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COMMENTARY

PENSION PAPERS

Seeking Certainty in Uncertain Times:

A Review of Recent Government-Sponsored Studies on the Regulation of Canadian Pension Plans

Bob Baldwin
Brian FitzGerald

In this issue...

The time is right to fix the problems of workplace pension plans for Canadians. Reforms have been identified by three provincial inquiries into pensions – now, a national forum of stakeholders could clear the way for action.

The Study in Brief

The need for reform of the regulation and design of workplace pensions for Canadians sparked three major provincial reviews by Ontario, Alberta and British Columbia, and Nova Scotia between November 2008 and January 2009. The provincial inquiries were motivated by such issues as declining coverage, the financial problems of defined-benefit plans, the emergence of hybrid alternative plan designs, the lack of harmonization and a common legal framework, and unresolved legal and regulatory issues. This *Commentary* compares and contrasts the three reports' treatment of these and other pension issues, and makes recommendations for reform.

While Canadians with incomes below half the average wage are generally well served by government plans (CPP/QPP), those with moderate and higher earnings depend on workplace plans and/or personal savings to avoid substantial drops in their living standards in retirement years. As the three provincial reports make clear, it is time to fix the problems of workplace pension plans. The Ontario report suggests letting large pension plans and funds offer investment and administrative services to small organizations and individuals, and raises the possibility that a proposed provincial pension agency would do likewise. The Alberta-British Columbia and Nova Scotia reports propose new provincial pension plans with differing opt-in and opt-out features. The authors believe these ideas deserve serious consideration.

Other important areas of reform include:

(i) management of risk – plan sponsors and members should delineate clearly the difference between "promised" and "target" benefits;

(ii) funding rules – Canada's pension system seems to be in the odd position that the amortization rules are applied more strictly when economic conditions are good than when times are bad and the risk of insolvency is higher: more consistent funding rules would improve the security of benefits.

(iii) regulatory reform and governance – the authors support the move to more risk-based supervision, an upgrading of regulatory capacity, and a substantial strengthening of stakeholder engagement in deliberations on regulatory policy and administration.

The authors commend the three provincial reviews for their work and ideas. Jurisdictions and other stakeholders now need to work together to create a national forum that focuses on resolving the problems of workplace pension plans.

The Authors of This Issue

Bob Baldwin is a pension specialist with more than thirty years experience in the field, and is a former Director of Social and Economic Policy at the Canadian Labour Congress.

Brian FitzGerald is a founder and co-owner of Capital G Consulting Inc., an actuarial and human resource consulting firm. A former President of the Canadian Institute of Actuaries, he has more than 40 years of experience with pension plans in Canada.

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Workplace pension plans play an important role in Canada's retirement income system. The maturing of these plans contributed to the substantial improvement in incomes of older Canadians in the latter part of the twentieth century.[1]

The portion of the paid workforce that is covered by these plans has been declining steadily since the early 1980s, however, while the form of coverage has tended to shift from defined benefit to defined contribution (Box 1).[2] This raises concerns about the predictability of retirement incomes in the future. Since the turn of the century, we have seen two serious stock market declines and a period of low interest rates. This combination has created financial difficulties for defined-benefit (DB) pension plans that have led to requests for relief from regulatory funding requirements. Members of defined-contribution (DC) pension plans and individual savers have been similarly adversely affected.

Declining coverage, the financial problems of defined-benefit plans, the emergence of hybrid alternative plan designs, the lack of harmonization and a common legal framework,[3] and unresolved legal and regulatory issues have all played an important role in prompting a number of recent provincial inquiries into Canada's workplace pension plans. Between November 2008 and January 2009, four provincial governments released reports on pensions. The first, on November 21, 2008, was *A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules,* prepared by the Ontario Expert Commission on Pensions. A week later, the governments of Alberta and British Columbia released *Getting Our Acts Together: Pension Reform in Alberta and British Columbia,* the report of the Joint Expert Panel on Pension Standards. Then, on January 27, 2009, Nova Scotia released the report of the Pension Review Panel, entitled *Promises to Keep*. Appendix Table A-1 summarizes the structure, goals and recommendations of the three reports.

In this *Commentary*, we compare and contrast the three reports' treatment of a number of key pension issues, and offer our own perspective on the recommendations they make.

Mandates and Processes

The three inquiries' terms of reference had a common core: each was required to investigate pension financing rules and appropriate means of securing pension benefits, and implored to balance the interests of plan members and plan sponsors. The Alberta-British Columbia and Ontario inquiries were directed, in addition, to review the use of surplus in defined-benefit plans.

There were, however, important exclusions. The Ontario commission's mandate was limited to defined-benefit plans, while the other two inquiries involved more general reviews of the regulatory law – but not of provincial government employee pension plans, which operate largely outside the scope of the regulatory law in Alberta, British Columbia, and Nova Scotia.[4] None of the reports is comprehensive in its treatment of workplace pension plans. Moreover, although the terms of reference did not urge the inquiries to undertake a thorough review of governance issues, the reports address governance issues where they are relevant to other issues that the terms of reference identified.

The terms of reference of the Ontario and Nova Scotia inquiries suggested that they look at means of encouraging more coverage by workplace pensions.

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1 See, for example, Baldwin and Laliberté (1999); Myles (2000); and LaRochelle-Côté, Myles and Picot (2008).

2 For a more detailed discussion of the different types of pension plans, see Cohen and FitzGerald (2007, chaps 6-9).

3 A thorough review of the harmonization issue is found in Van Reisen (2009). The provincial pension reviews also reflect long simmering legal and regulatory debates that remain unresolved. The use of surplus in DB pension plans and new plan designs have not been fully recognized in the regulatory law. In the absence of a co-ordinated review of the regulatory law among jurisdictions, they have taken unilateral action. Canada's pension regulators, working through the Canadian Association of Pension Supervisory Authorities (CAPSA), have made an effort to address the uniformity issue through their model law initiative. But, commitment to this objective at the political level has been less than clear. The lack of a common legal framework also adds to the difficulty that plan members have in understanding their rights.

4 It is interesting to speculate whether the exclusion of provincial government plans is the reason the Nova Scotia and Alberta-British Columbia reports pay less attention to jointly sponsored pension plans than does the Ontario report.

Box 1: Defined Benefit versus Defined Contribution

For the sake of simplicity, pension plans tend to be described as either defined benefit or defined contribution. In fact, a range of plans has elements of both. At one end of the scale is the "pure" defined-contribution (DC) plan, under which benefits are dependent entirely on contributions and investment earnings. At the other end of the scale is the "pure" defined-benefit (DB) plan, under which benefits are formula driven and essentially independent of contributions.

There are many variations on these types of plan. For example, a contributory DB plan (partially funded by members' contributions) is not purely DB. To the extent that members' contributions accumulate to an amount that is more than 50 percent of the cost of the formula benefit, members receive an additional benefit determined on a defined-contribution basis. The "hybrid" or "floor" plan is a defined-contribution plan with a guaranteed minimum amount of benefit determined on a defined-benefit basis. A plan might start out as pure defined contribution and, as the minimum defined benefit is increased, become a contributory defined-benefit plan. The "combination" plan has both defined-benefit and defined-contribution provisions, which operate independently, side by side.

The multi-employer pension plan has a defined sponsor contribution (usually under the terms of a collective agreement) and a formula benefit. Under such a plan, the trustees are responsible for matching the benefit to the contributions available to fund it. If experience shows that the benefit determination was overly generous, the trustees must then reduce accrued benefits to restore financial balance in the plan. (In all Canadian jurisdictions except the federal, defined-benefit plans are not permitted to reduce accrued benefits; federally, only multi-employer pension plans may do so.) For this reason, these plans fall into the category of "target plans" – the Alberta-British Columbia report refers to them as "specified contribution target benefit plans." Jointly sponsored and jointly governed plans are permitted to reduce accrued benefits in the event of plan termination, and a number of these plans now provide indexation based in whole or in part on the plan's financial performance.

The Ontario commission was also asked to recommend ways of expanding defined-benefit coverage and its mandate included a focus on unresolved disputes over pension surplus that have generated both costly litigation and a policy stalemate in Ontario.

The mandates of the Alberta-British Columbia and Ontario inquiries were elaborated somewhat more fully than that of the Nova Scotia panel. For example, the Alberta-British Columbia panel's terms of reference (and subsequent report) placed more emphasis on legislative harmonization than did those of the other inquiries. The fact that Alberta and British Columbia combined on the inquiry is noteworthy in itself and indicative of the interest in the harmonization issue in the two provinces.

There was a broad similarity in the structure of the three inquiries in that all involved persons associated with the plan sponsor and plan member communities, but there were also differences. The Ontario inquiry was a one-person commission supported by a panel of four expert advisors, two with a history of providing professional support to plan sponsors and two with a history of providing professional support to plan members and trade unions. In the Alberta-British Columbia and Nova Scotia exercises, the representation of plan sponsor and plan member communities was less precisely

balanced, and all members of the panels were responsible for preparing (or at least endorsing) the reports.[5]

The general contours of the work processes of the three review exercises were established in the terms of reference: discussion documents were prepared to identify issues and options for addressing them; public consultations were held with stakeholder groups and interested individuals; and formal submissions received. More intense private consultations were also held with stakeholder groups while they were formulating their recommendations. Unlike the other two, the Ontario inquiry also commissioned a number of research papers and was supported by a secretariat devoted entirely to its work throughout its deliberations.

Defined-benefit (DB) Pension Financing

Funding Requirements

The Alberta-British Columbia report sees its key objective as being "to recommend changes that would strike a balance between encouraging the establishment of workplace pension plans and giving plan members confidence in the security of their pension benefits." Seeing a conflict between these two objectives, the report goes on to say, "It is important that the DB promise be secured, but it is also important that the pension standards be structured so that plan sponsors are willing to establish and maintain these plans."

The panel sees the solution as having two components. The first was the standard for measuring the solvency liability and the second was the time for which deficiencies could remain in place. Some stakeholders took the position that plans should be fully funded on a solvency basis at all times. Others suggested that "almost all of the time" was sufficient, but would agree to a tightening of this definition if it were coupled with a solution to the "surplus symmetry" issue.

The panel also notes that a number of stakeholders supported the idea of a "pension security fund," which would be separate from but accessible to the employer if not required to meet solvency requirements.

The Alberta-British Columbia report concludes that going-concern valuations should continue to be required with 15-year amortization. Solvency valuations "that generally reflect the benefits that would be paid on plan windup" should be required triennially, with annual valuations required when the solvency test (including a 10 percent margin) is not met. Solvency assets could include those in a letter of credit or pension security fund.

The Ontario report takes the position that going-concern valuations should no longer permit the exclusion of promised indexation benefits, nor should solvency valuations permit the smoothing of assets or the exclusion of benefits. While the report accepts that there are good reasons for smoothing, it is concerned that smoothing could detract from a clear understanding of the plan's funded position and be used opportunistically to hide funding problems.

The Alberta-British Columbia report recommends marked to market valuation of assets for solvency valuations. The Nova Scotia report recommends a "minimum funding standard" that includes the value of all benefits and assets valued at market.

The Alberta-British Columbia report chooses to make an exception to its basic rules for plans where the contributions are fixed by collective agreement (or some other similar mechanism) and benefits are formula based. Referring to these as "specified contribution target benefit plans," the panel recommends that they regularly disclose their solvency position but be exempted from any requirement to make other than going-concern contributions. A cushion would have to be built into the going-concern valuation and benefit improvements would be restricted at any time that the cushion requirement was not met. Although the panel does not explicitly say so, it is presumed that the benefits could be reduced in the event of windup with insufficient available assets.

The Ontario report argues that the funding rules in Ontario should vary by type of plan, and identifies three groups for this purpose: the single employer or traditional defined-benefit plan; the multi-employer pension plan, similar to a specified contribution

5 Two of the six members of the Alberta-British Columbia panel had a history of working with plan members and trade unions, as did one of the three members of the Nova Scotia panel.

target benefit plan; and the jointly sponsored pension plan, which is distinguished by its sharing of both deficits and surpluses between sponsors and members. A single employer pension plan would continue to file both going-concern and solvency valuations and fund accordingly. It should maintain a margin of 5 percent in the solvency funding but would be permitted eight-year amortizations when the plan was at least 95 percent funded. Valuations would continue to be triennial unless the funding fell below a threshold, in which case annual valuations would be required. Multi- and jointly sponsored pension plans would have to complete solvency calculations, but only for disclosure purposes. The rationale for these recommendations is essentially that members of such plans have sufficient influence over the operation of their plans through membership in the governing bodies to obviate the need for further regulatory protection and that both types of plan can correct actuarial imbalances by reducing accrued benefits.

The Ontario report also calls for the province's Superintendent of Financial Services to hold discussions with the Canadian Institute of Actuaries on the greater transparency of going-concern actuarial valuations, to have the power to require peer review of reports submitted, to do more monitoring, and to have the power to order interim valuations. In addition to current funding requirements and the separation of assets, the report also favours empowering the Superintendent to identify plans "at risk of failure" and to approve arrangements to reset the funding of single employer pension plans, including contributions, payment schedules, amortization periods, and premiums to the Pension Benefit Guarantee Fund.

The Nova Scotia report adopts an approach to funding requirements that represents a significant departure from both existing practice and the approach taken in the other reports. It would require the filing of a single balance sheet, rather than the current two sheets (going concern and solvency); the same requirement would apply to all types of plans; and the proposed discount rate is a somewhat modified version of the solvency rate prescribed for solvency valuations by the Canadian Institute of Actuaries. Valuations should continue on a triennial basis, but with annual testing followed by filing if the plan is less than 95 percent funded (similar to the Ontario proposal) and amortizations limited to ten years. The Nova Scotia report agrees with the Alberta-British Columbia report that benefit improvements should be restricted when funding falls too low.

All three reports call for valuations to be filed within six months, rather than the current nine. The Ontario and Alberta-British Columbia reports approach funding requirements for single and multi-employer pension plans in very similar ways. The Ontario report differs in the attention it focuses on jointly sponsored plans and proposed "jointly governed target benefit" pension plans, but this could be an artefact of differences in the provinces' mandate and regulatory law rather than differences in philosophy. While the three reports' recommendations differ in detail, they share some common themes: earlier and perhaps more frequent reporting, better funding to take precedence over benefit improvements, and more discretionary risk-based intervention by the regulator.

The Use of Surplus

The Alberta-British Columbia Joint Expert Panel tackles head on the concerns of those who argue that uncertainties about the ownership of pension fund surpluses have a negative impact on funding. In addition to allowing pension security funds and letters of credit, the panel proposes "ring fencing" surplus-ownership issues by permitting existing plans to be frozen and new plans started, each with its own surplus provisions. At the same time, it calls for surplus withdrawals and contribution holidays to be spread over five years and for withdrawals to leave a cushion amounting to 5 percent of liabilities.

The Nova Scotia approach is to require that adequacy tests include all promised benefits, that restrictions be placed on benefit improvements when plans are in deficit, and that surpluses be amortized over five years, subject to a 5 percent collar that would not be available. Provided that the sponsoring employer had paid at least 50 percent of the cost over the previous 10 years, the administrator then could determine who is entitled to surplus, subject to plan rules and the impact, if any, of collective bargaining.

The Ontario report says that neither the arguments by plan sponsors nor those of plan members on surplus ownership were persuasive. It

concludes that regulatory law should not override plan provisions with respect to surplus, that the right of plan sponsors to remove surplus should be constrained based only on prudential concerns, and that sponsors be allowed to remove surplus in excess of 25 percent of the liabilities.

Plan Termination

All three reports discuss aspects of full and partial plan termination, focusing on the use of surplus and related plan member rights in these contexts. The Alberta-British Columbia and Ontario reports also comment on the application of bankruptcy law in the context of plan termination. The key recommendations in these areas are noted below. None of the reports comments on the continuing obligation of sponsors to fund plans that are terminated outside the context of bankruptcy; silence on this point probably can be construed as support for the status quo.[6]

The Ontario report establishes numeric benchmarks of membership decline to determine when partial and full windups have occurred – namely, 40 percent and 90 percent over a period of two years or less, respectively – something that is not present in the current law. It also notes that, because of other proposals that we discuss below, partial windups would have far less significance than they do now; currently, they establish new member rights in relation to surplus and grow-in. The report also recommends that, while a partial windup is primarily of relevance to single employer pension plans, membership losses of that magnitude in a multi-employer or jointly sponsored pension plan should trigger the preparation of a report on how the plan will carry on in the future, and the regulator should have the authority to demand the preparation of such a report in the face of membership losses that might not meet the 40 percent threshold but are still significant.

All three reports agree that surplus should not be distributed on a partial windup. The Ontario report is specific on the point that members whose participation is ended through a partial windup and who continue to be owed a deferred vested benefit should be able to participate in a distribution of surplus at a later date on total plan windup. The Alberta-British Columbia report qualifies its general view that surplus not be distributed on partial windup by creating an exception when it is called for in plan documents. Indeed, both the Alberta-British Columbia and Ontario reports say that primary guidance on the distribution of surplus upon plan termination should be provided by the plan documents, with the Ontario report calling for an arbitration process if the documents are unclear. Neither report recommends a general legislative override of plan provisions. The Alberta-British Columbia report also contemplates the winding up of existing plans and the creation of successor plans to clarify surplus ownership. The Nova Scotia report does not address the issue of surplus ownership in a total windup.

The legislation currently in force in Ontario and Nova Scotia includes grow-in rights – triggered by partial and total plan windups – for members of plans that include subsidized early retirement provisions. Such rights mean that any member whose age plus service equals 55 or more and who satisfies relevant early retirement criteria in the pension plan becomes eligible to receive special early retirement benefits. The Ontario and Nova Scotia reports recommend the elimination of these grow-in rights, although the former would permit these rights to continue to exist for all members of single employer pension plans whose employment is involuntarily terminated after their age plus service equals 55.

The Alberta-British Columbia and Ontario reports address the question of pension insurance schemes. The Alberta-British Columbia panel recommends against a pension benefit guarantee fund on the grounds that the money required to maintain such a fund would be better employed in funding the plan itself. The Ontario report, however, recommends that the province's Pension Benefit Guarantee Fund continue, preferably at arm's length from the pension regulator, with risk-based levies and that any benefit improvements in the five-year period before the windup be excluded from coverage. It also recommends that the provincial government review

6 The Ontario report also discusses the treatment of pension plans in corporate mergers and sales of units of firms, which we do not review here.

the fund in five years to assess its viability and alternatives. In the meantime, the maximum benefit payable from the fund should be doubled in nominal dollars, a move the Ontario commission calculates would restore the maximum purchasing power that was protected when the fund was created.

The Alberta-British Columbia report recommends that the federal government be encouraged to extend "super priority" secured creditor status to all but unpaid special payments and to provide pension security funds with the same status under bankruptcy and insolvency legislation as applies to the regular pension fund. The Ontario report takes the same position on the status of unpaid contributions.

Regulatory Law and Processes and Pension Policy

In addition to extensive discussion of the substance of regulatory law, the three reports also examine a number of important issues related to regulatory law and processes, including the purpose and scope of the law, and principles-based versus rules-based regulation.

The Purpose of Pension Regulation

The Alberta-British Columbia and Nova Scotia reports articulate a view of the basic purpose of regulatory law. The latter takes the position that it is to protect plan members, but the former argues that, while this was its purpose in the past, circumstances have changed and the purpose now has to be viewed as balancing the protection of plan members with the objective of facilitating the creation and maintenance of workplace pension plans. The change in circumstances that calls for this redefinition is the perceived role of regulatory law in limiting coverage, which we discuss later in the paper. Although the Ontario report does not address the purpose of regulatory law, it identifies principles that frame its views on regulatory law and processes:

- to create a positive environment for DB pension plans within a voluntary system;
- to ensure honesty and integrity in the pension system;
- to protect the financial security of plans;
- to balance the interests of past, present, and future plan members;
- to ensure predictability and affordability for plan sponsors;
- to strive for clear, comprehensive, consistent, and codified regulations;
- to accept that one size does not fit all;
- to regulate openly, effectively, efficiently, and adaptably;
- to achieve compliance by graduated regulatory responses; and
- to facilitate innovation in plan design.

These principles are not points of disagreement with the other two reports. Indeed, creating a positive environment for all types of plans, ensuring the financial security of plans, accepting that one size does not fit all, and facilitating innovation are important themes in the other reports.

The Scope of Regulatory Law

The Alberta-British Columbia and Ontario reports include a reminder that, while regulatory law is embodied in significant measure in pension benefits legislation, the full range of legal instruments and standards of professional conduct that impinges on the operation of workplace pensions is much wider. It now includes judicial interpretations of statutory law and the application of principles derived from the common law of trusts; federal statutes – the *Income Tax Act* and the *Bankruptcy and Insolvency Act*; and standards of professional conduct established by the Canadian Institute of Actuaries and the accounting profession. The Ontario report comments that the law is dense, complex, and volatile. The two reports recommend the greatest possible codification of court decisions in pension benefits law, so that principles of trust law that are to continue to apply to workplace pensions would be embodied in regulatory law. All three reports recommend that the provincial governments they are advising try to reach agreement with Ottawa on changes to the *Income Tax Act* and the *Bankruptcy and Insolvency Act.*

Two things should be noted about the reports' treatment of the scope of regulatory law. First, none recommends any change in the application of the law either to provincial government employee pension plans or to group registered retirement savings plans. Second, the reports use somewhat different language to argue that pension plans for connected persons (Alberta-British Columbia and Nova Scotia) and individual pension plans (Ontario) should be exempt from regulatory law.

Principles-based versus Rules-based Regulation

The Alberta-British Columbia and Ontario reports discuss whether regulatory law should be based on principles or rules – indeed, the former was specifically directed to address this issue. About a principles-based approach, the Alberta-British Columbia report cites "greater flexibility, deregulation and a more collaborative regulatory approach" as its conceptual advantages, and "[l]ack of certainty, inappropriate skills in the regulator, inconsistent application of principles and enforcement" as the risks of such an approach (2008, 43). Nonetheless, it calls for a principles-based approach where possible and a rules-based approach where necessary. Cases where a rules-based approach might be necessary include vesting, locking-in, disclosure, spousal rights, and minimum DB funding. Although it is less declarative of support for a principles-based approach, the Ontario report also calls for a mix of principles and rules and, at the margin, nudges the legislation in a principles-based direction.

The move to more principles-based legislation is one of several themes intended to make pension law more adaptable. The Ontario report focuses a good deal of attention to the need for the law to recognize the different characteristics of different types of plans. The report also proposes that all the provisions relating to specific types of plans as well as those that pertain to all types of plans be consolidated in particular parts of the legislation, and that the legislation be reviewed on a regular cycle.

The two reports envisage a situation in which regulators have more policy discretion within the realm of regulatory law. They also endorse a shift in the locus of regulatory requirements from legislation to regulation, and support the use of policy statements and guidelines to supplement regulatory law.

The reports' proposed changes in the substantive provisions of regulatory law and in the general nature of the law are considered also to involve more discretion on the part of the regulators and a shift to a more risk-based regulatory process. Both reports propose regulatory processes that would engage pension stakeholders more actively in an advisory capacity, while the Ontario report also envisages the development of performance metrics for regulators that would be monitored and their results published annually, to make the regulatory process more transparent and accountable.

Both the Alberta-British Columbia and Ontario reports see the skill and knowledge of regulators as in need of upgrading. The Ontario report also recommends separating the pension regulator from other financial regulators – an issue that does not arise in Alberta, British Columbia, or Nova Scotia. In addition, while regulators are seen as having an important role to play with respect to regulatory policy, all three reports share the view that regulators should not be the primary source of pension policymaking, though they should advise on pension legislation. All three reports call for stakeholder engagement on pension policy, and the Ontario report calls for the creation of a pension champion who would lead research and policy development inside government, as well as stakeholder engagement.

An important issue in the Ontario report is the length of time required to obtain regulatory approvals. The report addresses this issue through a combination of the process changes just noted, an increase in resources, and clarification of the law in key areas such as the rights and obligations of plan sponsors and members with respect to surplus, total and partial plan windups, splits, and plan mergers.

All three reports recommend changes to processes for adjudicating disputes under pension law. Currently, the only review mechanism in Nova Scotia for a regulator's decision before going to court is a request that the regulator reconsider the decision. The Nova Scotia report recommends that regulatory decisions be subject to appeal to the province's Labour Relations Board, although this might require the board to acquire some specific pension expertise. The Ontario report recommends that the

adjudication of disputes be handled by a specialized pension panel, rather than by the Financial Services Tribunal as at present, and that the grounds for appealing the panel's decisions be limited. It also suggests that the new panel be vested with appropriate enforcement powers to enable it to impose graduated penalties. The Ontario report is emphatic that its recommended changes relating to substantive issues can be accomplished only if there is sufficient change to regulatory law and processes.

The Harmonization of Regulatory Law

All three reports note the lack of harmonization in pension legislation and the problems this creates for both plan sponsors and members. In support of harmonized legislation, the Alberta-British Columbia and Ontario reports call for regular meetings of the ministers responsible for pension legislation – something that has not occurred for many years. While all reports agree on the desirability of harmonized legislation there is a degree of pessimism about the treatment of the issue, with the Ontario report stating that it is more important to get the legislation right than it is to achieve harmony. Indeed, the Nova Scotia report's proposed funding rules likely would create a new source of disharmony.

The Alberta-British Columbia report spends more time on the harmonization issue than do the others, but it, too, is somewhat pessimistic on the prospects for Canada-wide uniformity. The report includes a bold proposal for establishing a single legislative framework for pension law in Alberta and British Columbia, contemplating a common body of law, a common regulator and adjudication process, and a common advisory panel on pension law. The report also notes that this type of arrangement could be extended to some other jurisdictions without having to get agreement from all. The Nova Scotia report mentions the possibility of a common regulatory framework for the Atlantic provinces, but does not pursue the point. In context, it is noteworthy that Nova Scotia report discusses a number of desirable regulatory developments but refrains from making recommendations on them on the grounds that the regulator does not have the resources to implement them.

PENSION PLAN GOVERNANCE: The three reports address pension plan governance as an important stand-alone issue that will affect the likelihood that pension promises will be fulfilled. The Ontario report also links governance directly to the substantive requirements of regulatory law, reasoning that where plan members are in a position to protect their interests through their participation in the governance of a pension plan, a lighter regulatory touch is appropriate. The reports address a number of specific governance issues, including the role of plan members, the skill, knowledge, and expertise of plan governors, conflicts of interest, and policies on information disclosure and governance.

Plan Members' Role in Governance

Neither the Ontario nor the Nova Scotia reports takes the current degree of members' involvement in pension plan governance processes as a given. The Ontario report provides a number of inducements to move to a joint governance and risk-sharing model primarily by waiving the requirement for solvency funding for plans with these characteristics. The report also suggests that relief from the rule that limits pension plans to holding 30 percent of the voting shares of a company be restricted to plans that involve joint governance and risk sharing. The report notes that such plans currently are found almost exclusively in the public and near-public sectors, and expresses the hope that private sector plan sponsors will be induced to move in this direction by the reduction in financial risk that would be gained by doing so. To fill this void, the report proposes the creation of jointly governed target benefit plans. The report also proposes making advisory committees mandatory in plans whose members are not included in the governance structure. One of the duties of an advisory committee would be to issue an annual report to members on the state of the plan.

The Nova Scotia report observes that, under that province's current legislation, advisory committees must be established where their existence is requested in plans with more than 50 members, but they are seldom created in practice. The report speculates that the limited use of advisory committees might reflect their limited powers, and proposes several measures to strengthen them while not requiring their creation. Measures to strengthen the committees

include giving them access to all key plan documents and service providers and requiring plan sponsors to be responsible for reasonable orientation and training for committee members. Both the Nova Scotia and Ontario reports recommend requiring retiree representation on advisory committees – indeed, the need to engage retirees and keep them informed is a significant theme in the Ontario report.

The Alberta-British Columbia report also endorses greater disclosure of information to plan members, but not changes in the governance structure of plans to give rise to a greater role for plan members.

Skill, Knowledge, and Expertise of Plan Governors

All three reports address concerns about the skill, knowledge, and expertise of people with governance responsibilities in workplace pension plans. The Alberta-British Columbia and Ontario reports acknowledge the importance of plan governors having appropriate skill, knowledge, and expertise, and note that plans should provide orientation and learning opportunities for governors, and that the related expenses should be considered legitimate expenses of the plan.

The Ontario report discusses the possibility of establishing minimum requirements for skill, knowledge, and expertise on the part of plan governors, but leaves this issue to further consultation. The report also proposes to restrict the exemption from the limit on the ownership of voting shares of companies to plans that can demonstrate appropriate investment expertise. The Alberta-British Columbia report calls for mandatory certification of plan governors, with training courses offered by post-secondary institutions in the two provinces, but suggests that the requirement be delayed to allow existing plan governors time to go through the certification process.

Conflicts of Interest

The Ontario report includes a significant discussion of conflicts of interest in pension plan governance and administration. For single employer pension plans, it recommends either that individuals and organizations with pension duties be required to act in the best interests of the plan or that members be represented in the governance structure itself. The report notes that different parts of a plan's membership might have different interests and that conflicts arising from these differences need to be addressed. Finally, it notes that unresolved conflicts over the role of plan governors can carry over into the role played by professional service providers to a pension plan. The report does not resolve the conflict issues, but calls on the pension champion to work with stakeholders and relevant professional organizations to articulate which participants in the governing process should be bound by fiduciary obligation, as well as to determine the scope of both the fiduciary obligation and the obligations of service providers.

Concerns about conflicts of interest are addressed most clearly in the Alberta-British Columbia and Nova Scotia reports in relation to the possibility of introducing safe-harbour provisions for plan governors. Neither report endorses them: the Nova Scotia report views them as too prescriptive; the Alberta-British Columbia report expresses the additional concern that safe-harbour rules might cause plan members to be denied legitimate grounds for litigation. The Alberta-British Columbia report proposes, however, that any plan governing body whose members are certified as having the appropriate skill, knowledge, and expertise should have the equivalent of a business judgment defence in litigation. In addition, the governance guidelines of the Canadian Association of Pension Supervisory Authorities would be adopted by reference in legislation, a general protection that would apply to all plans. Legislation would also make it clear that certain specific provisions, such as auto-enrollment and auto-escalation, are acceptable in defined-contribution plans, which, it is argued, would create a degree of certainty for plan governors in a more appropriate manner than the adoption of safe-harbour rules.[7]

7 Robson (2008) argues the case for safe-harbour rules.

Information Disclosure and Governance Policies

All three reports express a general view that the transparency and accountability of pension fund governance can be enhanced through increased financial disclosure to plan members. Proposals include: making greater use of electronic delivery of information (Alberta-British Columbia and Ontario); providing information annually to retirees (Ontario); and requiring target benefit plans to identify the contingent nature of promises (Alberta-British Columbia and Ontario).

All three would require plans to prepare governance policies that would address all governance, funding, and investment issues. The governance component of the Alberta-British Columbia proposal would cover features of benefit and contribution calculations; central aspects of the governance structure, including decision-making processes and how business is conducted; a description of roles and responsibilities, including the role of key agents; identification of main stakeholders and their roles; and performance standards for key people and organizations in the governance structure. The funding component would be required for defined and target benefit plans and include a summary of the risks to which the plan's funded status is exposed and the risk-mitigating policies of the plan. The policy would be made available to plan members and would have to be provided to the regulator on request. It would not be filed automatically.

The Ontario report envisages the filing of governance policies on a triennial basis, and it encourages the regulator to develop best-practices guidelines for governance, to develop metrics to measure performance on governance issues, and to collect and publish governance-related data.

The Nova Scotia report identifies a comprehensive list of issues to be addressed by a governance policy: objective, roles and responsibilities, performance measures, knowledge and skills, access to information, risk management, oversight and compliance, transparency and accountability, code of conduct and conflict of interest, governance review, and fiduciary responsibility. It suggests that policies be filed with the regulator, but not reviewed automatically; instead, it seems to assume that actual reviews would be triggered by concerns on the part of the regulator or complaints by plan members. The report suggests that failure to comply with governance policies should be treated as evidence of imprudent plan management.

Workplace Pension Plan Coverage and Portability

All three reports review the state of workplace pension coverage in their jurisdictions. While most of what they have to say is familiar, the Ontario report provides a useful breakdown of DB coverage in single employer DB plans, jointly sponsored plans, and multi-employer target benefit plans, each of which has roughly equal numbers of members. In that light, it is striking that most of the regulatory law and much of the public discourse on pensions focuses on single employer DB plans.

The reports note that most Canadians will have to supplement income received from publicly administered pensions (such as Old Age Security and the Canada/Quebec Pension Plan) to enjoy a comfortable retirement and that workplace pensions are an important source of that additional income. Thus, the decline in coverage is seen to pose a threat to the financial well-being of the future elderly in Canada.

The Alberta-British Columbia and Ontario reports take divergent approaches to explaining the decline in coverage. The former focuses exclusively on regulatory-burden-creating disincentives to the creation and maintenance of workplace pension plans. The Ontario report acknowledges that the regulatory regime might create disincentives to maintain and create DB plans, but notes that changes in the labour market have had an impact on coverage as well. Indeed, the report refers to research that shows that as much as 70 percent of the decline in the coverage rate can be explained by the declining rate of unionization and by sectoral shifts in employment.[8] All three reports express scepticism, however, as to whether changes in the regulatory environment would affect coverage to a significant degree.

8 The source is not cited, but this finding appears to refer to Morissette and Drolet (1999).

The Alberta-British Columbia and Nova Scotia reports propose to deal with declining coverage through the creation of province-wide plans (across two provinces in the former case). The Alberta-British Columbia report is careful to point out, however, that it is proposing design parameters only for discussion, and that details would have to be worked out, possibly by a steering committee that the report recommends should work on plan implementation.

The Alberta-British Columbia plan would be defined contribution in nature; the panel rejects the possibility of operating it as a target benefit plan as too complex. The plan would operate on an auto-enrollment basis for employers and employees, with both parties having opt-out rights. The self-employed could opt into the plan. The panel raises the possibility that eligibility for participation might be based on a minimum level of earnings and that there might be a minimum level of contributions to the plan. It proposes that consideration be given to allowing the purchase of deferred annuities over a number of years prior to retirement so that benefits are less sensitive to interest rates at the moment of retirement. The panel uses the term "auto-annuitization" to refer to this process.

The governance and administration of the Alberta-British Columbia plan would be at "arm's length" from government, and governments' role would be limited to launching the plan. A majority of the governing body would be experts from the pension industry; the remainder would be representatives of employer and employee groups. In addition to addressing the coverage issue, the plan is seen as a way of creating scale and expertise that is difficult to achieve in the private sector – especially in small firms.

The regulatory reform proposals in the Alberta-British Columbia report are framed with a view to encouraging workplace pension coverage. The report also urges both increased tax incentives for workplace pension plans without being specific as to what form they might take, and the creation of simplified plans that would be available to small firms. The proposal to create the plan reflects an unspecified limit to the hope of improving coverage through regulatory reform and changes to tax incentives.

The Nova Scotia report's proposed province-wide plan would be mandatory for places of employment with more than 50 employees that do not now offer a pension plan, but voluntary for smaller places of employment and for the self-employed. The plan would be defined contribution for the self-employed, but could be a target benefit plan for employees at the option of employers. In addition, groups of employers could self-identify as an affinity group and operate a common plan within the framework of the province-wide plan. The administration and investment of the plan would be undertaken by a provincial agency, but the government would not bear any of the investment risk or cost of administration. The plan would be subject to the *Pension Benefits Act*. The report does not comment on tax incentives in the context of discussing coverage.

The Ontario report's approach to the coverage issue differs from that of the other two in part because the commission interpreted its mandate as focusing on defined-benefit coverage in a system in which the provision of pensions is voluntary for employers. Thus, the report's discussion focuses on measures that might enhance coverage in a voluntary system. Some of the most important ideas in the Ontario report are more fully explained in other parts of this paper and include encouraging innovation that gets beyond the pure DB and pure DC alternatives and encouraging the emergence of larger scale pension plans. Another important possibility raised in the OECP report is that large pension plans and funds might have their mandates revised to allow them to provide investment and/or administrative services to smaller organizations and individuals. At present, the plans that might qualify for this role are largely in the public sector.
Like the Alberta-British Columbia report, the Ontario report also makes a case for simplified plans for small workplaces. Scepticism is expressed in all reports as to whether changes in the regulatory environment will affect coverage to a significant degree.

The Ontario report notes that a number of diverse stakeholders suggested that the coverage issue be addressed through increased benefits under the Canada Pension Plan. The report does not make a recommendation on this issue, but suggests that the provincial government study this possibility.

As to portability, the Ontario report recommends that the provincial government exercise powers that

have long existed under the Pension Benefits Act to create an agency that would accept lump-sum transfers from employees who have received them on leaving an employer before reaching retirement age,[9] as well as transfers from employers who are exercising their right to commute small benefits. The report raises the possibility that such an agency also could receive pension contributions from employers or employees – in effect, acting like a voluntary, provincially administered pension plan. The report notes that the rules governing lump-sum transfers from multi-employer and jointly sponsored pension plans should be reconsidered in light of the fact that they would not have to meet solvency funding requirements if the commission's recommendations were adopted. Like the Alberta-British Columbia report, the Ontario commission recommends an increase in the room for tax sheltering retirement income, but it does not elaborate on the suggestion.[10]

Other Issues

Pension Fund Investment Rules

The Alberta-British Columbia panel was asked specifically to address the quantitative restrictions on pension fund investments; the other two inquiries addressed this issue in response to stakeholders' concerns about the rules.

The Alberta-British Columbia and Nova Scotia reports call for the abolition of quantitative limits on the real estate and resource properties that pension funds may hold and of the 30 percent limit on the voting shares of publicly traded companies they may hold. Both reports call for strengthening pension investment oversight, as complementary to a regulatory environment that does not include quantitative limits. Thus, the Alberta-British Columbia report defines the standard of prudence required of pension fund governors as a "prudent expert standard," rather than a "prudent person standard," and the Nova Scotia report argues that its proposed governance policy and the strengthening of the advisory committees would be suitable protection in the new environment.

The Ontario report's approach to the investment rules is somewhat more equivocal. It identifies some quantitative rules – such as one that limits domestic, but not foreign, resource property holdings – as making no sense, and argues that they should be abolished right away. But the report expresses concern that an admonition to act prudently might be insufficient guidance to give to plan governors. It therefore suggests that the prudent person rule might be elaborated to include key conceptual elements of acting prudently – diversifying the portfolio, avoiding conflicts of interest, and so on. The report also raises the question whether the 30 percent rule should be waived only for plans that meet a test of investment expertise. In an apparent attempt to create an incentive for joint governance, the report proposes limiting the abolition of the 30 percent rule to jointly governed plans.

Locking and Unlocking Benefits

The general rule for pension funds in Canada is that, with some exceptions noted below, pension amounts should be paid out over the lifetime of the member, rather than commuted and taken as lump sums. However, a number of exceptions to the locking-in rule have developed in recent years. Examples are shortened life expectancy and financial hardship. The Alberta-British Columbia and Nova Scotia reports address the issue of whether or not funds should be locked in; the Ontario report does not.

Current Nova Scotia legislation provides that all pension plan funds, once vested, are locked in, with only three exceptions: terminal illness, small pensions, and financial hardship. The Nova Scotia panel recommends instead new, separate rules for defined-contribution and defined-benefit plans. For defined-contribution plans, it suggests that

9 The Nova Scotia report also envisages its plan as a place to which commuted values could be transferred when employees change jobs.

10 A number of the C.D. Howe Institute's Pension Papers make important contributions to the discussion of coverage issues, especially Laidler and Robson (2007); Ambachtsheer (2008); and Pierlot (2008).

- funds should be locked in while the individual is an active member of the plan;
- a plan should be able to choose not to permit unlocking;
- if the plan permits, a member who is at least age 50 should be able to unlock either 25 percent or 50 percent of the funds, on a one-time basis, at or after termination;
- if the plan is silent, the default should be 50 percent unlocking at age 50 or over at the member's election; and
- members who are age 60 or more should be allowed to annuitize in whole or in part at any time.

For defined-benefit plans, the Nova Scotia report recommends disallowing unlocking for financial hardship and, on a member's retirement, permitting the plan to transfer up to half the commuted value to a registered retirement or life income fund.

The Alberta-British Columbia report's recommendations are remarkably similar to those of the Nova Scotia panel for both DC and DB plans.

Our Assessment of the Three Pension Reviews

Coverage

The Canadian pension and retirement savings system is based on three components: government sponsored plans – the Canada/Quebec Pension Plans, Old Age Security, and the various supplementary government plans – workplace pension plans, and personal savings. Changes in the funding of the Canada/Quebec Pension Plans in the late 1990s put those plans on a sounder financial footing and restored public confidence in them. Changes to the *Income Tax Act* in the early 1990s increased the contribution limits for registered retirement savings plans and integrated them with the pension plan limits. While many argue that the changes did not go far enough in terms of earnings covered, they did create more retirement saving opportunities for both the self-employed and those who move from job to job.

Canadians with incomes below half the average wage are generally well served by the government plans. But those with moderate and higher earnings are dependent on workplace plans and/or personal savings if they are to avoid substantial reductions in standard of living in their retirement years. As the three provincial reports make clear, it is now time to fix the problems of workplace pension plans. The reports offer recommendations that seek to do this by improving the operation of existing plans and by contemplating new arrangements better adapted to current conditions.

The reports offer ideas that would increase the range of options available to Canadians to participate in pension plans and to save for retirement. The Ontario report suggests allowing large pension plans and funds to offer investment and administrative services to small organizations and individuals, and raises the possibility that its proposed pension agency would do likewise. The Alberta-British Columbia and Nova Scotia reports propose the creation of new provincial pension plans with differing opt-in and opt-out features.[11]

We believe these ideas deserve serious consideration. They would expand the range of choice for firms and individuals, create new pension and retirement savings opportunities for the self-employed, and provide access to pensions beyond the employment relationship. They also would create pension institutions that combine scale, expertise, and alignment of interests. If they are to succeed, however, they require a regulatory environment that encourages and supports creativity in design and operation of pension plans.

The Management of Risk

Not the least of the barriers to increasing coverage is the real or perceived level of financial risk involved. This is often discussed as a question of defined benefit versus defined contribution, as though these were two separate and distinct types of pension

11 We accept the proposition that coverage data as conventionally presented are a reasonable rough indicator of the likelihood that members of the employed labour force will be able to replace their pre-retirement earnings in retirement. This is also an unstated premise in the reports. There are, however, limits to the linkage between coverage at particular moments in time and future retirement income prospects; moreover, none of the three explores the limits with care.

plans. In practice, most pension plans have elements of both characteristics and can be viewed as populating a spectrum, with high certainty of control of pension contributions (and accounting expense) at one extreme and high certainty of achieving a known amount of pension benefit at the other. The reports are helpful in noting that there is a range of choice along the spectrum and that regulatory (and tax) law should be designed to accommodate these choices. The Ontario report is quite forceful in articulating the desirability of exploring the space between pure defined-contribution and pure DB plans.

For the plan member, the risk in a DB plan is that the expected or promised benefit might not be paid. Risk can be managed by reducing or eliminating it, by sharing it among the parties, or by passing it on to third parties. Members' risk under classic DB provisions can be reduced by increasing funding requirements, the use of more conservative investment policies, and effective disclosure. Sponsors' risk can be mitigated by hedging against investment volatility, establishing contingency margins, and clear communication with plan members. Under jointly sponsored (and governed) DB plans, both parties share the contribution risk.

Defined-benefit provisions are not the only ones that involve risk: the degree of financial risk that pure defined-contribution provisions create for plan participants is not fully recognized, and it is a significant weakness of the reports that they do not review defined-contribution issues in a thorough way.[12] We strongly favour plans that share the financial risk – as, for example, do the jointly sponsored pension plans that are appearing in the public sector. It remains an open question whether plan sponsors in the private sector will conclude that the gains in reduced financial risk are sufficient to offset the reduction in control of the plans.

The Alberta-British Columbia report recognizes a further risk for defined-benefit provisions when it explicitly accepts that such plans will not be fully funded all of the time – a state the other two reports accept only implicitly. Investment policies that involve the mismatching of pension assets and liabilities, negotiated plans that are upgraded every three years with 15-year amortization of the benefit improvements, and plans that amortize deficiencies but spend surplus immediately will all be underfunded some, if not all, of the time. Thus, there is always some risk that accrued (and future) benefit promises will not be fulfilled, yet many of these plans make promises that seem unconditional.

Plan sponsors and members should delineate clearly the difference between "promised" and "target" benefits. Examples of target benefits are indexation payments that are dependent on investment results, career average earnings benefits that are upgraded to final average as and when funds are available, and multi-employer pension plans. A negotiated flat benefit plan that is upgraded each time wages are increased also has the characteristics of a target plan. Ideally, the plan would be managed so that the promised benefit is fully funded at all times. Income tax and provincial regulatory rules should be flexible enough to accommodate funding of target benefits, and surplus rules should not discourage sponsors from increasing funding levels. Initiatives that expand coverage should be designed to wrap around existing workplace pension plans, not displace them, and that they should include appropriate opt-out provisions.

Funding Rules

The funding recommendations for plans with defined benefit provisions vary from report to report, but there is general agreement that there should be more monitoring of valuation results, earlier filings, more frequent valuations for underfunded plans, and less smoothing of assets and exclusion of benefits from valuations. There is also some agreement that plans offering a target benefits that are permitted to reduce accrued benefits should not be required to file solvency valuations, and some agreement on the treatment of surplus.

Canada's pension system seems to be in the odd position that the amortization rules are applied more strictly when economic conditions are good than when times are bad and the risk of insolvency is higher. This cycle needs to be broken and agreement established on a set of funding rules that will improve the security of benefits. The rules should not be so onerous as to discourage plan sponsors from establishing or maintaining DB plans and

12 A review of issues to be addressed is found in Baldwin (2008).

should be such that plan sponsors and members can live with them in good times and bad. Measuring risk and having plan members understand that risk is an important part of this exercise.

Regulatory Reform and Governance

We support the three reports' proposals for regulatory reform and governance, but wish to underline some that we see as particularly important. As the reports suggest, we believe that regulatory law should:

- address the needs of specific plan types and be sensitive to the need to accommodate innovation in plan design;
- offer a lighter regulatory touch where there is plan member representation in governance processes;
- provide greater clarity on the roles and responsibilities of participants in plan governance;
- be consolidated as far as possible in a single statute;
- provide greater clarity on the allowable uses of defined-benefit surpluses;
- be more principles based; and,
- be harmonized to a greater degree among jurisdictions.

With regard to regulatory processes, we support the move to more risk-based supervision, an upgrading of regulatory capacity, and a substantial strengthening of stakeholder engagement in deliberations on regulatory policy and administration. With respect to harmonization, we note again that, while the Nova Scotia report presents some interesting ideas on funding, they depart from both existing practice and the other reports in important ways. In particular, the distinction between the public and private sectors is not a reasonable basis for determining whether regulatory rules should apply to workplace pensions. In general, all plans with a given governance and risk-sharing structure should be bound by the same set of rules.

We support the reports' proposals for the preparation of governance policies and those to increase the skill, knowledge, and expertise of plan governors. In principle, we are sympathetic to a process for certifying people involved in governance roles, but a number of implementation issues need to be addressed. We endorse the approach in the Ontario and Nova Scotia reports to plan member involvement in plan governance, and believe that joint governance is most suitable when it is combined with joint sponsorship.

Challenges

A pension plan is a long-term undertaking. A pension arrangement designed to fit today's conditions cannot be expected to meet the needs of all future economic and financial circumstances; continual adaptation is needed. Success in reforming and renewing pension regulation requires: political commitment at the ministerial level; coordinated effort among jurisdictions; increased regulatory resources; and a willingness on the part of stakeholders to come to the table with a real commitment to finding common ground.

The three provincial reviews are to be commended for the work they have done and the ideas they have articulated. With that starting point in mind, jurisdictions and other stakeholders now need to work together to create a national forum that focuses on resolving the problems of workplace pension plans.

Appendix Table A-1: Comparison of the Alberta-British Columbia, Nova Scotia, and Ontario Workplace Pension Reviews

Issue	Alberta-British Columbia	Nova Scotia	Ontario
Mandate	• review pension standards in the two provinces (6.1)	• balance affordability and availability of defined-benefit and defined-contribution plans • protect sustainability and security of pension benefits • eliminate unnecessary rules and regulations	• examine legislation for defined-benefits plans • other issues of security viability and sustainability
Limitations	• public sector plans excluded (1.1)	• plans subject to *Pension Benefits Act*	• defined-contribution plans excluded
Vision	• encourage workplace pension plans (6.1)	• create an environment in which pension promises are fulfilled (1.0)	• maintain and encourage defined-benefit plans (1.5) • create a positive environment for defined-benefit plans in a voluntary system (1.5)
Goals of Legislation	• create a pension advocate outside the superintendent's office (6.4) • Accommodate a wider variety of pension arrangements (6.3) • Promote transparency, accountability, and security (2.1) • Streamline pension standards and avoid overregulation • A principles-based legislative framework (6.2) • Work toward harmonization of legislation in the two provinces (6.5) • A joint policy advisory council and joint tribunal (6.5) • Work toward a joint pension regulator (6.5) • Champion a national council of pension ministers (6.5) • Work toward national pension regulation (6.3)	• Maximize fulfillment of pension promises (2.1) • Ensure employees have access to their own information (2.2) • Provide transparency of information to members (2.3) (19.1) • promote and facilitate pension plans (2.4) • clarify role of regulator (20.1) • encourage employers to create advisory committees where they do not already exist (18.1)	• coordinate with other policy domains and regulatory regimes (1.5) • promote selective convergence among regimes (1.5) • ensure the honesty and integrity of the pension system (1.5) • protect the financial security of pension plans (1.5) • balance the financial interests of all plan members (1.5) • ensure predictability and affordability for plan sponsors (1.5) • strive for clear, comprehensive, consistent, and codified regulations (1.5) • accept that one size does not fit all (1.5) • regulate fairly, openly, effectively, and adaptably (1.5) • achieve compliance by graduated regulatory responses (1.5) • ensure clarity and transparency of administration (1.5) • encourage voice and participation by members (1.9)
Legislation Should Avoid	• minimum benefit levels (3.1) • enforcing equity between members (3.2) • favouring particular forms of pension (3.3) • limiting innovation (3.4) • increasing the regulatory burden (3.5) • discouraging plans through unnecessary regulatory burden (3.6)		
Interpretation of Legislation		• permissive, not restrictive (4.1)	
Proposals for Legislation	• disclose key information to members (7.1) "• tailor disclosure rules to plan type (7.1) • require disclosure of governance policies (7.1) • make investments subject to prudence rules (7.2) • make investments only if in interests of plan members (7.2) • introduce educational requirements for fiduciaries (7.1) • make plans with defined or target benefits have a funding policy (7.1)	• recognize jointly sponsored pension plans as distinct type (5.1) • file governance policy (17.1) • consider single or multi-employer pension plans as target plans (6.1) • govern target benefit plans by joint trusteeship (6.2) • employers with target benefit plans to pay at least 50% (6.3) • contributions to target benefit plans all for benefits and expenses (6.4)• flexible, new designs and funding methods (7.1) • eliminate grow-in rules (24.1) • vest benefits immediately (25.1) • modify unlocking rules (26.1) • permit phased-in retirement (28.1)	• extend existing grow-in rights to all members of single employer pension plans with 55 points who are involuntarily terminated (5.8) • do not require multi-employer and jointly sponsored pension plans to provide grow-in (5.9) • permit phased retirement (5.10) • make vesting immediate (5.11) • make partial windup require termination of 40% of members (5.14) • allow plan to be wound up by superintendent if 90% of members are terminated (5.15) • continue Pension Benefit Guarantee Fund, subject to future review (6.13)

Appendix Table A-1 *(cont'd)*

Issue	Alberta-British Columbia	Nova Scotia	Ontario
Funding	• going-concern and solvency valuations except for specified contribution target benefit plans (8.1) • No smoothing of solvency assets (8.2)• five-year amortization of solvency deficits (8.1) • annual solvency valuation unless 110% funded (8.1)• going-concern valuations for specified contribution target benefit plans on best estimate basis plus margin (8.2)• new rules for specified contribution target benefit plans• report "settlement" status to regulator and members (8.2) • restrict benefit improvements if cushion insufficient (8.2)• tailor minimum funding to nature of pension deal	• replace going-concern and solvency with accrued benefit test • include all promises in adequacy tests (8.1) • Fully fund benefits on windup (8.2) • minimum funding same for all plans under the Pension Benefits Act (8.3) • Restrict benefit improvements if in deficit (8.4) • file valuations within six months (8.5) • apply funding rules equally to all plans (8.3) • amortization periods not to exceed ten years (9.1) • 5% collar (9.2) • valuations at least once every three years (9.2) • annual testing (9.3, 9.4)• test less than 95% funded, full valuation • reduction in deficit filed within six months (9.3) • new amortization periods for new deficits (9.5) • specific rules for target benefit plans (9.6) • Disallow smoothing of assets (9.9)	• superintendent & Canadian Institute of Actuaries to work on greater transparency of valuations (4.1) • give superintendent power to order peer review (4.2) • single employer plans: going-concern and solvency (4.13) • multi-employer plans: file solvency only for disclosure (4.10) • jointly sponsored plans file solvency only for disclosure (4.11) • treat some jointly governed target benefit plans as jointly sponsored plans (4.12) • do not exclude indexation from going-concern valuations (4.3) • file valuations within six months (4.4) • eparate filing rules for single employer, multi-employer, and jointly sponsored plans (4.8) • eight-year amortization if single employer plan is 95% funded (4.15) • valuations at least once every three years (4.4) • annual valuation when funding is below threshold (4.5) • more monitoring, power to order interim valuations (4.6) • cease contribution holidays if funding falls below 95% (4.17) • sanction late filings (4.7) • consult on multi-employer plans (4.9) • disallow smoothing in solvency valuations (4.3)
Surplus	• the promise to be protected is the defined benefit (3.3) • contributions in excess of going concern may be in separate fund (8.1) • Ring fence" existing surplus (8.1) • continue to allow letters of credit for solvency (8.1) • subject surplus withdrawals to plan rules or employee agreement (8.1) • no vesting of surplus under partial windups unless in plan rules (8.1) • spread withdrawals or employer contribution holidays over five years (8.1) • encourage federal review of *Income Tax Act* limits (10.1) • give federal priority to unpaid deficiency and unfunded liability payments (10.1)	• amortize over not less than 10 years (10.1) • eliminate partial windup provisions (13.1) • no distribution on individual or group termination (13.3) • 5% collar (amount above 5% only) (10.2) • no safe harbour provisions for defined contribution plans (16.0) • allow plan administrator to determine surplus entitlement (10.3) • ponsor to have paid 50% of net contributions (ten-year test) (11.4) • rules for surplus withdrawal on windup (10.4) • restrict use of surplus to improve benefits (10.5) • eliminate large surpluses, subject to restrictions (10.6)	• allow irrevocable letters of credit for solvency (4.22) • investigate possible use of asset pledges (4.23) • rules for surplus withdrawal on windup (4.16) • contri-bution reductions when 5% margin • surplus withdrawal permitted, provided there are sufficient margins (4.18) • try to persuade Ottawa to increase limits (4.24) • encourage Ottawa to reform investment rules (4.25) • government to investigate means of reducing annuity prices (4.19) • full disclosure of indexation provisions (4.20) • proclaim mandatory indexation provisions in force (4.21)
Education	• expand financial literacy component in high schools (4.4)• enhance financial literacy of adult population (5.1)		
Improving Pension Coverage	• create central plan on a not-for-profit basis (5.2)	• establish a plan available to all employees and sponsors in province (30.1)	

Note: This comparison is not comprehensive; it does not cover, for instance, the Ontario report's proposals on regulations, governance. and innovation in plan design.

Sources: Alberta-British Columbia references are to section numbers in Appendix D of the report; Nova Scotia references are item numbers in Summary of Recommendations; Ontario references are to Principles (Chapter 1), otherwise to recommendation numbers in the body of the report.

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Rotman International Centre for Pension Management, University of Toronto;

Bob Baldwin;

Leo de Bever,
Alberta Investment Management Corporation (AIMCo);

Steve Bonnar;

Elizabeth Brown,
Hicks Morley Hamilton Stewart Storie LLP;

Peter Drake,
Fidelity Investments;

Brian FitzGerald,
Capital G Consulting Inc.;

Bruce Gordon,
Manulife Financial Canada;

Malcolm Hamilton,
Mercer Human Resource Consulting Limited;

Bryan Hocking/Scott Perkin,
Association of Canadian Pension Management;

Bill Kyle,
The Great-West Life Assurance Company;

Ian Markham,
Towers Watson

Michael Nobrega,
Ontario Municipal Employees' Retirement System;

Jim Pesando,
University of Toronto;

John Por,
Cortex Applied Research;

Tom Reid,
Sun Life Financial Inc.;

Jeremy Rudin,
Department of Finance, Canada;

Tammy Schirle,
Wilfrid Laurier University;

Terri Troy,
Pension Investment Association of Canada;

Fred Vettese,
Morneau Sobeco;

François Weldon,
Human Resources and Social Development Canada;

Barbara Zvan,
Ontario Teachers' Pension Plan.

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