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September 10, 2015

Via email: cpp-consultations-rpc@fin.gc.ca

Ms. Catherine Adam
Federal-Provincial Relations and Social Policy Branch
Finance Canada
90 Elgin Street
Ottawa, ON K1A 0G5

Dear Ms. Adam:

Re: Consultations on a Voluntary Supplement to the Canada Pension Plan

I am writing on behalf of the Canadian Bar Association's Pensions and Benefits Law Section (CBA Section) in response to the consultation on a voluntary supplement (VS) to the Canada Pension Plan (CPP) announced in July 2015.

The Canadian Bar Association is a national association of 37,000 lawyers, Québec notaries, law students and teachers, with a mandate to promote improvements in the law and administration of justice. The CBA Section is comprised of lawyers from across Canada who practise in the pensions and benefits areas of law, including counsel to benefit administrators, employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants and investment managers and advisors.

We have responded to the questions posed in the consultation.

Question 1: Do you believe a voluntary supplement to the CPP should be an option for Canadians to save for retirement? Is this something you would use to increase your retirement savings?

The CPP is funded on a hybrid basis, with contributions from employers and employees paying partially for pensions and partially to accumulate reserve funding to pay for future pensions. The current "steady-state" contribution rate is expected to remain constant for the next 75 years.

OECD statistics in 2013 indicate that Canadians are behind other OECD countries in terms of public pension benefits. Public pensions currently account for a relatively small share of the gross incomes of seniors in Canada: less than 39% compared to an average of 59% for all OECD countries.[1] Old age poverty has been alleviated by support programs such as the federal Old Age Security (OAS) and Guaranteed Income Supplement (GIS) programs as well as provincial programs such as the Alberta Seniors Benefit. These effectively guarantee a minimum income for most Canadians over 65. These support programs are funded from general tax revenue and are income-tested. As pension income from employer sponsored pension plans in the private sector declines due to a long-term trend toward reduced coverage under defined-benefit (DB) pensions and a shift toward defined-contribution (DC) pension plans, public expenditure to pay for income-tested support programs will increase.

We believe that an opportunity to save additional amounts in an institutionally-managed fund such as the CPP could be of significant benefit for many Canadians and may offer the potential for reduced future public expenditure on support programs for seniors.

Question 2: How could a voluntary supplement to the CPP be designed to facilitate participation of individuals who may be at risk of undersaving for their retirement?

The following design approaches could be helpful in facilitating participation by those who most need to save more for retirement:

- Develop simple online tools to allow individuals to enrol, establish and adjust contribution rates, check balances/accrued benefits and use retirement-modeling tools.
- Integrate voluntary CPP contribution processes with existing payroll tools and payroll service providers to help individuals and their employers to make voluntary contributions by regular payroll deduction.
- Allow individuals to make periodic or lump-sum contributions by cheque, Interac transfer or scheduled bank account withdrawals.
- Allow individuals to direct full or partial payment of income tax refunds to a CPP voluntary account.

Question 3: How much flexibility should there be for individuals who choose to participate? For example, what are your views on locking-in funds for retirement and providing variability in the contribution rates?

Locking-in

Locking-in is an important principle of pension planning and legislation. Accordingly, the voluntary contributions should be locked-in like any other contribution to the CPP and used only to provide retirement income. Exceptions could be developed by reference to existing pension-standards rules, which allow unlocking in the following circumstances:

- Financial hardship

[1] www.oecd.org/canada/OECD-PensionsAtAGlance-2013-Highlights-Canada.pdf

- Shortened life expectancy
- Small or trivial pension or saving amounts
- Non-residency in Canada

Contribution Rates

To encourage participation, we suggest that contribution rates selected by members or their employers should be as flexible as reasonably possible. Similar to DC plans, contribution rates could be expressed as a percentage of salary or wages with a minimum rate of 1% and a maximum rate of 18%, reduced by any expected pension adjustment. To ensure that administration expenses remain reasonable, changes to contributions rates could be limited, such as once per calendar quarter.

Questions 4: How could a voluntary supplement to the CPP be designed to provide a secure stream of retirement income?

Retirement income is generally delivered to pensioners in one or more of the following formats:

- Variable benefits, paid under minimum withdrawal rules for RRIFs and, where applicable, maximum withdrawal rules for LIFs.
- A life pension payable from a pension plan, with or without ancillary features such as indexing, guarantee periods and spousal survivor benefits.
- A life annuity purchased with pension funds.
- A term-certain annuity payable to age 90, purchased with RRSP funds.

All these forms of payment should be considered as delivery options for pension benefits funded by voluntary contributions. In addition, option to purchase a "longevity pension" as recommended by the Expert Committee on the Future of the Québec Retirement System,[2] could be considered.

Question 5: What retirement income options should be available upon retirement for savings accrued within a voluntary supplement to the CPP?

In addition to the pension-delivery options identified above, funds from voluntary contributions could be applied to deliver the following benefits:

- "Bridging" benefits to help individuals who retire early to smooth their income throughout retirement.
- Increased spousal survivor pensions.
- A guarantee period for CPP benefits.

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[2] www.rrq.gouv.qc.ca/en/rapport_comite/Pages/landing.aspx

Unlike the basic CPP benefit, a member making contributions to a voluntary account should be able to receive the account value on death and be entitled to nominate beneficiaries, similarly to an RRSP account.

Question 6: Should transfers between a voluntary supplement to the CPP and other retirement savings vehicles be permitted? If yes, should there be any limits?

Some of our members believe that providing participants with flexibility in transferring funds among retirement savings vehicles should be encouraged. Others do not think this should be permitted as the regulation of the VS should be as simple as possible and should leverage the existing CPP infrastructure.

If transfers are permitted, they should be subject to the applicable tax rules associated with the savings vehicles in question and rules regarding locking-in. In particular, transfers out of the CPP should only be permitted to prescribed retirement arrangements under pension legislation.

Question 7: While employers would not be required to contribute, what would be the appropriate role for employers?

To encourage simplicity, employers could be engaged for payroll remittance of voluntary contributions to the CPP. Like regular CPP contributions, voluntary contributions should also be deducted from payroll.

Due to its voluntary nature, employers would not be required to contribute. However, as a matter of plan design, employers should be provided with an option to contribute. This may appeal to employers who have been unable or unwilling to establish retirement programs for their employees due to cost or complexity, such as very small employers. Additionally, since self-employed individuals are considered both the employee and the employer for CPP contribution purposes, the ability for employers to participate in a voluntary CPP program would encourage the self-employed to set aside more money for their retirement.

Aside from being permitted to participate in the voluntary CPP program, employers may also take on these roles:

- Educate existing and new employees on the benefits of the voluntary CPP program;
- Promote the voluntary CPP program by providing literature and enrolment forms to existing and new employees;
- Facilitate payroll deductions and remittance of voluntary CPP contributions;
- Integrate the voluntary CPP program with other employer retirement savings programs by, for example, referring to it in all employee retirement literature, websites, etc.; and
- Consider an employer 'matching' contribution program where contribution room is available for employer contributions.

Question 8: Who should be responsible for investing the contributions made to a voluntary supplement to the CPP?

We believe that administrative efficiency and maintaining low costs are key considerations in considering options for fund managers. While economies of scale is a critical factor, some policy reasons may make it desirable to allow entities other than the CPP Investment Board (or in addition to CPPIB) to manage the new assets, such as other public sector pension funds. As assets under CPPIB management increase, so too does the basic risk of asset aggregation – amplification of the negative effect of any future underperformance, with potentially undesirable impacts on the Canadian economy and on the value of CPP contributors' entitlements.

Thank you for the opportunity to comment on the consultation. The CBA Section would be pleased to assist Finance Canada in the further development of the CPP in any way possible.

Yours truly,

(original letter signed by Noah Arshinoff for Michael Wolpert)

Michael Wolpert
Chair, CBA Pensions and Benefits Law Section