The CBC Pensioners National Association | L'Association nationale des retraités de la SRC

21 April 2017

Mr. Ian Foucher
Senior Policy Advisor
Office of the Minister of Finance

Dear Mr. Foucher:

Further to your letter of 15 March and our subsequent conversation, I am writing on behalf of the CBC Pensioners National Association in response to the Minister's invitation to comment on Bill C-27, *An Act to Amend the Pension Benefits Standards Act, 1985.*

The CBC Pensioners National Association directly represents some 5,500 CBC pensioners who are its dues-paying members and, indirectly, the interests of another 4,000–plus retirees in receipt of pensions from the Canadian Broadcasting Corporation's Defined Benefit Pension Plan.

We are aware that many unions and advocacy groups such as ours that have a significant stake in assuring the security of their members' retirement incomes have expressed grave concerns about the potential impact of the proposed amendments to the PBSA. We, therefore, welcome the Government's decision not to move forward with this Bill until further consultation has taken place and, presumably, more analysis has been focused on the downstream implications of the proposed legislation.

In response to concerns expressed to their Members of Parliament, a number of our members have received assurances that the introduction of Bill C-27 reflects the government's desire to "strengthen retirement savings for Canadians" and that "helping Canadians achieve a safe, secure and dignified retirement is a central part of our government's plan to help the middle class and those working hard to join it." Given that nearly two thirds of all working Canadians do not benefit from any form of employer-supported, registered pension plans, any effort to improve retirement security for those who have none should be supported.

There is evidence that the Defined Benefit Pension Plan – once the standard in both the public and private sectors – is in decline, particularly since the financial crisis of 2008. Employers are "de-risking", closing DBPs in favour of Defined Contribution Plans, RRSP-like arrangements under which employees essentially manage their own plans, assume all the associated market risk and receive no guaranteed pay-out at retirement. So, on its face, Bill C-27's proposal to add a third option to the PBSA – the shared-risk Target Benefit Plan – would seem to be in line with the government's proclaimed objective to make Canadians' retirement prospects more secure.

On closer scrutiny, however, we believe Bill C-27 has the potential to encourage a *decline* in retirement security – at least with respect to Defined Benefit Plans – rather than act as a bulwark against it. And we see no evidence that would suggest any existing DB plans covered by the Pension Benefits Standards Act are genuinely threatened, other than by the prospect of downgrading them to mitigate the relatively minor risk they represent to PBSA-regulated employers.

Clearly, the Target Benefit option is superior to Defined Contribution plans, if for no other reason than its distribution of investment risk between employers and employees rather than imposing it solely on employees. But, like DCPs, it does not offer a set and guaranteed retirement benefit. It is, however, an option that may hold appeal for risk-averse employers and, in that respect, C-27 lays out a set of conditions that could, over time, contribute to the elimination of Defined Benefit Plans entirely.

This is how we see it:

- Existing DBPs can be protected by the terms of collective agreements between employers and their unions. That is not an immutable fact but, at the very least, the DBP benefits that have been offered as a condition of employment to current employees and retirees constitute a contract that must be honoured – in all its dimensions, including negotiated commitments to cost-of-living increases.

- C-27's requirement that any conversion of plan members from a DBP to another plan be accepted by all the plan's members. We would note that employees and retirees are not a single interest group and should be represented separately in any negotiations around a conversion.

- Pensioners, though, are not typically an organized group – and there is no established practice or legal structure that demands membership in such a group. Moreover, retirees tend to be widely dispersed and naturally averse to any change that could threaten their established incomes. So, even if there existed a reliable mechanism for treating pensioners as a group capable of making coordinated decisions, it is highly unlikely they would agree to any proposal that put those incomes at any measure of risk.

- On the other hand, the Bill would permit an employees' union to agree to a downward conversion on behalf of all its active members. While collective bargaining groups would naturally oppose any such move, there are any number of scenarios in which a union might be 'encouraged' to abandon a DBP in exchange for other benefits.

- In such a case, a DBP retained for retirees but closed to new entrants would be deprived of the contributions of both the departed employees and the employer, an eventuality that would pose an obviously increased risk to the future of the DBP and, in all likelihood, a significantly different (and potentially much less productive) investment policy.

- Another way of portraying the result of this process is that the Defined Benefit Plan would be 'wound up' – it would cease to exist at the end of its actuarially projected lifespan.

Surely, given that DB Plans are, unarguably, the most beneficial form of retirement security, we should be seeking ways to decrease the risks associated with them – *rather than making these plans easier to eliminate.* And it might also be noted that any move away from DB Plans as an ideal model for retirement security creates inter-generational inequity, raising the question of why younger workers should be disadvantaged compared to their predecessors. This might be defensible if real and reasonably projectable economic conditions threatened the practicality of DB plans. It is not justifiable, however, when the underlying cause is an employer's desire to eliminate readily mitigatable risk purely in the service of the bottom line.

And, with respect to risk mitigation, another concern, which employers have expressed again and again, is the practice of assessing the viability of Defined Benefit Plans on the lower of two measurements – going concern and solvency. This makes little sense in an era of low interest rates when achieving and maintaining solvency funding of over 100% is almost impossible. The concern is underpinned by the essentially artificial nature of solvency measurement for companies unlikely to face a forced plan wind-up; it is magnified further by the fact that maintaining a comfortable going concern ratio in today's markets is possible even with a conservative asset mix.

And, for government-backed crown corporations, a demand for additional employer funding based on under-100 solvency ratios really amounts to little more than directing that public money from Pocket A be switched to Pocket B, typically with a detrimental effect on the company's ability to serve its mandated purposes.

The consensus among economists would seem to be that low interest rates are likely to be with us for the foreseeable future; not necessarily hovering on the brink of negativity but certainly not ascending anywhere near the double digits of the past. In that constrained environment, solvency ratios will continue to be challenged but, given reasonable market conditions and competent fund management, going concern numbers will continue to exceed their solvency comparators by significant amounts.

So, considering all of the above factors, we would make the following recommendations:

1) ***That Bill C-27 be amended by removing the provisions for converting Defined Benefit Pension Plans to any other, less secure pension model.***

While an employer may be contractually obligated to maintain a DBP, there's currently nothing in the law or in attendant regulations to prevent an employer from closing a DBP to new entrants. The difference C-27 in its current form would make, would be to actively sanction the downward conversion of DB Plans and effectively ensure the demise of a plan retained for retirees only.

2) ***That the regulations regarding plan valuation be revisited with an eye to reducing plan sponsors' risk by evaluating a DB Plan's funded status solely on the basis of its going concern ratio and that the ratio be set at a level designed to assure attentive fund management.***

This latter proposal is not new – plan sponsors have pursued it often in the past – but we believe it to be a reasonable response to current and foreseeable market realities. Of course, in the event that those realities evolve unfavourably, the changes could be reversed or modified. Now, it may be argued that, on closer examination, there is an unacceptable risk in applying this approach across the spectrum of industries regulated under the PBSA – but we would suggest no such argument can be made in the case of government-backed Crown Corporations and, possibly, others. Indeed, we suggest that, to the degree current regulations hamper the ability of Crowns to fulfill their mandates, it would be in the public interest to treat them exceptionally.

In summation, it is our contention that Bill C-27, as currently written, does not appropriately serve the stated objective of making Canadians' retirements more secure. While the introduction to the Target Benefit model may seem to increase pension options, that potential benefit is offset by the deleterious effects this legislation portends for existing Defined Benefit Plans and, indeed, for the prospects of maintaining the unarguably superior DB model for future generations of Canadian workers.

Finally, we note that the government has made it clear the provisions of Bill C-27 would not apply to the Defined Benefit Pension plans of public servants, the government's direct employees. While we recognize that the range of industries and institutions embraced by the PBSA may demand pension provisions flexible enough to respond to individual circumstances, we believe the Government of Canada should strive to set standards worthy of being emulated throughout the economy.

We trust these suggestions will be seen as contributing to the welfare of Canadians in both their working and retirement years.

Yours sincerely….

Paul Gaffney
President
CBC Pensioners National Association

P.O. Box/B.P. 8570, Ottawa, ON K1G 3H9 **613 724-3003 Toll free/sans frais 1 877 361-9242**