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Subject: Strengthening Canadians' Retirement Security Consultation

The Canadian Institute of Actuaries (CIA) is pleased to provide comments on the above-noted consultation paper published by the Department of Finance on November 6, 2020.

The consultation paper covers a broad spectrum of pension plan concepts. While we have provided responses to all the questions posed in the consultation paper below, we encourage the Department of Finance to prioritize the development of temporary broad-based solvency funding relief measures in order to address in a timely manner the economic difficulties that many plan sponsors are facing as a result of the pandemic.

As well, we would like to emphasize that:

- we strongly encourage the Department of Finance to address the fundamental issue that 100% solvency funding simply does not work anymore;
- we are now in a world where interest rates are expected to remain low, and it is not reasonable to assume zero risk for plan participants;
- the recent announcement regarding the requirement to pay a pension while a plan member is still working must be put on hold, and the interpretation of the current rules should be addressed in a more collaborative way; and
- variable payment life annuities (VPLAs) are an important evolution and should be incorporated as quickly as possible.

Entitlement to a pension while employed

Although this item was not included in the consultation paper, we would like to bring it to your attention. In issue 23 of OSFI's Info*Pensions* newsletter dated November 27, there was an interpretation of the Pension Benefits Standards Act, 1985 (PBSA) regarding a member's entitlement to commence a pension while remaining employed with their employer. OSFI's position is that "under the PBSA, a pension plan cannot require a member who has attained pensionable age to cease employment before commencing payment of their pension." Prior to this interpretation, the understanding among stakeholders was that a pension plan could permit the receipt of a pension while in employment, which is routinely done to respect the Income Tax Act requirements that a pension must commence prior to the end of the year in which a member turns age 71. However, few, if any, viewed the application of the pensionable age provision to mean that a member would be permitted to receive his or her pension while employed as a minimum PBSA requirement.

The CIA is very concerned that this announcement effectively changes a long-standing PBSA provision without advanced notification to stakeholders. A sudden unilateral change in regulations, or common understanding thereof, is a major irritant for sponsors and other stakeholders which could result in significant financial and workforce disruption. Furthermore, this interpretation is very unlikely to have been the intent of the drafters, as it contravenes a core pension principle, in that pensions provide income replacement following retirement from service. Having such an intent would have been surprising as no other Canadian jurisdiction has such requirement, and public policy discourages federal public servants from receiving a pension while in public employment.

If OSFI's interpretation is correct, it will have significant financial and human resource consequences. Employees who have attained pensionable age would be at a significant financial advantage if they could collect their pension and continue to work at full salary for the same employer. From a plan sponsor financial perspective, pension liabilities and service costs could substantially increase for some pension plans as early as next year as retirement assumptions are modified to reflect earlier pension commencement. From a human resource perspective, there would be little incentive to actually leave employment when their pension commences. This revision would cause a fundamental change to the employment relationship, which is not reflected in current practices or collective agreements. We have shared this opinion with OSFI in a previous letter as well.

Regardless of whether OSFI's interpretation of the PBSA is correct, the publication thereof opens legal, human resource, and financial risks, running contrary to sound pension practice and the consultation paper's purpose of proposing funding relief. We recommend corrective measures to the PBSA to provide that, for further clarity, it is not a minimum PBSA requirement for a pension plan to permit a member to receive his or her pension while employed.

Temporary broad-based solvency funding relief for 2021

1. **What are your views on the potential challenges that could be facing federally regulated defined benefit (DB) plans in 2021?**

   Sponsors of federally regulated DB plans were already dealing with a low-interest rate environment, volatile equity markets, and volatile contribution requirements prior to the COVID-19 pandemic. These challenges have been further magnified since the pandemic, with provincial and government bond yields at historical lows and potentially significant contribution increases in the absence of funding relief measures. Added to this are uncertainties and pressures around plan sponsors' business operations, and liquidity and cash flow allocation/prioritization challenges. Given the current global situation, these challenges and uncertainties are expected to continue into 2021.

2. **Should further temporary relief options be considered? What principles or criteria should guide the consideration of the relief measures?**

Federally regulated plans are becoming an outlier among Canadian jurisdictions with their requirement to fund to 100% solvency, while many other jurisdictions have, or are, moving towards a reduced focus on solvency and/or an increased focus on a 'going-concern plus' funding regime. Short-term economic variability tends to be magnified under the 100% solvency funding regime. As noted in previous submissions, the CIA is supportive of the trend towards going-concern plus funding regimes adopted by several Canadian provinces (covering the majority of registered pension plans). While the CIA believes that the "going-concern plus" model represents a fair balance of interests among all stakeholders, it is critical that it be accompanied by transparent disclosure to stakeholders of the implications.

The need to provide solvency relief multiple times in the last two decades also raises the question of whether the funding framework is operating as it should. In addition to considering short term relief measures, we encourage the government to review the current funding framework in detail. This would include, among other issues, a review of the balance between going concern and solvency requirements, the inclusion of solvency reserve accounts (or flexible funding accounts as detailed later in this document) and the current limit of 15% applicable to letters of credit. The government must ensure that the funding framework supports the continued sustainability of DB pension plans and balances the needs of stakeholders. We enclose our submission of December 21, 2018 as reference.

Fundamental reform should be considered and implemented in a thoughtful manner, rather than being rushed through in a time of crisis. However, the needs of some federal plan sponsors are acute and more immediate. Further, different industry sectors are affected to different degrees, though even in sectors which are affected less, investment in capital expansion projects rather than pension plans could assist economic recovery. Consequently, we encourage the government to implement temporary relief options as a stop-gap measure.

Unpredictable and volatile contribution patterns are a deterrent to sponsoring a DB plan and may in the extreme drive an employer into insolvency if funding relief is not granted. The security of the pension promise is in some part dependent on their employer remaining solvent and/or being able to make contributions; in fact, implicit in the design of pension funding legislation is the understanding that the long-term delivery of pension benefits in an underfunded plan is dependent on the continued solvency of the plan sponsor. As a policy matter, under the current legislative framework, there is no guarantee that every pension promise will be paid without the continued solvency of the sponsor. Ultimately, temporarily relief measures should be considered within this context.

3. **If further relief measures are viewed as necessary, which potential temporary measures are best suited to address the challenges facing federally regulated DB plans?**

Relief measures should be accessible to the federally regulated DB plans that really need it. The relief measures which best address the challenges facing federally regulated DB plans are those that mitigate significant short-term increases in contribution requirements, while ensuring an orderly transition back to the regular funding rules. As an example, relief measures that only assist with 2021 contribution requirements, with no consideration to implications in 2022 and beyond, solve an immediate need but simply shifts the problem to the following year.

Also, we observe that some plan sponsors have already filed post-pandemic valuations. For example, plans with June 30 year ends, have already filed June 30, 2020 valuations and are already dealing with the resulting contribution implications. We encourage the government to consider how relief provisions could apply to plans that have already filed valuations since the COVID-19 pandemic began.

4. **Is there one particular relief measure that is preferable, or should consideration be given to providing a suite of measures that plan sponsors could choose from?**

   Different plan sponsors will be impacted differently by different options and will also be facing a wide variety of business circumstances and cashflow issues. While more administratively complex to implement, consideration should be given to offering plan sponsors a few alternative relief measures. Such an approach is most likely to achieve the objective of providing meaningful relief and supporting the continued solvency of a broad array of plan sponsors.

5. **For the one-time extension of the solvency amortization period (i.e., for 2021 plan year only), should consent from plan beneficiaries be required? Are there other conditions or requirements that should be considered?**

   Consent involves a significant element of complexity for many organizations, and in some cases can act as a deterrent to implementing relief measures. If the intent is to provide immediate, meaningful, and accessible relief, we suggest that consent not be required. However, it is critical that the implications are clearly communicated to stakeholders. Consequently, timely and transparent disclosure to plan members should be required. Our comments are intended not just for 2021, but for any applicable year.

6. **Should the qualified issuer determine the letter of credit limit, or should the limit be set by the special regulations? If the letter of credit limit is set by the special regulations, what are your views on an appropriate limit?**

   We encourage the Department of Finance to review the appropriateness of the 15% limit in the broader context of a review of the longer-term funding framework rather than as a temporary relief measure. We strongly discourage the idea of a temporary increase to the limit, as this could cause significant issues for plan sponsors who take advantage of the higher limit when it is subsequently reduced.

   It is preferable that such decisions are made centrally through special regulations. The limit should be set in such a manner to balance the objectives of all stakeholders and a single limit may not be appropriate for all types of plans. The CIA has not conducted any analysis on the appropriateness of the 15% limit and whether it should be adjusted, but we are aware of technical issues with the current 15% limit calculation for Crown corporations that need to be addressed.

Consideration could be given to alternatives to letters of credit, for example the use of surety bonds. We understand that such instruments are currently being used for some retirement compensation arrangements in Canada.

7. **What are some alternative valuation methodologies that could be considered to mitigate the volatility in solvency funding contribution requirements? Which ones could be most effective at providing relief while maintaining adequate funding to protect benefits?**

   As with all relief measures, options must be considered within the context of balancing the interest of all stakeholders.

   With respect to the three measures suggested in the consultation paper:

   - Priority should be given to making it optional to file a valuation report at the end of 2020 for plans with calendar year ends, or during 2021 for plans with non-calendar plan year ends and should be communicated as quickly possible. The minimum funding requirements from the most recently filed valuation would continue to apply during this period. Other temporary relief measures, if being utilized, would also apply. This will alleviate the time and costs associated with the preparation and review of such valuations and will allow plan sponsors to direct their focus to other pressing matters. In addition, plan sponsors are likely to better understand and manage the application of temporary relief measures to a valuation that is on file where results are known.
   - Calculating the average solvency ratio over five years instead of three could be helpful but is unlikely to remedy short-term contribution pressures and recovery will take longer.
   - Permitting the use of a discount rate averaged over three years rather than the market-discount rate as of the valuation date is unlikely to remedy short-term contribution pressures. As well, smoothing of the discount rate may cause asset-liability mismatch issues for plans using liability driven investment (LDI) approaches.

   In addition to the measures suggested in the consultation paper, consideration could also be given to:

   1. a temporary reduction in the solvency funding target (e.g., from 100% to 85%), with a grading back to a 100% target over a period of 3–5 years; or
   2. a solvency ratio taken as the greater of the 3-year average ratio and the current ratio to avoid making contributions on a very unfavorable result.

Measures to further strengthen the framework for federally regulated pension plans

1. **What are your views on requiring plan member and retiree representation for all federally regulated pension plan Boards of Trustees, for both single- and multi-employer pension plans?**

   As a general principle, we believe that the parties that bear the risks with respect to contributions and/or benefit levels (in the case of plans which vary benefits based on funded status) should be responsible for making decisions with respect to governance, investments, and administration.

   Therefore, for multi-employer pension plans and/or negotiated contribution plans as defined in the PBSA, where contribution levels are fixed and benefit levels vary, we believe that it would be appropriate for plan members and retirees to have at least 50% representation on the Board of Trustees. It would be preferable for the participating employers to be permitted to have representation, particularly if the employee and retiree representatives are lay members rather than appointed experts.

   In the case of a traditional single-employer plan, where the plan sponsor bears all the risk while the plan is ongoing, we do not believe it is appropriate to require member representation on the Board of Trustees, although we are not against allowing member representation in cases where it is appropriate. The experience in Quebec and Manitoba suggests that in most cases, there is little value in having plan-member representation on pension committees, and that in most cases decisions end up being delegated back to the plan sponsor.

   Regardless of whether member and retiree representation is mandated or not, it is essential that all representatives understand their fiduciary duties and receive the appropriate training. Board members must understand that as fiduciaries, their overriding purpose is to serve the best interests of plan members and beneficiaries. A failure to appropriately carry out their duties could be highly detrimental to the pension plan. We encourage that training would apply for any member, retiree, or employer representatives participating on Boards of Trustees.

2. **What other approaches could be considered to increase plan member and retiree representation in plan governance?**

   We would like to better understand the Department of Finance's objectives in this regard. The quantity or source of representation does not necessarily lead to a better run pension plan. Further, greater plan member and retiree representation should not result in the interests of those specific groups being represented, but as per Canadian Association of Pension Supervisory Authorities (CAPSA) guidelines each representative should be "treating members and beneficiaries impartially and considering the interests of those members currently accruing a pension, those who are in receipt of a pension and any others who may be entitled to a benefit from the plan."

3. **Would it be appropriate to require all federally regulated pension plans to establish a governance policy with the minimum prescribed content? If yes, should the prescribed content align with the CAPSA governance guideline?**

   The key objective is for good governance to take place. In achieving this goal, it is important for plan sponsors and administrators to develop a robust and effective governance structure which clearly outlines the roles and responsibilities of various parties, and to govern the plan accordingly. The establishment of a governance policy should be strongly encouraged, but we are concerned about placing additional administrative burdens on sponsors of very small pension plans. The government should be mindful that good governance may occur without governance policy documents, and poor governance may occur with robust governance policy documents.

   We view the CAPSA governance guidelines to be a useful starting point, but plan sponsors and administrators should be encouraged to develop, or adapt, a governance policy to suit their particular circumstances. Following the guideline prescriptively could turn into a check-box exercise, rather than a more thoughtful effort to develop an appropriate structure.

4. **To encourage a strategic and transparent approach to funding, should single-employer and non-NC multi-employer DB plans be required to establish and maintain a funding policy?**

   We believe that it is important for plans which share risks with members to establish a funding policy that outlines how contribution and benefit adjustment decisions will be made. Fair and transparent decision making is important to build and maintain the trust of plan members who bear some or all of the risk.

   We think it is also important for plan sponsors of traditional single employer plans to carefully develop a funding strategy for the plan. In practice, most plan sponsors choose to fund based on the minimum requirements but may opportunistically decide to fund above the minimum for various reasons. Plan sponsors will want to maintain full flexibility to make these decisions and will be wary about establishing a funding policy which places any restrictions on them. Consequently, we expect that funding policies for traditional single employer plans would not be particularly useful since we expect most would simply indicate that the plan sponsor intends to fund at the minimum level unless they decide to fund more than the minimum. While the establishment of written funding policies should be encouraged, we don’t think they should be mandatory. Again, we are concerned about adding to the administrative burden, particularly for small plan sponsors.

5. **In light of the growing international focus on environmental, social, and governance (ESG) factors in investing, what would be an appropriate approach to encourage pension plans to consider ESG factors?**

   We believe the best way to encourage plan sponsors to integrate ESG factors, the same way they integrate other financial factors, is to introduce legislation and guidelines to assist them. Legislation should go further than the Ontario requirements. Finance Canada should take a lead role and be guided by what legislators in the UK and Europe have implemented or are considering implementing. For your information, the CIA has recently issued a document on this issue, which can be consulted at this link.

The recommendations in the IOPS Supervisory guidelines on the integration of ESG factors in the investment and risk management of pension funds are a good starting point. We believe some aspects of ESG supervision should be legislated while others could be enshrined in guidelines. Incidentally, the CAPSA Committee on Integrating Environmental, Social and Governance Factors in Pension Plan Supervision should be contacted to ensure the future CAPSA ESG guidelines are integrated with federal legislation.

Any requirements regarding the integration of ESG factors should be subject to the principle of proportionality, i.e., the scale of the pension funds and complexity of its governing structure. Furthermore, legislation and the climate data requested should be consistent with Task Force on Climate-related Financial Disclosures (TCFD) recommendations.

6. **What are your views on the relationship between ESG factors and a pension plan administrator's fiduciary duty?**

   One important principle underlying fiduciary duty is that the administrator must exercise their duty with the care, skill, and diligence a prudent person would exercise when dealing with investments of others.

   The data on ESG factors have grown over the years to the point that now most large asset managers or plan sponsors would agree that ESG factors can have a material positive or negative impact on asset return and should therefore be integrated in the investment process.

   ESG is a fast-growing regulatory concern and the data on financial risks of climate change and other ESG factor continue to improve. We believe it is part of an administrator's fiduciary duty to consider the financial implications of ESG factors.

   We believe OSFI should clarify that the explicit integration of ESG factors into pension fund investment and risk management process is in line with an administrator's fiduciary duties.

7. **What are your views on allowing federally regulated pension plans to provide required information electronically to plan members and retirees on a deemed consent basis?**

   We are in favour of the proposal allowing plans to provide required information electronically to plan members and retirees on a deemed consent basis as it would facilitate the administration of pension plans, without affecting the disclosure provided to members and retirees.

8. **What are your views on the current legislative requirement to make federally regulated pension plans provide required communications to spouses and common law partners? Is it feasible for plan administrators to provide electronic communications to spouses and common-law partners on a deemed consent basis? If not, what other options could be considered?**

   Unlike the PBSA, other jurisdictions do not require communications to be routinely provided to spouses. It is also impractical to do so, whether electronically or in print, given a lack of direct relationship between the plan administrator and the spouse. We believe that in practice compliance with this provision is low with plan administrators providing one communication at the member's physical or electronic address, perhaps with a statement saying they are obliged to share it with their spouse. Having unfeasible legislative provisions is not good public policy. We recommend that the PBSA be amended to not routinely require communications be sent to spouses, but that instead, spouses be able to request copies of such communication. If the communication is at the request of the spouse only, the feasibility of deemed consent for spouses is no longer an issue.

Solvency reserve accounts

Prior to responding to the specific questions posed in the consultation paper, we want to provide some general comments.

The CIA strongly supports the concept of a solvency reserve account. We believe that the concept should be extended to the going-concern funding requirement as well. Consequently, we prefer the term flexible funding account (FFA) rather than solvency reserve account (SRA) to reflect a potentially broader application. In the rest of this submission, we have used the FFA term, which should be interpreted to include SRAs referred to in the consultation document.

The CIA has long been an advocate of FFAs, either achieved through a separate account or within the plan; for example, through a "banker's rule" as in Quebec. Surplus asymmetry represents an issue for the long-term sustainability of DB pension plans. Therefore, allowing plan sponsors to withdraw surplus while ensuring a sufficient cushion to ensure that benefits remain secure would be a very positive step for the pension system.

Plan sponsors are very concerned that the large solvency payments they are required to make, especially in the current low interest rate environment, could result in very significant surpluses (i.e., if interest rates rise significantly). Often, the utilization of a surplus is a contentious issue; furthermore, on plan wind-up, it is often subject to litigation.

The CIA has suggested that these payments be accumulated in a special account and that the account be refunded to the entity that made those payments if all accrued benefits are fully secured. In particular, on plan wind-up, if all accumulated benefits have been settled, the part of the remaining surplus attributable to those payments could be refunded. In addition, this special account should also be used for contributions to fund going-concern deficit and to fund a provision for adverse deviation (PfAD), and be refundable when accrued benefits are funded at the target level established under regulations.

This may provide an incentive to sponsors to make contributions over the minimum required to better fund pension plans. These contributions in excess of the minimum would be deposited in the FFA.

The consultation document mentions that such an approach would be permitted only on a prospective basis and only if specified in the plan provisions. However, since current plan rules cannot already include such provisions, it is preferable for regulations to allow some limited retroactivity in order to allow amounts being credited to an FFA retroactively to the effective date of the regulations even though the plan provisions had not yet been amended when those amounts are contributed.

1. **To encourage more prudential employer funding, should consideration be given to permitting employer normal cost contributions to be made to an SRA where an employer is in a position to reduce normal cost contributions under subsection 9(5) of the PBSR?**

   If an employer makes normal cost contributions which are not required, then such amounts could be allocated to the FFA. In addition, consideration could also be given to permit an allocation of employer normal cost contributions which are only required as a result of the solvency position, but would otherwise not be required (e.g., a solvency ratio that is less than 100% and where the going-concern surplus is at least equal to the normal cost).

2. **What would be an appropriate legal structure for SRAs – for example, establishing an SRA as a separate account of the pension fund within the same trust agreement, or under a separate trust agreement? Would different arrangements pose administrative or operational difficulties? Should employers be permitted to choose their preferred approach?**

   We will defer to others to provide detailed comments as this is primarily a legal issue. However, it is important that the rules be as simple as possible and allow flexibility, in order to encourage the implementation of FFAs.

3. **The proposed SRA framework would apply to single-employer DB plans. Should the SRA framework also apply to multi-employer DB plans, other than negotiated contribution plans? How might this work in practice?**

   We would prefer that FFAs be permitted for multi-employer DB plans, in which case a separate notional account could easily be maintained for each employer paying contributions eligible for FFA treatment.

4. **Would it be appropriate to set a minimum required solvency ratio threshold of 105% before and after any SRA withdrawal is permitted for on-going pension plans? Should a similar threshold apply to the plan's going-concern funded level?**

   We agree that it would be appropriate to set a threshold above 100% as a safeguard for benefit security. It may also be reasonable to introduce a requirement to maintain a minimum going-concern funded level. If such a going-concern threshold is introduced, it would seem reasonable to also allow the use of the FFA for going-concern special contributions above the minimum level.

5. **Would limiting annual withdrawals from an SRA to one-fifth of the eligible surplus be appropriate? This would align with the approach in Alberta and British Columbia and would mirror the five-year amortization period allowed for solvency deficits.**

   We recognize that limiting withdrawals to only a portion of the eligible surplus represents an additional safeguard for benefit security. However, we do not believe that there is a strong rationale to mirror the deficit amortization period. Furthermore, since it is possible to use all available surplus to reduce letters of credit or to fund benefit improvements, it would seem inappropriate to place additional restrictions on employer withdrawal. If the policy-makers determine that certain funded ratio thresholds are sufficient to ensure a high level of benefit security, it should be permissible to withdraw all amounts above such thresholds.

6. **Should additional restrictions or safeguards apply to SRA withdrawals?**

   We note that any restrictions on FFA withdrawals could impair a plan sponsor's corporate balance sheet under financial reporting standards and as such additional restrictions should be avoided to maximize the beneficial effects of FFAs.

7. **Should any specific disclosure requirements to plan members and beneficiaries or OSFI apply in respect of withdrawals from or payments to an SRA? Should the notice provided to plan beneficiaries be separate from their annual statement?**

   We agree that information on surplus withdrawals should be communicated to plan members every year, but it is less clear whether information ought to be distributed on payments into such account. We assume that OSFI could be informed through details included in actuarial valuation reports, and members could receive highlights of valuation reports such as a summary balance sheet that shows separately the assets included in such account. We believe that such information can be included in the members' annual statement, rather than in a separate document.

8. **Should other limits or restrictions apply to SRA withdrawals to help ensure that withdrawals are based on up-to-date information (e.g., withdrawals only allowed within six months following the AVR being filed, or prohibiting SRA withdrawals if the employer had reason to believe that the plan's funded position had changed significantly to the downside)?**

   From a practical perspective, it would be reasonable to use the information contained in the latest valuation report, rather than having to update the calculations between valuation reports. However, it would also be reasonable to impose a condition that the employer should be confident that the withdrawal would not cause the plan to fall into a solvency deficit.

   We like the idea of giving a period of six months from the report filing date to withdraw available surplus, so that the impact is reflected in the subsequent valuation report.

Variable payment life annuities

VPLAs have the potential to become a very important part of the Canadian retirement system since it could allow the growing number of Canadians in defined contribution (DC) plans to decumulate their assets in an orderly fashion and receive an adequate retirement income. Therefore, while it is important to safeguard member interests, VPLAs should be flexible and not be overly onerous, so as to be attractive to plan sponsors and members.

Further sponsorship of the VPLA should not be restricted to certain industries (e.g., banks and insurance companies), so as to allow greater competition and foster innovation.

Our comments on the specific questions are noted below.

1. **Are there other timing requirements that could be considered for VPLA actuarial valuation reports? For example, should the frequency of required actuarial valuation reports be linked to a VPLA's chosen funding approach (i.e., PfAD)?**

   We believe that an actuarial valuation should only be required once every three years for the following reasons:

- An annual valuation requirement would involve unnecessary fees and administrative burden, particularly in the first years of the VPLA fund.
- A triennial valuation requirement would allow gains or losses to be recognized on a regular basis, thus avoiding significant surpluses or deficits accumulating, and subsequently larger required changes to benefits to rebalance the funded position. This could have a greater impact when a single death occurs in a VPLA fund with very few plan members.

However, it would be important to provide some flexibility to administrators as to the frequency of required actuarial valuations. To this end, we believe that a reasonable approach would be to require a full actuarial valuation report at least once every three years, while allowing the administrators to file a partial and simplified report on an annual basis, that would adjust benefits based on the fund's investment returns only. Since most of the gains and losses are expected to result from investment experience rather than mortality experience, it allows for regular adjustments to be made without incurring the cost of annual valuations. This method has the following advantages:

- It limits management fees (vs. requiring full annual valuations).
- It allows for a simplified adjustment process in the event of very high or low investment returns on an annual basis.
- It allows for regular communication with participants.

As mentioned above, regular communication with retirees is essential to ensure the success of a VPLA. An annual communication with retirees would be an effective way to help them understand and maintain a connection with the VPLA. Benefit adjustments, whether upward or downward, must be carefully communicated to avoid surprises for members. We believe it is essential to require administrators to communicate any adjustment to retirees' benefits a few months in advance.

2. **Does the proposed approach for partial annuitization, unlocking, and withdrawal from a VPLA strike an appropriate balance between providing flexibility to members while preserving the risk pooling nature of the VPLA?**

   First, we agree with that partial annuitization of pooled retirement pension plans (PRPPs) and DC account balances upon retirement should be allowed. As raised by the Department of Finance Canada, this option provides financial flexibility to retirees, while allowing them to mitigate risks. Participants could decide to keep part of their account balance in a savings plan for legacy reasons, or to cover unforeseen expenses.

Second, we believe that the possibility of unlocking up to 50% of the locked-in pension funds on a one-time basis prior to receiving any benefits from a VPLA is consistent with the rules currently applicable. It would <u>not</u> be appropriate to allow members to withdraw funds from a VPLA once they have commenced their benefits.

These two options provide more flexibility to retirees by allowing them, for example, to unlock part of their account balance for shorter-term use, to transfer another part into a locked-in pension fund that is professionally managed, and to use the balance to enter into a VPLA. Some retirees may be hesitant to "lock" all their retirement assets into a single vehicle like a VPLA. Consequently, these options would be attractive since they would allow retirees to diversify their sources of retirement income if they wish to do so.

Finally, we agree with the restriction on withdrawals from a VPLA during retirement for the reasons listed by the Department of Finance Canada. This restriction is essential given the nature of risk pooling.

3. **To allow for earlier VPLA purchases, should members of a PRPP or DC pension plan also be able to enter a VPLA offered by the plan at any time, rather than limiting the option to enter a VPLA to only when members are at retirement?**

   Plans should not be <u>required</u> to allow members of a PRPP or DC pension plan to enter a VPLA before retirement. Not only does entering a VPLA before retirement increase administrative management complexity, but also requires more analysis regarding:

   - the management of the associated funds (i.e., would the amounts used for earlier VPLA purchases be managed separately?); and
   - special situations that this could cause, for example what happen if a death occurs before the start of the payment?

   However, it is important that regulations not stifle innovation in new financial products like VPLAs. Consequently, we would discourage regulations that prohibit earlier entry and leave it to the VPLA sponsor to decide.

   The main objective of a VPLA is the immediate pooling of assets for the payment of lifetime retirement income. This is why we believe that members should ideally join a VPLA once their pension has commenced or is about to commence, as a means to better manage their longevity risk (i.e., the risk of outliving the assets the participant has accumulated for retirement) and reduce their investment risk.

4. **Are there any other circumstances where new disclosures could be needed for VPLAs, in addition to what is being proposed?**

   The disclosures proposed by the Department of Finance Canada are adequate. However, if the option to allow for VPLA purchases before retirement is retained, it would be appropriate to include additional information on this subject in the annual statement of active members.

5. **What are your views on the proposed requirement for PRPPs and DC plan retirees to obtain spousal consent before entering a VPLA?**

   We believe that obtaining spousal consent before entering a VPLA is consistent with current provisions in the PBSA and the PRPP Act. In that sense, we are not in disagreement with this proposition. However, the spousal consent should only be required if the VPLA does not provide, at least, a 60% joint and survivor benefits.

6. **Are there any other portability options that could be considered for VPLA retirees and beneficiaries on plan termination?**

   A portability option to consider would be a group annuity purchase for all participants who elect this option at plan termination. This option may, however, have communication issues, namely that the annuity purchase from an insurer using a participant's commuted value could result in a pension payment higher or lower than the monthly amount that was paid by the VPLA fund.

   Another portability option to consider would be to allow retirees and beneficiaries to transfer their commuted values to another VPLA fund on plan termination.

7. **What would be an appropriate approach to the calculation of commuted values for VPLAs? For example, should plans be free to choose between different methodologies prescribed in regulation or follow a methodology proposed by the CIA for target benefit arrangements?**

   If the methodology and assumptions used to convert PRPPs or DC account balances into a VPLAs are based on a going-concern approach, the methodology and assumptions used at plan termination should also be based on a going-concern approach. However, it would be reasonable to update the assumptions to reflect changes in market conditions.

   If the methodology and assumptions used to convert PRPPs or DC account balances were based on a market-based approach as used for solvency valuations, then such an approach should also be used when converting out of the VPLA, taking into account changes in the economic conditions.

   The approach at termination should be consistent with the approach used to convert balances in order to be equitable.

8. **What are your views on the PBSA's principles-based approach to administrator's fiduciary duty? Are additional clarifications necessary to ensure that the fiduciary duty principles apply to both the accumulation and decumulation periods?**

   We believe that the PBSA's principle-based approach to an administrator's fiduciary duty proposed by the Department of Finance Canada is sufficient. However, it might be relevant to add the mention that these principles apply to both the accumulation and decumulation periods.

Proposed ministerial guidelines on special pension funding relief

1. **What are your views on the proposed ministerial guidelines? Are there any additional components or considerations that should be included in the draft ministerial guidelines?**

   The Department of Finance is seeking stakeholder views on draft ministerial guidelines regarding the process to seek and obtain special funding relief from solvency funding requirements under the PBSA. These guidelines would apply to federally regulated private pension plans under the PBSA where all available relief options, including the Distressed Pension Plan Workout Scheme (DPPWS) already codified in the PBSA, have been considered and are deemed unfeasible.

   The CIA recommends against establishing such additional guidelines. If a relief case does not qualify for the DPPWS, then by definition it will be rare, unique, and emerging in a future unknown economic, political, and regulatory environment. These factors make it difficult to establish a meaningful regulatory process and we would expect that the government will need flexibility to effectively deal with such cases. Also, having public guidelines risks normalizing relief that should only be provided in extreme cases.

   The legislative and regulatory framework should define rules applicable in normal circumstances for all relevant entities. In the context of funding for federally regulated pension plans, this corresponds to the funding rules spelled out in the PBSA and in Sections 8 and 9 of the PBSR ("regular funding rules").

   In consideration of situations where an employer in financial distress would be unable to comply with regular funding rules, then Sections 29.01 to 29.3 of PBSA and 10.1 to 10.991 of the PBSR describe in great detail the process and conditions to implement a DPPWS which could include a funding schedule different from what would be provided by regular funding rules.

   While special funding relief may be required for individual employers in some circumstances, it does not seem necessary to formally define the parameters of such process and conditions. As these requests are expected to be exceptional and unique, the criteria considerations in assessing the reasonableness and potential measures undertaken alongside special funding relief are also expected to be unique and designed for very specific situations.

   Instead, we suggest that:

   - the Department of Finance reassess the regular funding rules to strike the right balance between benefit security and sustainability for employers (as outlined elsewhere in this submission) in order to minimize the need for temporary funding relief measures and/or special funding relief measures for single employers;
   - the relevance and applicability of the DPPWS be re-examined to establish if this potential second layer of rules have met their objective since they were established; and
   - the Department of Finance consider establishing internal guidelines and processes, which can be customized to fit the particular circumstances of a particular situation. It is

important that the rules do not restrict the Department of Finance's ability to react in the optimal manner to any particular situation.

Thank you for taking the time to review our submission. If you have any questions, please contact Chris Fievoli, CIA Staff Actuary, Communications and Public Affairs, at 613-656-1927 or chris.fievoli@cia-ica.ca.

Sincerely,

[original signature on file]

Michel St-Germain, FCIA
President, Canadian Institute of Actuaries

The Canadian Institute of Actuaries (CIA) is the national, bilingual organization and voice of the actuarial profession in Canada. Our members are dedicated to providing actuarial services and advice of the highest quality. The Institute holds the duty of the profession to the public above the needs of the profession and its members.