

January 17, 2014

BY EMAIL

Framework for Pooled Registered Pension Plans
Strategic Pension Reform Secretariat
Ministry of Finance
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Dear Sirs/Mesdames:

Re: Ontario Consultation Paper - Securing Our Future: Strengthening Income In Ontario through Pooled Registered Pension Plans (the "Consultation Paper")

The Canadian Advocacy Council¹ for Canadian CFA Institute² Societies (the CAC) appreciates the opportunity to comment on the Consultation Paper.

As a general comment, the CAC supports initiatives in addressing Canadians' need for greater retirement savings and retirement reform, and commends the province for seeking input on the proposed framework at this time.

It is the CAC's view that the two major issues that must be successfully addressed in order for PRPPs to be useful retirement vehicles are:

1. The need to ensure that the PRPPs truly offer low-cost investment vehicles competitive with defined benefit pension plan investment costs; and

¹The CAC represents the 13,000 Canadian members of CFA Institute and its 12 Member Societies across Canada. The CAC membership includes portfolio managers, analysts and other investment professionals in Canada who review regulatory, legislative, and standard setting developments affecting investors, investment professionals, and the capital markets in Canada. See the CAC's website at <http://www.cfasociety.org/cac>. Our Code of Ethics and Standards of Professional Conduct can be found at <http://www.cfainstitute.org/ethics/codes/ethics/Pages/index.aspx>.

² CFA Institute is the global association of investment professionals that sets the standard for professional excellence and credentials. The organization is a champion for ethical behavior in investment markets and a respected source of knowledge in the global financial community. The end goal: to create an environment where investors' interests come first, markets function at their best, and economies grow. CFA Institute has more than 113,000 members in 140 countries and territories, including 102,000 CFA charterholders, and 137 member societies. For more information, visit <http://www.cfainstitute.org/>.

2. The need to skillfully balance the requirement for greater retirement coverage and the requirement for sufficient flexibility in each person's individual financial planning so that individuals may meet numerous financial objectives, of which retirement is only one.

The CAC wishes to comment on the following specific consultation question relating to the proposed framework:

Eligibility

1. *Under the federal framework, PRPPs would not be available to unemployed individuals.*

Would it be beneficial to broaden eligibility to allow anyone in Ontario with unused RRSP room to participate, regardless of their employment status?

Since the goal is to encourage all Canadians to save more for retirement, we believe it would be beneficial to broaden eligibility. It could be beneficial to broaden the eligibility to allow anyone in Ontario with unused RRSP room to participate, regardless of their employment status. However, this benefit would likely be limited, as individuals not presently employed will generally have more modest resources with which to contribute, and some, such as homemakers, may not have sufficient RRSP room.

Key Elements of a PRPP

2. *Employer Participation*

The federal framework does not require employers to offer a PRPP. Quebec has proposed a different approach in its Voluntary Retirement Savings Plans Act —its version of PRPPs — under which employers that employ at least five individuals and do not offer other retirement savings arrangements would be required to offer a PRPP. Should Ontario's PRPP framework require employers to participate? If yes, should there be any exceptions?

Given that one of the stated objectives of pension reform is to broaden coverage, it would make sense to require that PRPPs be offered to employees, if there is no other retirement savings arrangement available.

3. *Employee Participation*

The federal PRPP framework requires participating employers to automatically enrol their employees into a PRPP, and provides a 60-day period during which employees may opt out. A challenge with this model is that employees may not realize that they need to actively opt out of a PRPP if they decide against joining a plan.

It is important to note that lower-wage workers can usually meet or exceed their pre-retirement earnings through the existing benefits provided by the current CPP, Old Age Security (OAS), the Guaranteed Income Supplement (GIS) and the Guaranteed Annual Income System (GAINS). This suggests that an additional savings tool such as PRPPs may not be necessary for lower-wage workers.

a. Should Ontario's PRPP framework provide for automatic enrolment of employees? Or, should employees instead be required to opt in to a PRPP?

Numerous studies in other jurisdictions have indicated that automatic enrolment does lead to much higher participation rates. Therefore automatic enrolment will lead to better retirement savings coverage. However, we believe that the automatic enrolment should be tempered by flexibility with regard to the locking-in of the pension amounts (see our response to question #8 below).

b. If employee enrolment is automatic, should employees have longer than 60 days to opt out?

Changes in financial circumstances can arise at any time. For example, a member's spouse could become unemployed, creating much greater demands on the member's cash flows. Therefore, it would be optimal to permit an employee to opt out at any time, or at least to decrease the contribution level to 0% at any time. It is our understanding that in other jurisdictions and in other circumstances, it is likely that only a small percentage of investors would choose to opt out as investors tend not to change their investment decisions on their own, even if an opt out is available.

c. If employer participation is mandatory, should employees also be required to join and remain in the plan?

Employer participation is merely a matter of requiring the employer to offer the plan. Employee participation typically requires some level of contribution. It would therefore make sense to provide employees with the flexibility to suspend participation, regardless of whether the employer participation is mandatory. We recognize that providing such flexibility to employees will result in the PRPPs only being a part of a multi-faceted solution to the issues relating to retirement savings.

d. Should lower-wage workers be exempt from either mandatory employee participation or automatic enrolment?

Since an individual's financial circumstances may not be entirely dictated by his or her level of income, we would suggest that flexibility is required for all workers.

4. Member Termination

Under the federal framework, plan members who enrol individually, such as self-employed individuals, have the option of terminating their membership in their PRPP or transferring to a different PRPP administrator at any time. In contrast, members who are enrolled in a PRPP by their employers are unable to terminate their membership in the PRPP after the 60-day opt-out period unless they leave their job.

a. Should all plan members be allowed to end their membership in a PRPP at any time? If so, should they also be allowed to rejoin at any time?

As discussed above, we believe that to provide individuals with an appropriate level of financial flexibility, members should be permitted to withdraw employee-contributed funds from the PRPP and/or cease contributions to the PRPP at any time. However, this may not necessitate ending their membership in the PRPP.

b. Should all PRPP members be able to transfer their assets to a different administrator if they are dissatisfied with their current administrator?

We believe that it might be impractical for individuals to go out and find an administrator on their own. It makes sense for the sourcing of the administrator to be the responsibility of an employer and not an employee.

5. Employee Contribution Rates

The federal framework provides for plan members' contribution rates to be set by the administrator. It also allows the administrator to increase plan members' contribution rates automatically from time to time. For example, a PRPP administrator could set a contribution rate of three per cent for the first year and increase this rate by half a percentage point each year until the member reaches a maximum rate.

Quebec has proposed a different approach to contribution rates in its Voluntary Retirement Savings Plan (VRSP) framework. Plan members would be able to determine their own contribution rates.

a. Which approach to contribution rates would better serve Ontarians? What is the best approach to contribution rates in the event that the PRPP framework required mandatory employee participation?

Permitting the PRPP administrator to set the employee contribution rate is not desirable. Low income earners may not be able to defer even a small percentage of their current income as basic immediate consumption needs could be frustrated.

The Quebec approach, which permits members to determine their own contribution rates, is preferable. If membership in the PRPP is mandatory, employees should be permitted to set their own contribution rates, including a zero contribution rate.

b. If Ontario allowed contribution rates to be set by administrators, should administrators also be permitted to increase members' contribution rates automatically from time to time?

We do not believe employee contribution rates should be set by the administrator. Forcing employee contribution increases upon members without the members having any say in the matter reduces their financial flexibility.

c. If yes, should there be a specified time period during which plan members can opt out of proposed contribution rate increases?

Plan members should be allowed to opt out at any time.

6. Employer Contributions

Under the federal framework, participating employers are not required to contribute to a PRPP. This is different from the requirement in the CPP legislation or the general requirement in Ontario that employers who choose to offer a registered pension plan must also contribute to the plan.

a. Should Ontario employers who offer a PRPP be required to contribute to the plan? If yes, should employer contributions still be required if the PRPP framework mandated employer participation?

We believe that requiring employers to offer a PRPP and requiring mandatory employer contributions should they not already be offering an employer contribution retirement plan to their employees is a desirable goal. We believe this minimum employer contribution could be made as an employer match to the employee's contribution in order to maximize the goal of retirement savings for all employees. The employer would then be required to contribute at least the same amount as the employee up to a prescribed minimum contribution rate.

However, for lower income employees below a certain threshold, it might make sense that they not be required to contribute in order to receive the employer "match". The requirement for an employer contribution, in this case, would be equivalent to an increase in the minimum wage.

b. If a mandatory contribution is desirable, should there be a minimum contribution rate?

A mandatory minimum employer contribution is desirable. However, we realize this would have other ramifications. For one thing, under the federal rules, an employer would not be required to offer a PRPP if there is a group RRSP in place, and the employer is not required to make contributions to the group RRSP. This inconsistency would have to be addressed.

7. Low Cost

The PRPP Act requires administrators to provide PRPPs at a “low cost” to members. The associated regulations state “costs are to be at or below the costs incurred by the members of defined contribution pension plans that provide investment options to groups of 500 or more members” and “costs are to be the same for all members of a PRPP.” This definition is intended to ensure that PRPP members benefit from the group pricing that large DC pension plans are offered.

a. Is this definition of “low cost” appropriate? Should Ontario develop a different definition of low cost? If yes, what should the definition be and should it include a maximum fee?

The “low cost” objective is central to the value of PRPPs. Every other attribute of this proposed product is already available in the marketplace, either through a group RRSP or a defined contribution registered pension plan. The main rationale for having PRPPs is to provide a more cost-effective means of achieving capital accumulation plan savings.

Unfortunately, the maximum cost established in the federal regulations is not sufficiently specific to ensure that the “low cost” objective is met. In a typical insurance arrangement, for example, two different groups with 500 members each might be paying very different levels of fees. Each case is underwritten and depends upon a number of factors. A group with 500 members but a very low level of assets could be paying much higher fees than a much smaller group in which each member has a higher level of assets.

A more specific definition of fees is therefore needed if PRPPs are to achieve the stated “low cost” objective and in order to make the cost structure of PRPPs at all competitive with defined benefit plan costs. We emphasize that this maximum fee level must include all fees and costs whether they are paid directly by the member or employer, or charged to the fund or any underlying fund in which the fund is invested.

We understand that in order to maintain a low cost fee structure, the options within the plan and the operation of the plan itself must be kept simple. One way to keep costs down would be to limit the number of investment options in the plan. We understand that such low cost options would likely limit the investment options to ETFs, conventional index funds, segregated funds and potentially institutional pooled funds, but even a small number of different funds can provide an appropriate range of exposures to major markets and asset classes. Regardless of the final number chosen as the maximum fee level, we believe that providing anything over and above the types of funds listed above for choices within a PRPP will inevitably result in these pools charging much higher fees than existing defined benefit plans and will not accomplish the objectives of the proposed framework.

Fewer options should result in lower costs for the administrator and help improve the chances for success for the PRPP initiative. Administrative costs could also be lowered

by requiring less frequent reporting, encouraging electronic reporting wherever possible, and lowering the fee burden as discussed in our response to question #7c below.

b. How much detail should be required to be disclosed to plan members on costs and fees?

The CAC supports full disclosure to plan members of all costs and fees. This should include all fees and costs of any kind being paid directly by the member or the employer, and also all fees and costs of any kind being charged directly to the fund, or any underlying fund in which the fund is invested.

c. Should Ontario consider other restrictions on certain fees, such as trailer fees?

There should not be trailer fees or commissions of any kind associated with the PRPP investments. The only way that PRPPs can achieve the goal of being a “low cost” alternative to existing capital accumulation plans is if they are provided on a no-commission basis.

8. Locking In

The federal framework requires both employer and employee contributions to be “locked in” until the retirement age.

In contrast, Quebec’s proposed VRSP framework provides that contributions made by employees or individual members would not be locked in. This means that individuals would be able to withdraw their funds at any time; however, upon withdrawal, they would be required to pay the income tax that was previously deferred (employer contributions would continue to be locked in). For example, an individual may choose to withdraw his or her contributions to a PRPP in order to aid in the purchase of a house. As a result, it is possible that PRPP funds could be used for purposes other than providing an individual with income during retirement.

Allowing greater flexibility in withdrawing funds may benefit certain plan members but could also lead to increased administration fees for all PRPP members.

a. Should Ontario allow plan members to access their PRPP account periodically for pre-retirement spending?

If we want to force Canadians to save for retirement, locking in the funds and not allowing any pre-retirement access makes sense. However, we believe there is a need to balance the greater retirement savings objective with a need for individual flexibility in managing multiple financial objectives, of which retirement is only one. Whether to provide a down-payment on the purchase of a house, or to pay for a child’s education, or to pay medical bills, or for any number of other purposes, there are a lot of legitimate reasons why Canadians may have, from time to time, more pressing financial needs than retirement security. We believe that a PRPP program is likely to be more successful if it also has the flexibility to accommodate other financial priorities that may arise. We

believe all employee contributions should be eligible for withdrawal prior to retirement age; however, any employer contributions may be locked in.

We also note that the basic government retirement benefits—OAS and CPP—provide a locked-in guaranteed base of retirement benefits. It is our belief that any capital accumulation layer built on top of this base can therefore afford to provide greater flexibility. We do not believe that this flexibility would greatly increase costs. A modest transaction fee could be permitted to defray such costs.

b. Should employer contributions, if any, be required to be locked in?

Yes. We believe this represents a reasonable compromise between the need for flexibility with the employee's own money and the need to encourage greater retirement savings.

c. Would a locking-in requirement deter individuals from joining a PRPP?

A locking-in requirement could possibly deter individuals from joining a PRPP. Alternatively, there might be considerable pressure in future to permit unlocking of the locked-in funds. We understand that FSCO is already required to process a number of requests to unlock pension monies as a result of financial hardship or shortened life expectancy. We believe that a requirement for locking-in employee contributions could lead in future to greater demands for unlocking, and we suggest that it might be more efficient if the employee contribution was not required to be locked-in in the first place.

Disclosure Requirements

9. Disclosure Requirements

The federal framework requires that each member receive an annual written statement, in paper or electronic form, from the plan administrator outlining key pieces of information, including: the member's investment option and the degree of associated risk; contributions made by the member and employer, if any over the course of the year; opening balance, the change in the investments' value (net of costs) and the closing balance; the performance history of the member's investment option over an extended period of time compared to a benchmark; and any costs, fees, levies and other charges, expressed as a percentage or a fixed amount.

a. What other information about a member's PRPP would be important to include in the annual statement?

We believe the federal disclosure requirements to be reasonably complete. It will be important to provide a detailed description of each investment option to support the member's decision regarding any choice of investment vehicle.

b. Should plan members be provided with more than one written statement annually—for example, quarterly statements?

In order to keep costs low, statements more frequently than annually should not be required. It would, however, be useful for members to have on-line access to be able to see, at any time, account balances and how the money is currently invested.

c. Should plan members be provided with information about the plan administrator, such as its financial capacity, investment practices and governance structure? Are there other disclosure requirements that would help ensure greater transparency and accountability?

Basic disclosure regarding the plan administrator is a reasonable requirement. However, if it is the employer who chooses the plan administrator, rather than the member, then there will be no value in providing the member with detailed information.

Administration

10. Eligible Administrators

The federal PRPP Act allows any corporation that is in possession of a valid licence issued by the Superintendent of Financial Institutions to offer PRPPs. Eligibility would be based on an assessment of the prospective administrator's ability to offer PRPPs consistent with a series of principles designed to encourage low costs and ensure that PRPPs are offered by regulated entities with appropriate experience (see licensing, regulation and supervision below).

PRPP administrators could include financial institutions such as banks, credit unions and insurance companies as well as DB pension plan administrators.

Should there be restrictions on which types of corporations can be administrators of PRPPs? If so, what kind?

Plan members will need to be able to trust the integrity of the PRPP administrator. Employers, if tasked with the responsibility of choosing an administrator, may not be in a position to thoroughly vet potential candidates. We therefore feel it is important that PRPPs be administered by regulated financial institutions.

11. Standard of Care

Similar to Ontario's Pension Benefits Act (PBA), the federal PRPP Act requires a PRPP administrator to "exercise the degree of care that a reasonably prudent person would exercise in dealing with the property of another person and the diligence and skill that it possesses, or ought to possess, taking into account the administrator's business."

PRPPs would likely be offered by institutions where the obligation to maximize profits could potentially conflict with the duty to act in the best interests of PRPP members. For example, institutions may be incented to choose higher fee investments to maximize

profits, which may not be in the best interest of plan members with respect to their investment strategy. At the same time, they would be constrained by the legislative requirement that plans be offered at a low cost.

Are there more specific requirements or limitations required to mitigate against potential conflicts of interest?

We would prefer that administrators of PRPPs be held to a “best interests” standard similar to what is being considered by the CSA for investment advisers and the common law fiduciary duty currently applied to defined benefit pension plan administrators. If a PRPP administrator is specifically required to put the interests of plan members ahead of its own interests, this should mitigate the potential conflicts of interest inherent in the plan administrator being a profit-seeking institution. It would be beneficial if certain examples of conflicts of interest were specifically addressed and prohibited or subject to specific disclosure requirements, such as an employer choosing a non-arms’ length administrator for their PRPP.

Regulation of PRPPs

12. Licensing, Registration and Supervision

The federal framework requires PRPP administrators to be licensed by the federal Superintendent of Financial Institutions, who is also responsible for overseeing federally-regulated registered pension plans. Once issued, a licence would not expire and would not be revocable. Administrators must also register each PRPP they intend to offer with the Superintendent and Canada Revenue Agency before they can market the product. In addition, the Superintendent is responsible for the ongoing supervision of PRPPs under federal jurisdiction, such as ensuring that PRPPs are offered at low cost and that plan members are adequately informed. If it is found that an administrator does not fully comply with the PRPP Act and associated regulations, the Superintendent has the authority to issue sanctions against the administrator. This authority includes the ability to revoke the registration of the plan in question (the administrator would, however, remain licensed), and prohibit the administrator from entering into any new contracts with employers or accepting new members.

In Ontario, pension plans are registered with the Financial Services Commission of Ontario (FSCO) and are regulated by FSCO to ensure compliance with the PBA. As the pensions regulator, FSCO could also be responsible for the regulation of PRPPs in Ontario, including the licensing of administrators, the registration of PRPPs and the ongoing supervision of the regime. As discussed further below, harmonization of the regulation and supervision of PRPP frameworks across the country may be an important consideration.

a. What conditions should be required to obtain a licence?

The PRPP administrator should be able to demonstrate a capability to meet all the requirements of the PRPP Act and regulations.

We also believe that the PRPP administrator should be a regulated financial institution.

b. Should Ontario PRPP licences have an expiration date? If so, after what period of time should a licence expire?

We see no reason why the PRPP licences should expire, as long as the PRPP administrator is continuing to meet the requirements of the Act and regulations. Having licences expire could be potentially very disruptive to members of a plan being administered by the PRPP administrator whose licence is expiring.

c. Should Ontario PRPP licences be revocable? If so, under what conditions should a licence be revoked?

We believe licences should be revocable if the PRPP administrator is shown to be negligent, commits fraud, or ceases to meet the requirements of the PRPP Act or regulations.

d. What types of sanctions and enforcement mechanisms would a supervisory authority require to regulate PRPPs effectively in Ontario?

A supervisory authority would need at a minimum the same level of enforcement mechanisms that currently exist for the supervision of pensions in Ontario. The supervisory authority should be given the right to audit the PRPP administrator and the power to charge the administrator with violations of the legislation or regulations.

e. What factors should be considered in determining which authority regulates and licenses PRPPs?

The authority which regulates and licenses PRPPs will need to have sufficient expertise and sufficient resources. We agree that the Financial Services Commission of Ontario is probably in the best position to perform this task for PRPPs registered in Ontario.

13. Harmonization

The federal framework allows the federal supervisory authority to enter into bilateral and multilateral agreements with the provinces to develop an efficient method of supervising PRPPs across the country particularly where a PRPP has members in more than one jurisdiction. A coordinated approach to the licensing and supervision of PRPP administrators would result in fewer resources required for both administrators and regulators and would likely help to keep costs low. A coordinated approach to supervision, however, would require generally harmonized PRPP frameworks across the country.

a. How important would it be that Ontario harmonizes with the existing PRPP frameworks?

The CAC supports, in principle, the harmonization of pension and investment legislation and regulation. In this regard, we feel that it is important that Ontario harmonizes with existing PRPP frameworks, just as it is important that existing securities and pension regulatory frameworks be harmonized to the extent possible.

b. Which elements of the PRPP framework would be the most critical for harmonization?

The most critical element is to avoid an employer having to deal with multiple sets of PRPP rules because it has members in multiple jurisdictions. Perhaps this could be handled in a similar fashion to current pension rules, where a plan could be established for all company employees under a reciprocal arrangement that establishes that all employees will be governed by the rules of the jurisdiction in which the most members reside.

c. Are there any areas where Ontario should deviate from the federal model regardless of whether it reduces harmonization of PRPP frameworks across the country?

The most important feature of PRPPs is that they offer “low cost” access to capital accumulation plans. We believe it is important that the promised “low cost” objective be met, even if it means deviating from the federal model.

We also believe that more flexibility is desirable in the PRPP framework than what is currently supported under the federal model.

Concluding Remarks

We thank you for the opportunity to provide these comments. We would be happy to address any questions you may have and appreciate the time you are taking to consider our points of view. Please feel free to contact us at chair@cfaadvocacy.ca on this or any other issue in future.

(Signed) *Ada Litvinov*

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