SUBMISSIONS OF ONTARIO PUBLIC SERVICE EMPLOYEES UNION TO THE MINISTRY OF FINANCE

REVIEW OF ONTARIO'S SOLVENCY FUNDING FRAMEWORK FOR DEFINED BENEFIT PENSION PLANS

To:

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SEPTEMBER 30, 2016

I. INTRODUCTION

The Ontario Public Service Employees Union ("**OPSEU**") thanks the Ministry of Finance for the opportunity to make submissions on the Ministry's review of the solvency funding framework for defined benefit pensions plans.

OPSEU represents approximately 130,000 employees in the Ontario public and broader public sector. These employees include full and part-time workers in the Ontario government, community colleges, Liquor Control Board of Ontario, healthcare sector and a wide range of community agencies in the broader public service.

OPSEU members participate in a number of defined benefit pension plans, including large, medium and small DB plans in the core and broader public sector, such as, the OPTrust, the Canadian Blood Services Defined Benefit Pension Plans, Healthcare of Ontario Pension Plan, Colleges of Applied Arts and Technology Pension Plan, the Ontario Municipal Employee Retirement System, and the Victorian Order of Nurses Pension Plan, among many others. These submissions are made on behalf of OPSEU and not any of the administrators of pension plans in which OPSEU members participate.

II. BACKGROUND AND OBJECTIVES

The consultation paper, Review of Ontario's Funding Framework for Defined Benefit Pension Plans dated July, 2016 (the "**Consultation Paper**") characterizes defined benefit ("**DB**") pension plans as a key part of the retirement income system in Ontario and Canada. It recognizes that DB plans and this system contribute to the economic and social well-being of Ontarians.

OPSEU agrees and supports the Ministry's recognition of the importance of DB plans and that "the goal of Ontario's funding regime is to promote benefit security". OPSEU is a strong supporter of the DB plan model and participating in the sponsorship and governance of pension plans in which its members participate. OPSEU believes that the best-performing DB plans are those that are jointly-governed and in which members and employers share the risks and responsibilities of the plan.

We encourage the Ministry to ensure that any changes to the DB pension funding rules strengthen the security of DB pension benefits and the system as a whole.

Motivation for the Review

The Discussion Paper outlines concerns raised about the DB pension system in Ontario (pages 3 – 4). These concerns are the commonly-articulated concerns of pension plan sponsor employers about pension plan contribution levels and volatilities. These or similar concerns are often articulated about pensions, benefits and other parts of the total compensation packages of employees.

We question three assumptions that appear to be informing the Ministry's response to these concerns.

We do not dispute that DB pension plans can be more expensive during periods of low interest (and discount) rates. Certain de-risking strategies that do not involve the transfer of insolvency risk to members (and other beneficiaries) can mitigate these cost concerns, as the Consultation Document discusses, but the cost of pension benefits can and does vary with capital market cycles. Solvency funding valuations are particularly sensitive to changes in interest rates. This is why it is important to have a "long term view" of pension plan liabilities and funding. Although the current capital market conditions have sometimes been described as "low for long", reflecting about a 10 year period of historically low interest rates, it is not possible to state with any degree of likelihood or certainty that these conditions are permanent. In fact, it is most likely that they are not. Similar prognostications were made about the "new economy" and bull market in equities in the decade 1990 to 2000, which corrected during the 2000s, and equity markets have been volatile during the 2000s. We question the assumption that "low for long" is a capital market condition upon which a fundamental change in pension plan funding regulations and benefit security should be based. Put another way: if the solvency funding rules are eliminated in Ontario and interest rates rise to historical averages in the near term, would the review process contemplate the re-instatement of full solvency funding requirements?

Second, we question the assumption (implicit or explicit) that reducing contribution levels to pension plans will have a material effect on the incidence of DB plans in Ontario: that is, will amendment or removal of solvency funding rules make the relevant difference between employers maintaining current plans or, more unlikely, creating a new DB plan? As the Ontario Expert Commission on Pensions found, the strongest indicator of the presence of a DB plan is a collectively bargained workplace. While other factors may influence the presence of a DB plan, the assumption that reducing pension contributions to a DB plan will encourage more DB plan

membership is not clear or uncontested. Accordingly, to reduce protection against insolvency events, and transfer the risk of insolvency to plan members and other beneficiaries, may very well not have the desired policy outcome assumed by the Consultation Paper, while increasing risk to members and other beneficiaries.

Third, we question the assumption that increased cash flow or retained earnings of employers arising as a result of lower pension plan contributions (that occurs if solvency funding is weakened or eliminated) is put toward other desirable policy priorities, such as hiring, productive investment and growth in the Ontario economy. There is simply no good evidence for this assumption. It is equally plausible that any savings arising as a result of lower pension contributions will be used to return dividends to shareholders (who may or may not be in Ontario) or, as some have observed, such as the former Governor of the Bank of Canada, retained earnings may merely be held internally for long periods of time.

Concerns Cited in Discussion Paper

The primary concerns articulated in the Consultation Paper (contribution level and volatility) reflect long-standing perspectives on funding pension plans held by employer plan sponsors. They do not reflect other stakeholder concerns about the DB pension system or funding requirements in the system.

The Consultation Paper does articulate *objectives* for the review process that reflect, in part, the concerns of pension plan members and other beneficiaries (page 11).

While members may have concerns over overall pension costs – many of which are shared equally, or close to equally, in public and broader public sector plans – they are also primarily concerned about benefit security, keeping the pension promise and playing an active role in the governance of their pension plans. These concerns are integrated with the funding rules applicable to pension plans in Ontario. For example, permanent solvency relief has, to date, been provided to pension plans with certain governance characteristics that permit those affected by the risks of insolvency to be managing those risks. Examples include specified Ontario multi-employer pension plans ("**SOMEPPs**") and jointly-sponsored pension plans ("**JSPPs**").

Members Have Made Significant Contributions to Pension Plan Stability

Broadly speaking, DB pension plans members, and certainly those in the pubic and broader public sector, have contributed significantly to the stability of the DB system through contribution increases and amendments to benefit structures, consenting to temporary relief measures, and other as well as participating in governance and communicating the "pension deal" to members.

Therefore, OPSEU questions the problem that the solvency funding review is intended to resolve. It appears to be primarily focused on the contribution requirements of large, private sector single large employer plans ("**SEPPs**"), although the Consultation Paper makes clear that any SEPP, private or public sector, may be affected through the consultation process.

Some single employer pension plans in which OPSEU members participate are already exempt from solvency funding requirements under the *Pension Benefits Act* (Ontario) ("**PBA**"), and those plans have addressed issues of contribution levels, volatility and surplus in an effective, fair and balanced manner.

Scope of Review

As just discussed, some JSPPs are SEPPs and are otherwise already exempt from solvency funding.

Accordingly, OPSEU submits that those pension plans that are currently exempt from solvency funding, whether SEPP or JSPP (or SOMEPP), not be included within the scope of the current review. The corollary of this proposal is that the existing funding rules applicable to those plans remain outside the scope of the review, and remain in place and applicable to those plans.

There are a number of reasons to support their exclusion, including the following:

- they are already exempt from solvency funding;
- solvency-exempt plans are typically large sophisticated plans that have already addressed the concerns raised with the Ministry listed above (contributions, use of surplus); and
- these plans are jointly-sponsored and represent arrangements created in reliance on current funding rules for these plans.

A second aspect of the scope of review that is not included in the Consultation Paper is the option to maintain the status quo. This should be an option in all policy reviews of this nature, particularly one based on concerns primarily held by one stakeholder group in the system. The current funding rules already reflect a carefully calibrated balance between the interests of stakeholders, and status quo should be an option that is carefully considered, and only changed where there is a compelling policy basis for doing so.

III. APPROACHES TO SOLVENCY FUNDING REFORM

Two approaches to reforming the solvency funding rules in the PBA and Regulations are articulated in the Discussion Paper. Our submissions are organized accordingly.

However, as just noted under "Scope of Review" above, the status quo is, and should be an option for this review process in each option articulated.

OPTION A: MODIFIED SOLVENCY FUNDING RULES

General Comments

The Consultation Paper notes that the current solvency funding rules are not a completely accurate reflection of the true cost of benefits in the event of an insolvency and wind-up of a plan.

In particular, certain benefits are already excluded from being funded on a solvency basis, notably escalated adjustments (indexation) and certain other benefits. We also note that many of the same benefits are excluded from Pension Benefit Guarantee Fund ("**PBGF**") protection.

To this extent, the current solvency funding regime already provides a form of "relief" in respect of required contributions to pension plans, and plan members (and other beneficiaries) already bear the insolvency risk associated with those benefits. This must be taken into account when considering the balance to be struck between the objectives articulated in the Consultation Paper: in short, the status quo represents a carefully crafted balance of those interests.

Question 1: What are the advantages and disadvantages of maintaining but modifying solvency funding requirements?

From the members and beneficiaries' perspective, the advantages of maintaining status quo solvency funding requirements are, broadly speaking, maintaining benefit security and the pension promise in a manner thought to be an appropriate policy goal for the past 25 years. This is an advantage that is paramount to OPSEU and its members in SEPPs that are not solvency exempt.

Ensuring that the pension promise is made is a primary concern of pension plan members. Modifying solvency funding requirements which exposes a pension plan member to the greater risk of underfunding and not being paid the promised benefit over a career is a significant issue for members and the solvency rule is, in principle, one in which OPSEU supports for SEPPs that are not already exempt from solvency funding rules on other bases, i.e., as a JSPP in which members co-manage the risks to which they are exposed, or solvency relief on a temporary basis to which members have consented.

The primary disadvantage to modifying solvency funding requirements is to increase risks to which members and other beneficiaries are exposed through reduced amount or frequency of contributions to a plan. While some groups of members may, through collective bargaining or other meaningful consent process, agree to reduce employer required contributions permanently or temporarily, those arrangements can be made by the affected parties reacting to specific circumstances. There is not, in OPSEU's view, a principled reason to modify (already modified) solvency funding requirements to transfer risk to members and other beneficiaries as a matter of public policy or regulation.

As stated above, OPSEU does not accept that there is a correlation (let alone a strong one) between the solvency funding requirements and declining coverage of DB pension plans by single employers in Ontario. The decline in defined benefit pension plan coverage has been a phenomenon of the Ontario pension landscape for a considerable amount of time and the reduction of defined benefit pension plans in the private sector has taken place prior to the 2008 and the current period of "low for long" interest rates. Many OPSEU pension plans have "learned" form the 2008 events, and have adapted their governance, funding and investment policies and practices to ensure the stability of contributions and benefits, and ensure inter-generation fairness.

Question 2: Which option or combination of options would be most effective in balancing the different interests of plan sponsors, unions, members and retirees?

As stated above, no option representing the "status quo" was identified, which is a significant omission in the report. OPSEU submits that an "effective balance" is already struck by the current solvency funding regime, which includes options for temporary relief with the consent of members and other beneficiaries, and excludes certain benefits from being funded on a solvency basis. In effect, most "core" benefits are currently required to be funded on a solvency basis (subject to existing forms of solvency relief or exemption), and one of the main "non-core" benefits, indexation, is only required to be funded on a going concern basis. This represents the existing balance in stakeholder interests. Further reducing requirements for solvency funding would upset this balance.

More specifically, Option 4 (funding a percentage of solvency liability) and Option 5 (solvency funding certain benefits) are options that OPSEU is opposed to seeing implemented for the following reasons.

Option 4 weakens the purpose behind solvency funding in the first place: it creates a target funded level of less than 100%, which we can expect sponsors to fund to. It in effect erodes benefit security with no clear advantage to doing so. It creates another form of transfer of the risk of underfunding to members and other beneficiaries on a permanent basis.

Option 5 creates a difference in how some benefits and not others are funded. As discussed above, some benefits are already not funded on a solvency basis. This would be a (further) inappropriate regulatory intervention into plan design and the ability to bargain and set benefits that may be otherwise desirable to members and should be fully funded against an insolvency event.

With respect to Option 2 (length and amortization period); Option 3 (consolidation of solvency deficiencies); Option 6 (solvency reserve accounts) and Option 7 (letters of credit), each of these options may be desirable to provide to SEPPs if, and only if, meaningful member consent is obtained.

Each of these options (2, 3, 6 and 7) do or may involve the transfer of significant risks to members, or may engage members' rights (surplus), and so while members may wish to permit these options to apply to their plans, they should be required to provide meaningful consent.

Several of these of options are already contemplated in existing temporary solvency relief options. In those contexts, some form of member (including former member and retiree) consent is required in order for the plan sponsor to elect that particular solvency relief option.

If any of these options is to be permitted on a permanent basis i.e., a greater percentage of solvency liabilities is permitted to be accounted for through a letter of credit, or an extension of

an amortization period for solvency deficiencies, then a robust and meaningful form of consent must be put in place in order to reflect members acceptance of the new levels of risk associated with the pension funding "deal".

The consent mechanism associated with the conversion regulations from SEPPs to JSPPS (which also include the continuation of DB benefits) is an appropriate mechanism to adopt for permanent changes to the solvency funding rules applicable to defined benefit pension plans.

With respect to Option 1 (employing an average of solvency funded ratios), OPSEU submits that smoothing is an appropriate options for pension plan administrators to elect, provided that there are appropriate restrictions on that election to restrict "gaming" of smoothing from valuation to valuation.

Question 3: Is there an appropriate solvency funding level below 100% which could be required. For example, should pension plans only be required to fund on a solvency basis to 80%?

No. As stated above, reducing the amount of solvency funding as a general regulatory approach is not a fair or balanced transfer of insolvency risks to plan members and other beneficiaries. The appropriate funding target (which already excludes certain benefits) is 100% of solvency funding, which may be modified as to timing and amounts, with consent, as stated under Question 2.

Question 4: If solvency funding requirements are modified, what changes to the PPGF would help maintain benefits without placing onerous requirements on plan sponsors?

OPSEU strongly supports the enhancement of PBGF benefit levels and premiums associated with those benefit levels if there is any modification to the current solvency funding rules.

The PBGF has worked extremely well for most Ontario pension plans which have encountered insolvency of their sponsors, particularly small and medium sized plans. The PBGF provides payments to perhaps 10 to 25 plans per year, out of a total eligible pool of about 1,400 plans, or about 2% of all eligible plans. Two conclusions should be drawn: a small number of plans face insolvency risk each year, and this form of pooled insurance against pension SEPP sponsor insolvency is an effective method of pooling and mitigating those risks for most plans.

However, the PBGF requires amendment and enhancement, because the protection it provides has eroded significantly over the years since its establishment.

We note that the current level of benefit protection of $1,000 was set in the early 1980s. If that amount were updated to reflect only the erosion of inflation, it would be approximately $2,900 in 2016.

A level of $2,500 to $3,000 per month of protection would cover a significant percentage of most pension plans' monthly pension benefit, providing a meaningful level of protection against individual insolvency events of SEPPs.

Where the protection against insolvency and unpaid pension benefits is reduced and the risk of unpaid pension benefits is increased as a result, it is appropriate to provide a balance of that individual plan protection through an enhanced PBGF.

PBGF premiums should be enhanced to the level that is necessary in order to maintain adequate reserves within the PBGF against a normal use of the PBGF. Premiums may be risk-based to reflect differing plan designs and investment portfolios. The precise level of

contributions required to maintain an appropriate and adequate reserve in the PBGF requires further study and will require actuarial expertise, but in principle should be lower for plans with better solvency funded ratios, and higher for plans with lower solvency funded ratios.

The PBGF should also be open to participation for SEPPs (including JSPP-SEPPs) to participate, if the JSPP elects to do so. The Ministry of Finance has encouraged the creation of JSPPs (including those that are not solvency exempt) and OPSEU strongly supports this policy. However, where plan sponsors desire to create a formal JSPP structure in which members and the employer sponsor a plan and share its risks using the JSPP structure, they are not eligible to participate in the PBGF.

Question 5: If solvency funding requirements are maintained in a modified way, what would be an appropriate limit on the use of letters of credit?

The status quo is appropriate. At stated above, increasing the limits on the use of letters of credit should only be permitted with the consent of members and other beneficiaries.

OPTION B: ELIMINATION OF SOLVENCY FUNDING AND ENHANCEMENT OF GOING CONCERN FUNDING

General Comments

Scope

As stated above, those pension plans that are currently exempt from solvency funding, whether SEPP, JSPP or SOMEPP should not be within the scope of this review or affected by its recommendations.

Further, the existing funding rules applicable to those plans should remain in place and applicable to those plans.

Existing solvency-exempt JSPPs have already addressed the concerns raised by employers that inform this review (contribution level, volatility, use of surplus, clarity and governance issues) and, more importantly, these plans are negotiated, complex, jointly-sponsored arrangements created in reliance on current funding rules.

Therefore, the second approach to reforming funding rules considered in the Consultation Paper (eliminating solvency funding and strengthening going concern funding rules) should not be applied to any plan that is currently exempt from solvency funding (SOMEPPs and all solvency-exempt JSPPs).

Approach to Enhanced Going Concern Rules

Second, any modification of going concern rules applicable to SEPPs should be sufficiently flexible to permit variation and approaches to "strengthening" funding requirements.

The purpose of going concern funding rules is not to insure against solvency. Encouraging pension plan sponsors and administrators to increase measures of conservatism into going concern funding may be desirable as a general approach to ensuring adequate long-term funding in pension plans, but is not a replacement for solvency funding on its own.

If it is a policy objective to encourage measures of conservatism in going concern funding requirements, the appropriate policy approach to enhanced going concern funding rules should be a "principles based" approach, that articulates the desired regulatory and policy outcomes in a series of principles that individual pension plans must consider and adopt into their funding and governance practices. This approach is a well-understood approach to financial sector regulation that permits desirable flexibility in the forms and methods for achieving policy outcomes while retaining the autonomy of bargaining parties.

Consent

Third, as stated above, the elimination of solvency funding and the modification of going concern funding requirements on a permanent basis should only be permitted with the meaningful positive consent of members and other beneficiaries.

Question 1: What are the advantages and disadvantages of eliminating solvency funding requirements and introducing enhanced going concern funding requirements?

The disadvantages of eliminating solvency funding requirements are stated above. Absent any other change (such as enhancing the PBGF protection), the main disadvantage is greater risk of benefits being reduced permanently on the insolvency of the plan sponsor, and corresponding transfer of risks to the members and other beneficiaries, without appreciable gain in DB coverage or an increase in sponsor economic activity. The major advantage to employers is reduced contributions to pension plans, i.e., lower overall cost of employee total compensation.

The primary advantage of enhancing going concern funding through some combination of increasing the amount to be paid into the plan or shortening of the period upon which payments must be made into the plan is that provides some measure of conservatism in plan funding and investment practices; however, this conservatism is not a replacement for solvency funding (and would not provide it) on its own, and we question what meaningful level of protection enhanced going concern protection would provide against an insolvency event, absent other changes to plan governance or PBGF protections.

One disadvantage of enhancing going concern funding is that any enhancement over best estimates of the true cost of benefits being accrued in the year (the purpose of going concern funding) increases the cost of the plan with respect to that purpose; that is, the going concern cost is higher, but does not actually achieve the purpose of solvency funding. This may create "buffers" against contribution volatility, and to some extent, protect future accrual of benefits from being amended, but does not provide any meaningful protection against insolvency events.

A second disadvantage to some of the enhancements proposed is that they may be inappropriately structurally rigid and insufficiently flexible if each element is required by regulation, instead of permitted to be combined in a prudent manner by each plan to which they apply.

Question 2: What combination of options described above would best moderate contribution levels and volatility while providing some degree of benefit security?

Any elimination of the requirement for solvency funding must necessarily be accompanied by an appropriate form of protection for pension benefits against insolvency. This is one of the fundamental purposes of regulating pension funding, and it should be the priority in considering any funding reforms.

OPSEU strongly supports Option 5, the enhancement of PBGF benefit levels and premiums associated with those benefit levels if there is any modification to the current solvency funding

rules. PBGF enhancement is a necessary component of any group of reforms that would (further) amend solvency funding rules. Please see our comments above.

With respect to the other options discussed in the Consultation Paper, Option 1 (Provision for Adverse Deviation or "**PfAD**"), Option 2 (shorter going concern amortization periods), Option 3 (restrictions on investment assumptions) and Option 4 (a solvency trigger for enhanced funding), each may be a desirable element to encourage measures of conservatism. However, due to the diverse nature of plans and sponsors, their industry sector conditions and individual bargaining arrangements, the degree to which each option or policy element is adopted should be determined by the administrator and/or sponsors of the pension plan itself, within a framework of overall policy goals in the management of going concern funding and the investment of pension funds. In short, "one size does not fit all". For this reason, we propose that a principles-based approach to going concern funding should be adopted, which articulates a set of policy goals but permits flexibility in the combination of methods to achieve those policy goals.

Overall policy goals could include the development of funding policies, the clear identification of measures of conservatism in the funding policy and their relationship to the plan design, sponsor and other relevant factors and a description of the effect of these measures of conservatism in the event of stresses to the plan, such as changes to capital market conditions.

More specifically with reference to Option 1, PfADs (expressed a percentage of liabilities) should not be a fixed form of reserve as a percentage of liabilities, but, if they are required at all, should be characterized as "dynamic reserves" in nature. PfADs should be subject to a policy that guides their funding and release, and permits administrators to manage such reserves accordingly. A PfAD should be a *target* amount, and should be within the discretion of the sponsors or administrator to set and deploy when necessary to stabilize contribution requirements and protect benefits, considered within a larger suite of possible options for providing measures of conservatism into plan funding and investment.

Although the size of PfADs may be linked to investment strategy and portfolio and its relationship to demographic factors, depending on the plan and sponsor, other factors may be important in determining the size and use of a PfAD. Those factors are listed on page 18 of the Consultation Document, and in particular, aspects of plan design, such as the optionality built into the plan design, and the financial positon and strength of the sponsor and the type of industry or market in which the sponsoring entity operates, may be important factors to take into consideration in some cases, but not others. This highlights the need for a flexible, principles-based approach.

Due to the nature of monitoring these types of risks, there should be flexibility for different types of plans in different types of industries to be able to select and manage a dynamic reserve.

The most appropriate regulatory framework to enable this flexibility is a principles-based regulatory framework that requires in principle a PfAD to be established and maintained and released when appropriate but with the flexibility of how to apply that principle in the case of each plan.

With respect to Option 2, no change in the amortization period is necessary.

With respect to Option 3 (restrictions on return of investment assumptions), it is not consistent with a principles based approach to set "bright line" restrictions on rate of return investment assumptions (discount rates). More appropriate is guidance as to discount rates and a policy

goal of ensuring sufficient and prudent conservatism in discount rates, in combination with other measures of conservatism implemented by the plan's administrator and/or sponsor.

Option 4 (solvency trigger) is an appropriate option if, and only if, full solvency funding rules are eliminated. OPSEU supports the solvency funding rule in principle with a 100% solvency funding target, and not a lower solvency funding target. Please see our comments above.

Question 3: Are there any other restrictions that could be placed on actuarial assumptions, e.g., salary projection rate for final average plans or mortality assumptions?

Specific restrictions are not consistent with a principles based approach to ensuring prudent going concern funding.

Question 4: Are there other measures to enhance going concern funding requirements that should be considered?

We have no submissions on this question.

Question 5: Should the plan's funding requirements be linked through a PfAD to their investment strategies to prevent excessive risk-taking?

Linking a plan's funding requirements through a PfAD to investment strategies can be, if too deterministic, inconsistent with a principles-based approach to funding.

III. ADDITIONAL COMPLIMENTARY REFORM MEASURES

Question 1: Which of these measures would be appropriate to provide a balance to a package including one of the two approaches described above? What other measures, if any, could be considered in a balanced reform package?

Options 1 and 2 are desirable absent any reform. Option 6 is a necessary component of any reform (please see our comments above).

With respect Option 3, commuted value ("**CV**") amounts should in principle reflect the funding basis to which a plan is subject. If a plan is subject to going concern funding rules only, then a CV amount should be derived from the going concern funded status, and if funded on a solvency basis and going concern basis (status quo), then on the basis of the higher of the two funded ratios.

Options 4 and 5 are, in our view, not appropriate options. Option 4 unnecessarily interferes with collective bargaining parties, and OPSEU's policy is that no contribution holidays are permitted in our JSPPs. In particular, in OPSEU's experience, benefit enhancements are not bargained or otherwise awarded during periods of under-funding of pension plans, and over the past 10 years, have been significantly restrained. We query whether this is a necessary form of constraint on bargaining parties.

Option 5 is inappropriate unless a plan member (or former member or retiree) has an annuity purchased in respect of the member, or the member has the same rights and obligations under the pension plan and the PBA as against the insurer who has, in effect, assumed the position of "administrator" as that term is defined in the PBA. That is, it is not appropriate to discharge one pension plan administrator from the responsibility to administer the plan in accordance with the terms of that plan and PBA unless another administrator has taken on the same responsibility.

Question 2: To what extent would annual valuations, funding and governance policies help to protect benefits if solvency requirements are modified or removed?

We support some form of annual valuation reporting by pension plans. This form of reporting and disclosure to stakeholders need not be a full valuation report, but may be a pro forma or "roll forward" valuation based on current asset information and the liability information from the most recently filed valuation.

We also support the development of written policy documents and processes, including governance and funding policies.

There is no way to measure the extent of the protection of benefits these reporting and governance functions may perform. We are confident that they are not a substitute for solvency funding itself; but they may at least provide earlier opportunities for intervention if required.

Question 3: Should restrictions be placed on annuity buyouts that result in a discharge for the administrator, for example, before a discharge is given should a certain funded level be attained. Should buyouts be for retirees and/or former members only?

Please see comments above.

Question 4: Should recipients of buyout annuities retain their membership status in the plan for the purpose of sharing a surplus from a future windup?

Please see comments above.

Question 5: What changes to the PBGF would be needed if solvency is replaced by enhanced going concern requirements?

Please see our comments above. We believe the following are the key changes required to the PBGF:

1. Increase PBGF benefit protection to $2,500-$3,000 per month.
2. Permit PBGF protection of indexation and other benefits (to the extent they are met by the limits under 1, above).
3. Plans sponsors/administrators that are SEPP JSPPs may elect to participate in the PBGF.
4. Increase premiums, potentially on a risk-related basis that reflect the solvency funded ratio of a plan, to support the solvency of the PBGF absent extraordinary events.

Question 6: Would employers be willing to pay higher PBGF assessments for lower funding requirements?

We cannot speak for employers, however, we would expect employers to support this measure to the extent they see some (material) cost saving.

IV. CONCLUSION AND SUMMARY

We thank the Ministry for the opportunity to make submissions on the Consultation Paper. A summary of our comments and recommendations is set out below.

1. Due to the nature of pension plans, any review of funding rules for pension plans should take a long-term perspective and reforms should not be driven (primarily) by capital market conditions, which by nature have historically been proven to be cyclical.

2. The assumption that reducing pension contribution levels leads to maintenance of or greater DB member coverage is not supported by evidence, and should not form a rationale for any amendments to pension plan funding rules.

3. The assumption that reducing pension contribution levels leads to greater allocation of sponsor (corporate) resources to productive activities (e.g., growth or job creation) is not supported by evidence and should not form a rationale for any amendments to pension plan funding rules.

4. Member and other stakeholder concerns about the DB system include protection of benefits (benefit security) and increased participation in the governance of the "pension deal". These are aspects of pension plans affected by and integrated with funding rules, and should be taken into account in any consideration of reforms of pension funding rules.

5. The scope of the review should not include pension plans that are currently exempt from solvency funding, and any recommendations should not apply to those plans. This should be made explicit in the final report of the advisor to the Ministry.

6. The "status quo" already represents a finely calibrated balance between the interests of stakeholders in the DB pension system in Ontario. The status quo should be, in each case, an option identified and rationales provided for it.

7. The current solvency funding rules already represent a "fine balance" between the interests of stakeholders, insofar as certain benefits are exempt from being funded on a solvency basis.

8. Any modification of the solvency or going concern rules that apply to SEPPs must require meaningful (positive) consent of members and other beneficiaries.

9. Any modification of the solvency funding rules, including their elimination, must be accompanied by a corresponding enhancement in the PBGF, and specifically, in accordance with the following three objectives:

    a. an increase PBGF benefit protection to $2,500-$3,000 per month.

    b. permit PBGF protection of indexation and other currently non-PBGF-protected benefits (to the extent they are under the limits above).

    c. permit SEPP JSPP plans to elect to participate in the PBGF.

    d. an increase in PBGF premiums, potentially on a risk-related basis that reflect the solvency funded ratio of a plan, to support the solvency of the PBGF absent extraordinary events.

10. Any enhancement of going concern funding rules should be made on a principle-based basis, permitting the maximum flexibility in individual plan sponsors and administrators to select and design measures of conservatism appropriate to their plans and other circumstances. "Bright line" limits to economic assumptions and rigid or formulaic requirements linking assets and liabilities or the size of margins for conservatism should not be incorporated into statutory or regulatory requirements.

11. Enhanced reporting and disclosure requirements are appropriate amendments to current requirements.

12. CV payments should be based on the funded status of the rule(s) that apply to the plan, and if both apply, the better funded status of the two that apply.

13. Restrictions on contribution holidays or benefit changes are not appropriate forms of constraint on bargaining parties.