CANADIAN COUNCIL
OF CHIEF EXECUTIVES*

CONSEIL CANADIEN
DES CHEFS D'ENTREPRISE

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Chief Executive and President
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March 17, 2009

The Honourable James M. Flaherty, P.C., M.P.
Minister of Finance
Government of Canada
House of Commons
Parliament Buildings
OTTAWA
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STRENGTHENING THE LEGISLATIVE AND REGULATORY FRAMEWORK FOR PRIVATE PENSION PLANS

Dear Minister Flaherty,

The *Canadian Council of Chief Executives* (CCCE) has expressed the view for many years that Canada's retirement income system represents a competitive advantage for our country. We supported both the significant reforms in the early 1990s that dramatically improved the sustainability of the Canada Pension Plan and the fiscal responsibility, including 11 years of federal budgetary surpluses and debt reduction, that further strengthened the confidence of Canadians in the Old Age Security and Guaranteed Income Supplement programs.

In January 2009, your Department released a discussion paper and launched a consultation process on how to improve the legislative and regulatory framework governing federally regulated private pension plans. The global crisis in financial markets and its impact on our economy has created an urgent need to address this issue, and we commend you for your initiative.

In particular, Canadian enterprises that offer federally regulated defined benefit pension plans to their employees are facing a serious competitiveness challenge that has been created by solvency deficit funding rules that are outdated and unnecessarily onerous.

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These rules are requiring companies to respond to extraordinary short-term volatility in financial markets by increasing dramatically their contributions to their pension plans -- and thereby limiting their ability to invest scarce capital in the equipment and new technologies they need to maintain their competitiveness in the teeth of a severe global recession.

The federal government did provide temporary solvency funding relief in 2006 and again in 2008. Specifically, your November 2008 Economic and Fiscal Statement and the 2009 Budget proposed that enterprises be allowed to extend their solvency funding amortization from five years to ten years for deficiencies incurred in 2008.

The CCCE believes strongly that the solvency deficit amortization period should be increased permanently to ten years for all current and future solvency deficiencies. Enabling enterprises with defined benefit pension plans to spread their payments over a longer period would reduce volatility, enable companies to make greater investment in the growth of their businesses and eliminate the need for future temporary relief measures.

This extension of the amortization period should be allowed without conditions. Requiring member consent in an area as complex and sensitive as pension benefit security would be impractical for most plan sponsors to implement. The letters of credit used to provide security under the temporary solvency relief measures are no longer inexpensive or readily accessible and should not be a condition of extending the solvency deficit amortization period to ten years. The deemed trust requirement for asset smoothing, as introduced in the 2009 budget, represents an unnecessary complication in dealing with temporary solvency issues. What Canadian enterprises need is certainty, predictability and clarity.

There also is a need for changes to the way solvency liabilities are determined. In particular, the federal government should prescribe an adjustable, market-based discount rate to be used in calculating solvency liabilities. Former Bank of Canada Governor David Dodge has recommended a discount rate based on a broad index of investment-grade corporate, provincial and Canadian bonds, which would avoid the unwarranted volatility associated with a prescribed or fixed rate.

At the same time, it is important that employers take steps to increase transparency and accountability with regard to the financial strength of their pension plans. This would help to address any concerns that plan members might have and would ensure a balanced approach to pension plan framework changes.

The government should consider raising the "excess surplus" limit beyond the current threshold of 10 percent, so that employers would have greater flexibility to pre-fund their pension obligations during periods of economic and market strength. In this context, we also encourage you to address the fundamental issue of surplus ownership.

Because plan sponsors are legally required to make additional contributions to fund solvency deficiencies, they risk creating surpluses in the plans once markets recover. As surplus ownership is unclear, and surpluses are not typically recoverable, plan sponsors have a disincentive to fund their plans beyond the minimum required levels. This unbalanced sharing of risk in defined benefit plans is making plan funding unstable and leading many plan sponsors to consider moving away from defined benefit plans entirely.

Taken together, the reforms we have described would provide the necessary level of funding flexibility for pension plan sponsors while at the same time ensuring increased transparency, accountability and security for plan members.

Minister, the urgent need for reform of the rules governing defined benefit pension plans is not limited to federal jurisdiction. Provinces including Alberta, British Columbia and Ontario are in the process of reviewing their respective pension systems, and the issue is affecting employers in all jurisdictions.

These overlapping reviews create both a risk of further inconsistencies between jurisdictions and a historic opportunity to coordinate badly needed reforms, especially with respect to increasing the solvency deficit amortization period and adopting a market-based discount rate. Harmonization and simplification of pension legislation and regulation across the country should be key priorities of both levels of government, and federal leadership is vital.

We also recognize that the current market slump and economic downturn are affecting the retirement savings plans of all Canadians and not just those who are members of defined benefit plans. While beyond the parameters of your department's immediate consultation exercise on the rules affecting defined benefit plans, we would urge you to consider additional measures that would affect other forms of retirement saving.

Such measures could include increased limits for tax-deferred contributions to employer defined contribution plans and to individual Registered Retirement Savings Plans (RRSP); delaying the age at which holders of either a pension plan or RRSP must begin withdrawing funds; broadening the eligibility of investment types within such plans; and reducing the mandatory annual drawdown from Registered Retirement Income Funds. Canada's pension system as a whole could be made healthier if both levels of government provided appropriate incentives to employers to sponsor defined benefit and defined contribution plans.

To conclude, the current rules governing defined benefit pension plans are threatening the ability of Canadian enterprises to continue offering such plans and are undermining corporate efforts to counter the impact of the recession by investing in productivity and growth.

Minister, thank you for your leadership in addressing this critical issue. We are counting on you to ensure that your department's consultation process will lead to quick and decisive action, and we stand ready to offer whatever additional advice or assistance that you or your officials would find helpful.

With kindest regards.
Sincerely,
Thomas d'Aquino

cc Mr. Ted Menzies, M.P.
Parliamentary Secretary to the Minister of Finance
Government of Canada

Ms. Diane Lafleur
Director, Financial Sector Division
Finance Canada