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Subject: Draft Regulation to amend the Regulation respecting supplemental pension plans published July 12, 2017 – Comments by the Canadian Institute of Actuaries (CIA)

The Canadian Institute of Actuaries (CIA) is the national, bilingual organization and voice of the actuarial profession in Canada. Its 5,000+ members are dedicated to providing actuarial services and advice of the highest quality. The Institute puts the public interest ahead of the needs of the profession and those of its members.

On July 12, 2017, the Government of Québec published the draft Regulation to amend the Regulation respecting supplemental pension plans ("draft regulation").

In August 2016, the CIA provided input on the initial draft regulations issued July 20, 2016.

We are pleased to offer the following commentary on the draft regulation's provisions.

Comments on our August 19, 2016 Submission

The CIA is pleased to note that most of the recommendations from our submission were incorporated in the draft regulation, but some were not.

- Specifically, our recommendation on the fourth paragraph of section 10 was not implemented. The proposed wording in the draft regulation is as follows:

  "The report must also indicate the effect of the amendment, where applicable, on each piece of information required under sections 5 to 9."

  We reiterate that this subsection should be adjusted to be more specific and to refer to identified factors. In our opinion, the report should only indicate the effect of the amendment on the funding liabilities, solvency liabilities, funding ratio, solvency ratio, current service contribution, and stabilization provision.
- Also, the following issue was not addressed on letters of credit (LOC) put in place after January 1, 2016: if a LOC has been used to cover amortization payments, and subsequently the employer remits contributions in the plan to reduce or eliminate the corresponding LOC, it is the CIA's opinion that this should be included in the banker's clause. We expect that this change should be made with a legislative amendment that should be passed soon, and not through a change in regulations.
- In subsection 61.0.2 of section 41 on funding with regard to the annuity purchasing policy, it seems that the French version includes a third paragraph which does not appear in the English version:

En cas d'acquittement des droits des participants et des bénéficiaires au moyen d'une subrogation en application de l'article 61.0.5 qui a pour effet de réduire le degré de solvabilité du régime à un niveau inférieur à celui fixé au premier alinéa ou au deuxième alinéa, une cotisation spéciale d'achat de rentes doit être versée pour maintenir le degré de solvabilité du régime au niveau établi avant l'achat des rentes ou à 100 %, selon le cas.

Comments on the Content of the Valuation Report

The new section 5 proposed in the draft regulations refers specifically to section 3260 of the CIA Standards of Practice (SOP). The Actuarial Standards Board is currently reviewing this section of the SOP, as per the exposure draft published on June 20, 2017, and it is expected that new SOP will be effective February 1, 2018. In the exposure draft, significant changes are proposed to section 3260. In order to avoid potential problems, it would be preferable for the Québec government to verify if it is comfortable with section 3260 as worded after changes proposed in the exposure draft, or simply refer to the SOP in their entirety.

Comments on Letters of Credit

- The section on letters of credit (LOC) has been modified and addresses some concerns raised in our August 19, 2016 submission. Namely, when a LOC is reduced due to the use of surplus asset, such use of surplus is not treated as a reduction to the banker's clause as per section 42.2 of the Act. The previous version of the regulations stated that if excess assets were used to reduce the LOC, the banker's clause was reduced by the same amount.
- We also noticed that the reduction in the letter of credit due to a surplus is treated as a "use" of surplus rather than an "appropriation" of surplus. It is our understanding that since the rules related to "appropriation" of surplus are in section 146.8 of the Act, the use of surplus to reduce a letter of credit is not limited to 20 percent per year, nor does it affect the banker's clause. It is also our understanding that a sponsor could also "use" the surplus to reduce the letter before the remaining surplus can be made available for "appropriation".
- We find that sections 8 and 9 of the draft regulations are difficult to understand, though they seem to work even if a LOC exceeds 15 percent.

As an example, suppose that the stabilization provision (SP) is 5% and that the LOC is 21% of liabilities. If surplus is SP+16%, the requirement would be to reduce LOC by 6%, resulting in a surplus position of SP+10%. Sponsor should have the possibility to reduce LOC by 16% - 5% = 11%. We understand that this can be accomplished through the application of 15.0.0.5 to eliminate the excess LOC of 6%, and then 15.0.0.6 can be applied to allow the sought reduction in LOC of 11%. We find that such a reduction in LOC could have been accomplished through a simpler draft of 15.0.0.5; however, if this two-step approach is required due to legislative requirements and enables the sponsors to reduce the LOC by the appropriate amount, we agree with the current draft.

Comments on Benefit Rights

- Divisions of rights: current provisions allow the former spouse to become a plan participant or receive an amount less than 100 percent of the entitlement if the plan is not fully solvent. Under new regulations, when a pension split occurs, the former spouse will no longer have the option of becoming a plan participant. The full amount will be paid to the former spouse regardless of the plan's solvency level without the sponsor's obligation to immediately remit the difference to the plan. As an example, if a plan is under 100 percent solvent and the former spouse's entitlement is $50,000, the pension fund will pay $50,000 to the former spouse, and an actuarial loss will be incurred by the plan. Although this provision results in simpler plan administration, we note that such losses may be supported by the remaining membership of the plan.
- We noticed that negative pensions in case of seizure, as per section 56.0.3 of the draft regulations, are not calculated in the same manner as those calculated in case of a partition.
- Plan sponsors should have the option to increase the negative pension or not if plan improvements have been adopted after the marriage breakdown, rather than being forced to adjust the negative pension. This would allow plan sponsors to simplify the administration of their plans.
- All negative pensions that were calculated from January 1, 2014 may have to be recalculated if any changes in benefits were adopted. To avoid additional costs to plan sponsors and administrators, the implementation of this measure should be done only on a prospective basis (e.g., January 1, 2018).

Comments on Variable Benefits

- We are glad to see that modifications suggested in our August 2016 submission were made.

Comments on New Provisions in the Draft Regulation

First and foremost, the CIA would like to congratulate Retraite Québec for helping establish sound funding practices such as the adoption of funding and annuity purchase policies.

Comments on Funding Policy

- For your information, we have done a comparison between the elements of a funding policy established by the Canadian Association of Pension Supervisory Authorities (CAPSA) and Retraite Québec (RQ):

CAPSA	RQ
1. Plan Overview	60.12 (3)
2. Funding Objectives	60.12 (1), 60.12 (4)
3. Key Risks Faced by the Plan	60.12 (5)
4. Funding Volatility Factors and Management of Risk	60.13
5. Funding Target Ranges	
6. Cost Sharing Mechanisms	
7. Utilization of Funding Excess	
8. Actuarial Methods, Assumptions and Reporting	60.13

9. Frequency of Valuations	60.13
10. Monitoring	Act 142.5
11. Communication Policy	Act 142.5, 61.0.11

We are pleased to note that most of CAPSA's funding policy components are included. However, we are surprised that funding target ranges, cost-sharing mechanisms, actuarial methods, assumptions and reporting, and utilization of funding excess are not specifically addressed in section 60.12. These are relevant items that should be part of a funding policy and should be defined in a fair manner.

- There is nothing in the regulations or in the legislation indicating that the pension committee should take the funding policy into account when the actuarial valuation is prepared. By law, the employer must adopt a funding policy. The pension committee must only use it to set the investment policy. There is a significant disconnect, which makes the funding policy hardly relevant should the pension committee choose to ignore it. We take this opportunity to bring this potential problem to your attention. Rules should be clear enough to avoid conflicts between all stakeholders. In our opinion, the current regulations do not eliminate the potential of conflict.

Comments on the Annuity Purchase Policy

- We notice that a link is created between retirees and the issuer of annuity (transforms buy-in into buyout) in subsection 61.0.5. We understand that the intent of this paragraph is to include past annuity purchase contracts, including buy-ins set up before 1990. We agree with this position, as drafted. We also understand that the subrogation of the retiree's rights takes place without the need for consent. Section 61.0.5 should be clear on this point.

The requirement to do a partial or complete actuarial valuation report at each annuity purchase could be burdensome in some cases. A reasonable estimate of the solvency ratio at the date of the transaction could be performed based on the most recent valuation results, similar to what is currently being done to prepare the financial notices due on April 30. However, we understand that further restrictions would be in order if a plan's solvency ratio deteriorates at the time of the transaction. If the solvency ratio estimate would show a significant decrease (e.g., by 10 percent, or such other level to be determined by RQ), then a full valuation would be required. Annuity buyouts enhance the security of benefits and should remain an option to the plan sponsor that should not be discouraged by administrative burdens.

- It appears to us that if a collective agreement stipulates that plan provisions cannot be modified without the consent of the employees or the union, then potentially no annuity purchase policy could unilaterally be adopted by the employer. Subsection (12.1) of section 14 of the Act establishes that a plan needs to specify how the pension committee may implement an annuity purchase policy. It should be clarified whether it is necessary for plans to be amended before being able to set up annuity purchase policies.

All in all, with the above points brought forward, we are in agreement with amendments with regard to provisions developed for annuity purchases.

Comments on Section 14 of the Regulation Related to Fees

- New penalties are being established for late reporting of the solvency levels under section 119.1 of the Act, as a result of not meeting the April 30 deadline. It is our opinion that this filing deadline should be matched with the actuarial valuation cycle. Reliable solvency estimates require a fair amount of work and may not be produced easily within four months. We suggest following ACPM's suggested delay of nine months from the date of the actuarial review of the plan.

Comments on Subjects on the Agenda of the Annual Meeting

- Subsections (1) and (2) of 61.0.11 include concepts such as main risks related to plan funding identified in the funding policy and measures taken to manage risks to be added to the agenda of the annual meeting. Sensitive topics, such as the cyclical nature of a business sector and even the possibility of bankruptcy of the employer may generate unproductive discussions during the meeting. It is our opinion that plan participants will have access to the funding policy, and therefore have the possibility to raise questions about any concern they may have. We suggest that paragraphs (1) and (2) be removed from the regulations.
- Furthermore we suggest that only sections (a), (c), (d), and (e) of paragraph (3) of 61.0.11 be retained with regard to communications on annuity purchases during the annual meeting. Again, topics such as criteria for choosing annuities and the insurer may result in unnecessary and ineffective discussions.
- It is worth mentioning that participants with full purchase of their benefits will not be receiving a pension statement as they will no longer be plan members. Participants that were subject to annuity purchases (either part or entirety of the benefit) should therefore be informed of the buyout by an official statement.

As always, the CIA stands ready to assist in the work ahead.

Thank you for taking the time to consider our comments. If you have any questions, please feel free to contact Joseph Gabriel, CIA staff actuary, education, by telephone at 613-236-8196 ext. 150, or by e-mail at joseph.gabriel@cia-ica.ca.

Yours truly,

On behalf of CIA President, Sharon Giffen,

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