consultation process on specific proposals to ensure this result is achieved. The structuring of international investments can be complex, involving multiple jurisdictions and parties. Imposing additional Canadian tax rules on pension funds risks complicating or impeding Canadian participation in international markets and is unconnected with concerns about domestic tax leakage. Given the importance of international investing to CPPIB's portfolio, this is a priority consideration for CPPIB.

CPPIB strongly encourages Finance Canada to continue to proceed with an open consultation process to allow constituents to participate in the policy and legislative process. Such a transparent approach is made that much more important given the dual nature of Finance Canada's policy objectives here – protecting the tax system and protecting Canada's retirement savings vehicles.

We thank you for the opportunity to participate in this important consultation process, and welcome the opportunity to discuss our submission with you should that be of assistance.