

Teamsters Canada Rail Conference

Submission to the Canadian Department of Finance in response to it's Consultation Paper on Strengthening the Legislative and Regulatory Framework for Private Pension Plans Subject to the *Pension Benefits Standards Act, 1985*

March 16, 2009

The Teamsters Canada Rail Conference is a rail labour organization with more than 12,000 members predominantly from the rail industry. It is affiliated with Teamsters Canada which has 125,000 members and the International Brotherhood of Teamsters which represents 1,400,000 members across North America.

The Teamsters Canada Rail Conference (TCRC) represents Locomotive Engineers, Conductors, Trainpersons, Yardpersons and Yardmasters at Canadian Pacific and Canadian National Railways. We also represent Locomotive Engineers at Via Rail Canada and running trade employees in many of the smaller short line railways in Canada. We also represent bus drivers working for the Ontario Northland Railway.

The TCRC represents members who are in the large Defined Benefit plans such as Canadian Pacific, Canadian National Railways, and Via Rail Canada. We also represent a number of members who are in Defined Contributions plans, mostly with the smaller short line railways. Some of the short line railways employees have been subject to partial windup situations.

Although the economy is under stress, many large Canadian corporations including the major railways maintain a strong financial position. Our members want to ensure their pensions remain secure, properly administered, and fully funded for them and their families.

Our submission will remark on the legislative and regulatory framework to improve pension plan security and follow the principles outlined in page 6 of the Consultation Paper, namely,

- 1) The rules governing private pensions should be reflective of the voluntary and contractual nature of the arrangement;
- 2) Employees and retirees should have the information to make informed decisions; and
- 3) The legislative and regulatory framework should ensure that certain minimum standards are met in order to ensure a level of benefit security for plan members.

1. Solvency Relief

Some employers are requesting that the solvency deficiency funding be increased from 5 to a 10 year window, with no conditions and on a permanent basis.

Currently, plan sponsors can request temporary solvency funding relief on a case by case basis. The TCRC believes the temporary solvency funding relief presently in place should be maintained and there is no need to move from the five to a ten year window unless protected by present regulations and with the consent of the bargaining agent (the union) and/or plan members. The TCRC would further submit that the plan sponsors' current conditions be maintained with some improvements.

Further, the TCRC is of the opinion that there are real risks to applying and granting such relief. Thus, plan sponsors should be required to get consent from members through their bargaining agent (the Union) and if there is no union representation, a majority of pension plan members and beneficiaries.

Employers have supported the use of letters of credit to finance temporary solvency relief situations. Any letter of credit obtained for the temporary solvency funding relief should be at the secured creditor status in corporate bankruptcy of pension plan members. Not all employers, particularly smaller employers, will qualify for this credit. The Government should explore options to support pension plan credit assistance under the Extraordinary Financing Framework in the 2009 Federal Budget.

2. Contribution Holidays

TCRC agrees with the proposal to increase the accumulation of the surplus in excess of 10% of its assets, as allowed in the Income Tax Act, to 20%.

This increase should be allowed to create greater reserves in the pension plan to protect against deficit creation when there is downturn in the economy.

The employer should not be permitted to use this accumulation of a surplus to take a contribution holiday.

The TCRC does not support using any defined benefit plan surplus being used to finance any of the employer's defined contribution benefit plan. Any use of the employer's defined benefit plan surplus for that purpose does not meet the need for proper and ongoing financial security of the defined benefit plan.

3. Pension Standard

With regard to changing the pension standard of care for defined contributions plan, from "fiduciary to "good faith", the TCRC is of the opinion that the pension standard of care remain as it is today. All pension plan sponsors whether administering a defined benefit or defined contribution plan should be held to the higher fiduciary standard.

There is a need for greater regulation of defined contributions plans.

4. Vesting

The TCRC believes in immediate vesting rights.

5. Disclosure of Information

The TCRC believes in greater transparency in the pension process including more disclosure of information for plan members. The TCRC supports the proposal of further disclosures to members and beneficiaries including retirees where it is appropriate. Disclosure can include providing more information in an Annual Statement and an annual disclosure of Statements of Funding Policy including any contribution holidays.

Increased disclosure should not be at the cost of exclusion of plan members, beneficiaries, and their unions from information should the employer seek solvency relief as suggested by some employers.

The TCRC supports the disclosure of information by electronic means but only as an option of the receiving member or beneficiary.

6. Reporting of Employer Contributions

Sponsors are required to make their contributions to the pension plans. There should be a mechanism to notify members, on a timely basis, when the employer has failed to pay their contributions into the pension plan as required.

Conclusion

In conclusion, the Finance Department should use this review of the *Pension Benefits Standards Act* as an opportunity to strengthen pension rules rather than weakening them. Pension regulations must be crafted to require full funding of pension plans where at all possible. Pension plan funding should not be deferred for future payment unless it cannot be avoided. If pension funding is deferred, it should be done over the shortest period of time and under the strictest of rules and with the involvement and consent of plan members, unions, and beneficiaries.

Pension plan members and their families are depending on the Finance Department to ensure their future financial security by protecting the investments they have made in their pension plans.

The Teamsters Canada Rail Conference wishes to thank the Federal Finance Department for the opportunity to present our views on this review of the Federal Pension Benefits Standards Act. You may post our submission on the website.

Respectfully submitted,



Mike Wheten

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