



Pension Investment  
Association of Canada

Association canadienne des  
gestionnaires de caisses de retraite

March 1, 2021

Lois Stewart  
Director of Pension Policy  
Alberta Treasury Board and Finance  
Via email: lois.stewart@gov.ab.ca

Dear Ms. Stewart,

**Re: Pensions Questionnaire**

The Pension Investment Association of Canada (PIAC) appreciates the opportunity to respond to the Pensions Questionnaire.

PIAC has been the voice for Canadian pension funds since 1977 in matters related to pension investment and governance. PIAC's members manage over \$2 trillion of assets on behalf of millions of Canadians. Our mission is to promote sound investment practices and good governance for the benefit of plan sponsors and beneficiaries.

Please see below for the answers to the questions posed in the Questionnaire:

**Funding Rules**

**1) Please identify any issues you experience with the current pension funding rules in the Employment Pension Plans Act (EPPA) and the Employment Pension Plans Regulation (EPPR).**

**- Please include comment on the requirement for certain defined benefit plans to fund for 100 per cent solvency, as well as amortize solvency deficiencies over five years, as appropriate.**

PIAC believes that temporary relief measures to address the requirements of the minimum solvency funding rules are having an ongoing detrimental effect on the viability of defined benefit pension plans. Repeated rounds of temporary regulatory solvency relief only promote insecurity for those plan sponsors struggling to find ways to support both their business plans and their pension plans for employees. As defined benefit pension plans mature in a record low interest rate environment, all plan sponsors are struggling with the

large financial burden solvency funding creates; a burden that is clearly worse than expected due to the extraordinary economic circumstances and impacts of COVID-19.

The current defined benefit pension plan funding requirements do not represent an appropriate balance between member benefit security, and the sustainability and affordability of DB pension plans. PIAC believes that there must be a permanent re-think of minimum funding rules to achieve a more durable funding model that provides a better balance between appropriate funding and benefit security. We recommend similar measures to what other pension jurisdictions either have already adopted or are in the process of adopting. These would include funding based on a going-concern “plus” model and eliminating solvency requirements except for an 85% plan-wind-up-funding ratio floor.

**- For collectively bargained multi-employer plans (CBMEPs), please include comments regarding provision for adverse deviation (PfAD) funding requirements, as appropriate.**

PIAC agrees with the approach to require a Funding Reserve (provision for adverse deviation or PfAD) to require an amount in excess of a plan’s liabilities that must be funded before the plan may take an action (for example, benefit improvements) that could weaken the plan’s funded position. Furthermore, PIAC believes Provisions for Adverse Deviations (PfAD) requirements must be carefully set out, particularly as they are set in relation to investment policy mix and overall investment risk (and not over-shooting the level of required PfAD).

## **2) What approaches and opportunities for improvement do you suggest to treat the above identified issues?**

PIAC believes Canadian pension jurisdictions need one funding rule, as opposed to one going-concern funding rule and one plan termination (solvency) funding rule. This one funding rule can be properly designed to meet the needs of beneficiaries and plan sponsors to balance the need for benefit security and plan sustainability. Provisions for adverse deviation and shortened amortization periods are both options that should be considered in setting the appropriate framework for an enhanced going concern funding model.

Restrictions on return on investment assumptions should not be necessary if the framework is established with PfADs that are tied to the pension plan’s asset mix, the demographic profile of the plan, intergenerational fairness between plan members and level of risk tolerance. By their nature, investment strategies that are highly correlated to the pension plan’s liabilities will reduce funding risk and consequently should not require a large PfAD. It will be important that the overall margins built into an enhanced going concern funding valuation are appropriate and that the PfAD does not inadvertently add an additional level of reserve that does not reflect the margins already in place. A given PfAD should be supported by the individual pension plan circumstances. An additional solvency trigger adds to the complexity of the enhanced going concern funding approach and adds significant costs in monitoring and reporting.

With alternative jurisdictions PIAC has strongly supported moves to enhanced going concern funding combined with modified solvency funding of an 85% threshold. Shortening amortization periods to 10 years and the consolidation of deficiencies are all reasonable design elements to create a robust going concern regime.

PIAC commends the Alberta government for permitting the use of solvency reserve accounts (SRA's) for Alberta plans. Surplus reserve accounts are useful to manage the inherent procyclical nature of pension funding obligations by encouraging plan sponsors to fund beyond statutory minimums during periods of good economic growth through mitigation of the asymmetries related to trapped surplus.

PIAC believes that the PfAD determination should have a tighter link to plan asset allocation as is done in Ontario and Quebec. We do not believe that the regulatory funding requirements should be neutral to asset allocation. A standardized PfAD based mainly on long-term bond yields at the valuation date may prove to be too conservative for substantially de-risked plans in some scenarios (e.g. in higher interest rate environments) and conversely less conservative for plans with a higher allocation to "risky assets" in other scenarios (e.g. very low interest rate environments). A tighter link to asset allocation will make the regime more robust to plans with a broader range of asset allocations and may make it more robust to extremely low interest rate scenarios, which have developed in a number of advanced economies in recent years. This approach would moreover be consistent with the general approach to regulatory capital in the broader financial sector which typically discriminates based on overall balance sheet risk.

Our experience is that the actuarial profession converges on a fairly narrow consensus for forward looking returns and best estimate discount rates and that the current challenges facing the vast majority of DB plans are not a result of aggressive discount rates. We suggest that you provide the pension regulator with the appropriate authority to deal with outliers (which may include an additional PfAD or other mechanisms such as a supervisory capability to prescribe maximum rates) but that you wait until you have more experience with sponsor behaviour under the enhanced going concern regime.

PIAC also recommends that a contribution holiday threshold be set at 105% on a solvency and/or going concern basis. These represent comfortable buffers from a member protection perspective, in particular with the introduction of PfAD's on the going concern measure, and would be more in line with thresholds of other Canadian jurisdictions.

Finally, PIAC believes that a three to five year transition period for pension plans that must pay increased contributions under new funding rules is a reasonable transition period.

**3) Over the past number of years, other jurisdictions have revised their funding rules for pension plans. - What has been your experience with the funding rules used in other Canadian jurisdictions?**

PIAC has noted a positive impact on the ongoing positive maintenance of DB plans in Canadian jurisdictions that have moved away from solvency funding to a going-concern plus model.

**- What do you find effective about their funding rules?**

Moving to a going concern plus regime allows for more consistency in DB plan funding which can motivate plan sponsors to continue maintain their plan rather than removing itself from managing pension plans that promote a predictable lifetime income in retirement.

**- What do you find not effective about their funding rules?**

In general, PIAC encourages jurisdictions to harmonize to the extent possible with other Canadian jurisdictions to ease the administrative challenges for national plan sponsors.

**4) How might we best balance funding rule changes with member expectations for benefit security?**

Addressed in 2).

**Innovation and Modernization**

**1) As with funding rules, rules regarding life annuity purchases and liability discharge have also been updated in a number of jurisdictions in recent years. Please identify issues you have experienced with current annuity purchase rules in the EPPA and EPPR, as well as possible approaches for resolving these issues. In particular, we invite you to comment on the following:**

**- What should be the requirements of the annuity in order to permit discharge (e.g., generally same form and manner as pension from the originating plan)?**

PIAC commends Alberta on already permitting full discharge of liability upon the purchase of annuities. Annuity buy-outs are not an investment decision as suggested by some regulators, but rather a risk management strategy as a part of a decision to move away from a defined benefit pension plan design or to reduce pension risk in an on-going plan by reducing the size of the pension liabilities. In an environment where plan sponsors are struggling with the funding requirements of defined benefit plans, the annuity buy-out offers a potential “exit” for companies which have made the difficult decision to close their plans. Importantly, it does so in a manner which improves benefit security for plan members by transferring risk to a highly regulated financial institution with a long-term commitment to the annuity business. From a policy perspective, this is preferable to the retention of that risk in a corporate setting with no ongoing strategic attachment to the plan.

PIAC strongly supports statutory discharge of liability for pension plans where annuity buy-outs occur. We believe there are a small number of reasonable conditions to achieve full discharge:

- annuities should be purchased from a qualified provider (i.e. regulated insurance company)
- the funded position of the plan should be no worse off after the buy-out than before
- the purchased annuities should substantially replicate the terms of the pensions being discharged

**- How to resolve situations in which an annuity that matches the plan provisions (e.g., indexation) is not available? For example, what are your thoughts on allowing the unavailable characteristics to be replaced by an annuity providing similar characteristics (e.g., fixed indexation as opposed to indexation based on the pension fund return)?**

As detailed above, the purchased annuities should substantially replicate the terms of the pensions being discharged, and rules around such buyouts should be consistent with the Government of Canada's Newsletter 20-1, Registered Pension Plan Annuity Contracts ("Newsletter").

In general, licensed annuity providers do not offer life annuities with cost of living adjustments that are based on full consumer price index (CPI). In that case to ensure consistency with what the CRA would accept the following fixed rate adjustments in lieu of full CPI should be accepted:

- the midpoint of the Bank of Canada's inflation-control target range at the date of purchase,
- the spread between the yield of Government of Canada long term bonds and real return bonds in the month of or the month preceding the date of purchase, or
- a fixed rate that is between these two alternatives.

For those plans that provide indexation that is less than full CPI, such as 40% of CPI, to ensure that the annuity is not materially different from the RPP, a fixed rate adjustment would be acceptable based relevant data pertain to inflation control targets.

Maintaining a consistent standard to the CRA will ensure that there is harmonization across jurisdictions and consistency in practice.

**- Should there be any limitation to the discharge provided or transitional features?**

As detailed above, PIAC believes there are solely a small number of reasonable conditions to achieve full discharge.

**- Should retroactive discharge be permitted (i.e., discharge for annuities purchased before the legislation is amended)?**

PIAC supports the retroactive discharge of liabilities upon an annuity buyout transaction that meets the legislative requirements.

**- For what members should annuity discharges be allowed (e.g., retirees, former members, and survivors)?**

All plan members should be treated equally.

**- Should annuity discharges be required to be filed with the regulator (e.g., require an actuarial valuation at the date of the buy-out; require actuary to file a certification that discharge is in compliance with legislation; require administrator to provide a copy of the contract(s) under which the benefits will be provided; or other)?**

The regulator should be advised of annuity discharges and receive a certification that the annuity discharge complies with legislation.

**- Should disclosure to affected members be required? Should member consent be required?**

We believe that regular communications in place with plan members is a sufficient vehicle for relaying annuity discharges. Members must be advised that an annuity has been purchased, from who the annuity was purchased, and who to contact. Following this, the insurance company will be tasked with providing all disclosures. Member consent should not be required.

**- What funding requirements should there be (e.g., solvency ratio for the plan to be maintained at the lesser of one and the solvency ratio reported in the latest filed valuation report; if the cost of annuities exceeds the product of the commuted values times the solvency ratio then an additional contribution is required before the annuity is purchased)?**

The funded position of the plan should be no worse off after the buy-out than before the buy-out. For unfunded plans, the annuity top-up should be based on the funded position of the plan.

**2) In the Budget 2019, the Federal Government announced their intention to amend legislation to permit the purchase of an Advanced Life Deferred Annuity (ALDA) from a registered plan. The budget also proposed a Variable Payment Life Annuity (VPLA). While federal legislation is still pending, would you support the EPPA being similarly amended to provide for those products (e.g., as a potential portability option)?**

PIAC strongly supports the introduction of Advanced Life Deferred Annuities (ALDAs) and Variable Payment Life Annuities (VPLAs) into the realm of registered accounts. We believe they have the potential to meaningfully improve the options available for managing longevity risk for Canadians who save for retirement outside of traditional defined benefit plans. At a high level, PIAC recommends that the overall approach should be to allow the VPLA market to develop in a flexible and innovative fashion, subject to a general guidance on process with a view to ensuring appropriate disclosure and actuarially robust structures. There are different approaches along a number of technical dimensions that a VPLA sponsor may reasonably choose and PIAC would therefore not recommend overly prescriptive regulation.

Regarding Budget 2019, our main concern from a policy perspective was that the legislation was narrowly drafted to limit VPLA access to a registered pension plan context. PIAC has a broad membership of large and small plans. PIAC's view is that large DC plan sponsors

would have the scale to integrate VPLA structures into their registered plan offerings if they chose, but that smaller employers would likely look to direct their members to third party providers of such products. This model is more likely to succeed if there is a broader scope of permitted aggregation structures beyond the Pooled Registered Pension Plan (PRPP), which is the only other structure permitted outside of a registered pension plan based on the draft legislation. The PRPP model has failed to gain meaningful traction in the Canadian market, notwithstanding the potential merits of the model, and is not permitted in all Canadian jurisdictions. As the 2019 legislation was drafted, we believed it would preclude meaningful take-up by companies sponsoring smaller DC plans and make it very difficult for third party providers to design scalable products for individuals saving through RRSP's.

PIAC believes that there is a broader opportunity for VPLAs beyond the larger DC plans and encouraged the federal government to revisit their approach to accessibility. Therefore, in your amendment of the EPPA to provide for these products, we encourage you to facilitate the broadest possible potential access for Canadian savers. We believe that this means a regime whereby RRSP and RIF savings will have efficient access and whereby a variety of financial service providers can offer VPLA structures.

**3) Many of Alberta's CBMEPs are currently classified as defined benefit for accrued benefits, but have been exempted from that requirement by s.10.1 of the EPPR. What are your thoughts on the ability of a defined benefit plan to convert benefits – including accrued benefits – into target benefits? Consider:**

**- How would member consent be obtained prior to conversion? That is, what conditions should be imposed (e.g. union can consent on behalf of all members; if not represented by a union, then some threshold of consent or deemed consent, unless respond in the negative).**

N/A.

**4) Do you have other ideas to support innovation and modernization with regards to pension legislation and regulator requirements?**

N/A.

### **Red Tape Reduction**

**1) In 2014, the EPPA was amended to provide for the establishment of the Alberta Employment Pensions Tribunal. While members have been appointed to the Tribunal, the Tribunal has not been used since its establishment.**

**- Do you think it is an effective mechanism to address appeals? What other approaches might be taken to the review of a certain decision of the Superintendent of Pensions to determine if the decision is consistent with the requirements and intent of the EPPA?**

The Pension Tribunal has not been used since its establishment. PIAC supports amending the EPPA to remove references to the Pension Tribunal and to provide a right to seek judicial review by the Court of Queen's Bench of any decision of the Superintendent.

**2) The EPPR prescribes different pension partner waiver forms, used in different instances depending on certain circumstances. What are your views on the potential consolidation of waiver forms (similar to the waiver forms which existed prior to 2014) or the potential elimination of all waiver forms (replaced, instead, by an obligation that the plan administrator obtain “pension partner consent” without a prescribed form)?**

PIAC believes the best choice of action would be to consolidate the current set of 13 waiver forms. Administrative practices have been built up around the current forms so maintaining consistency in approach would be useful.

**3) The EPPR requires member disclosure statements, used in different instances depending on certain circumstances. What are your views on:**

**- Replacing the member disclosure requirements in the regulation with an obligation on plan administrators to disclose information to members (but not prescribe the content)?**

**- Changing the annual pensioner statement from a mandatory statement issued to all retired members of a pension plan to a statement where members must “opt-in” to receive it.**

Electronic communication is the predominant mode of communication in the workplace and in personal financial planning. Electronic disclosure will improve the efficiency of pension administration. We request the implementation of the ability for plans to communicate disclosure information electronically without a requirement for the member to agree in advance or through a method of deemed consent. Only if the plan member or beneficiary objects in writing, or if internet access is not available, would disclosure information be provided to the individual in paper form.

**4) Do you have other ideas that reduce inefficiencies with regards to pension legislation and regulator requirements?**

N/A.

PIAC appreciates the opportunity to comment and would be pleased to answer any questions you may have.

Yours sincerely,



Natasha Trainor  
Chair