CONSULTATION PAPER

PROPOSED REGIME FOR NEGOTIATED COST PENSION PLANS

Response due by: July 31, 2016

FCAA

Financial and Consumer Affairs Authority

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Part 1: Introduction & Background

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1.0 Introduction

Government is interested in amending *The Pension Benefits Regulations, 1993* (the "Regulations") in order to provide a new regulatory regime ("Proposed Regime") for private sector negotiated cost pension plans (NCPPs). These are plans where the funding obligations are limited by collective bargaining agreement or contract and where benefits can be reduced if there is a funding deficit in the NCPP. While several public sector[1] pension plans are NCPPs ("NCPP Public Plans"), the Proposed Regime would not apply to those plans.

There are several key components of the Proposed Regime, which are described further in this paper under the following headings:

Part 2: Funding
Part 3: Benefit Improvements & Benefit Reductions
Part 4: Benefit Types
Part 5: Communications
Part 6: Administration & Governance
Part 7: Transition Rules

Further, additional considerations can be found in Part 8.

Questions related to each Part can be found in Part 9.

The consultation process, including the deadline and our contact information can be found in Part 10.

1.1 Proposed Regime

In general the Proposed Regime for an NCPP is as follows:

- Permanent exemption from funding solvency deficiencies;
- Requirements respecting provisions for adverse deviation ("PfAD");
- Enhanced member communications; and
- Restrictions on benefit improvements.

Under the Proposed Regime, an NCPP would be able to calculate CV's for terminating employees differently than is currently the case. As this new proposed method will be based on the discount rate used in the most recently filed actuarial valuation report ("AVR"), we will call this new method "GC CV".

- Current Commuted Value methodology, referred to as "CIA CV" throughout this paper: On termination of membership, the member's commuted value is calculated using the Canadian Institute of Actuaries rates. The transfer is then paid out at the lesser of:

[1] For the purposes of this paper, an NCPP Public Plan is a "Specified Plan" as defined in and subject to section 36.7 of the Regulations.

- the CIA CV; and
- the CIA CV multiplied by the solvency ratio of the plan.

If the amount transferred is less than the CIA CV, the amount that is not paid out initially is paid within five years' time. For example, if the CIA CV is calculated to equal $80,000 and the solvency ratio of the plan is 75%, the amount transferred now would be $60,000 and the remaining $20,000 would be paid out within five years' time.

- GC CV: On termination of membership, the member's benefit value is calculated using the going concern assumptions used in the most recently filed actuarial valuation report. The member's GC CV is equal to the lesser of:

  - the benefit value; and
  - the benefit value multiplied by the funded ratio of the plan.

  If the amount transferred is less than the benefit value, the amount that is not paid out initially is not ever paid to the member. The member's GC CV does not include the unfunded portion of the benefit value. For example, if the benefit value was $55,000 and the going concern position of the plan was 80%, the amount transferred – the GC CV - would be $44,000. There would be no further amount payable.

  The GC CV would be available as plan design option and would be applied on a go forward basis only. The GC CV is discussed in further detail in Part 4.

1.2 Background

Effective May 1, 2015, the Regulations were amended to provide an NCPP Administrator[2] ("Administrator") with an opportunity to file an election for a four-year period of relief[3] from funding a solvency deficiency established in an actuarial valuation report ("AVR") with a review date between and including December 31, 2012 and December 31, 2014 ("the Relief"). The Relief follows a previous opportunity to elect a three-year period of relief from funding a solvency deficiency established in an AVR with a review date between and including December 31, 2009 and January 1, 2011. At the time that the Relief was announced, it was indicated that the four-year period would provide time to complete a review of the regulatory framework for NCPPs, to make a recommendation to the Government regarding new permanent funding rules for NCPPs, and to amend the Regulations. This paper represents the review of the regulatory framework.

[2] Administrator is defined in clause 2(1)(b) of the Act.
[3] Further information regarding the Relief can be found by reviewing our publication *"2015 NCPP Temporary Solvency Deficiency Funding Relief".*

Currently there are six NCPPs registered under *The Pension Benefits Act, 1992* (the "Act"), all of which are multi-employer plans[4], to which this consultation directly applies. These are:

- Saskatchewan Piping Industry Pension Plan
- Carpenters' Pension Fund of Saskatchewan
- International Brotherhood of Electrical Workers Local Union 2038 Pension Trust Fund
- Saskatchewan Retail, Wholesale and Department Store Union Pension Plan
- Teamsters/RWDSU General Pension Plan
- International Union of Operating Engineers Local 870 Pension Plan

We note that there are plans with a similar structure (i.e. negotiated cost defined benefit plans) which are registered in other jurisdictions that provide pension benefits for Saskatchewan members. Section 8.3 of Part 8 of this paper sets out a discussion respecting the introduction of GC CVs with respect to those multi-jurisdictional NCPPs.

The Proposed Regime would automatically apply to all current NCPPs (excluding NCPP Public Plans). On the establishment of a new private sector pension plan, where the funding obligations are limited by collective bargaining agreement or where the funding obligations are limited by the plan documents and the new pension plan is named as a Prescribed Plan[5] in the Regulations, that new pension plan would be an NCPP and would fall under the rules of the Proposed Regime. The existing framework for NCPPs will no longer exist.

This paper is written on the assumption the reader is familiar with the current funding rules for NCPPs. These rules are summarized in the following FCAA publications:

- *"Funding Defined Benefit Pension Plans";*
- *"Actuarial Assumptions"*; and
- *"2015 NCPP Temporary Solvency Deficiency Funding Relief".*

1.3 Guiding Principles

The Proposed Regime was developed using the following principles:

- Pension Sustainability: An NCPP must provide benefits at a reasonable cost to plan sponsors and members over the long term. In addition, effective risk management strategies must be in place.
- Benefit security: An NCPP must provide a reasonable level of benefit security for plan members and retirees, regardless of plan experience.
- Equity and Transparency: An NCPP should be able to provide benefits in such a manner that all generations of members are treated equitably. The plan participants should be provided sufficient information to understand their plan.
- Flexibility: The plan decision makers should be able to make decisions that are appropriate for the individual characteristics and needs of the NCPP.

[4] In a multi-employer plan there is more than one participating employer that is responsible for the funding of the plan.
[5] A Prescribed Plan is subject to subsection 40(5) of the Act and is listed under section 36.9 of the Regulations.

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Part 2: Funding

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2.0 Introduction

The purpose of this Part is to outline the funding requirements that would be applicable to NCPPs. Consultation questions related to this subject are found in Part 9 of this paper.

2.1 Proposed Funding Regime

Currently, all NCPPs must fund on both a going concern and solvency basis. As mentioned earlier, an Administrator had the opportunity to file an election for Relief.

Under the Proposed Regime, with the filing of an AVR with a review date of December 31, 2016 or later (“Transition Report”), the following would apply, subject to the transition rules outlined in Part 7 of this paper:

1. Contribution requirements:

    - Current service costs (“CSC”) (note that the PfAD on CSC must be reflected in the AVR but need not be funded; required funding on CSC will commence with the next filed AVR); and
    - Unfunded liability (“UL”) special payments, if any. (note that the PfAD must be reflected in the going concern valuation but need not be funded).

2. Solvency Valuations and Funding:

    Under the Proposed Regime, an NCPP would not be required to fund on a solvency basis. As mentioned above, where the NCPP’s negotiated contributions are not enough to cover the funding requirements (i.e. under the Proposed Regime – CSC plus PFAD and UL special payments, if any; solvency funding not required) benefits (i.e. future, accrued or both) could be reduced and/or contributions increased. Benefit reductions and/or contribution rate increases would not be required to meet solvency funding, as solvency funding would no longer be required.

    Certain rules regarding solvency funding and solvency valuations would continue to apply to an NCPP.

    “Solvency valuations and funding” is discussed further in section 2.2 of this Part.

3. Reporting requirements:

    - Provisions for Adverse Deviation (“PfAD”) in the Going Concern Valuation:

    A PfAD would be calculated and illustrated in the going concern valuation; however there would be no legislated obligation to fund this PfAD. While there would be no need to fund this PfAD, an NCPP may wish to do so.

The PfAD plays a critical role in the rules relating to benefit improvements. The topic of "benefit improvements" is discussed briefly in section 2.4 of this Part and in greater detail in Part 3.

"PfADs" are discussed further in section 2.4 of this Part.

- Stress testing:

The actuary will be required to perform stress testing for elements which the actuary considers to pose a material risk to the plan's ability to meet its funding requirements. Under the Proposed Regime, the stress testing results would have to be reported in the AVR. There would be no legislated obligation to fund the NCPP in consideration of these results.

"Stress testing" is discussed further in section 2.5 of this Part.

Under the Proposed Regime, with the filing of an actuarial valuation report subsequent to the Transition Report, in addition to points 2. and 3. above and subject to the transition rules found in Part 7 of this paper, the following would apply:

1. Contribution requirements:

- Current service costs ("CSC"), including PfAD; and
- Unfunded liability ("UL") special payments, if any. (note that the PfAD must be reflected in the going concern valuation but need not be funded).

As is currently the case, where the NCPP's negotiated contributions are not enough to cover the funding requirements (i.e. Under the Proposed Regime – CSC plus PfAD and UL special payments, if any), benefits (i.e. future, accrued or both) could be reduced and/or contributions increased.

2.2 Solvency Valuations and Funding

Under the Proposed Regime, an NCPP would not be required to fund any solvency deficiency – including a solvency deficiency established in a valuation filed before the Transition Report, in the Transition Report, or in a subsequent valuation. This would apply even if the Relief was not elected.

The solvency position of an NCPP would, however, continue to be measured and reported in each AVR. In addition, the schedule of payments required to amortize the solvency deficiency over a five-year period, notwithstanding there is no requirement to make solvency deficiency payments, would have to be reported. The solvency deficiency would be calculated and illustrated as a fresh start. As no solvency deficiency payments are required, solvency assets would not be increased in consideration of any future special payments towards a solvency deficiency. However, solvency assets would include the present value of five years of unfunded liability payments, where applicable, as is currently the case.

The solvency position of the plan would be used for management purposes, and for establishing the solvency ratio. In addition, the solvency ratio would continue to have to be communicated to members. Further, with respect to DBPs, the solvency ratio would be used to apply the transfer deficiency rules of the Regulations. The transfer deficiency rules would not apply to GC CVs.

2.3 Going Concern Valuations and Funding

Under the Proposed Regime, an NCPP would continue to be required to fund an unfunded liability over a period not greater than 15 years. The PfAD, which would be required to be illustrated (see section 2.4 of this Part), would not have to be funded.

2.4 Provisions for Adverse Deviation

Under the Proposed Regime, solvency funding would not be required. A funding requirement strictly based on the existing going concern basis may not be sufficient to ensure that the benefits will be paid with a reasonable likelihood. As such, the Proposed Regime includes PfAD requirements. In general, a PfAD is an additional liability, over and above the going concern actuarial liability. It would be expressed as a dollar amount as well as a percentage of the going concern actuarial liability. The level of the PfAD would be based primarily on the asset allocation of the NCPP.

The proposed PfAD requirements of the Proposed Regime were developed using the following principles:

- The PfAD should be simple to administer.
- The PfAD rules should strike a balance between security of accrued benefits and the contingent nature of the benefits provided under an NCPP.
- The PfAD should be built up during times of favourable plan experience and drawn upon during times of adverse plan experience.

Funding the PfAD

Subject to the transition rules outlined in Part 7 of this paper, the following funding rules would apply:

- Current Service Costs, or CSC as referred to earlier:
  - Monthly contributions, an amount that is equal to 1/12 of the annual CSC; and
  - Monthly contributions, an amount that is equal to 1/12 of the product of the PfAD (expressed as a percentage of the going concern actuarial liability) multiplied by the annual CSC.

- Going Concern:
  - Unfunded Liability Special Payments; noting that:
    - A PfAD would have to be illustrated in the going concern actuarial valuation; however that PfAD would not have to be funded.

A common method for illustrating PfADs has been to reflect a reserve in the going concern balance sheet, over and above the going concern liability, expressed as both a dollar amount and as a percentage of going concern liabilities. The Deputy Superintendent of Pensions ("Deputy Superintendent") prefers PfADs to be expressed in this fashion.

Calculating the Minimum PfAD

Under the Proposed Regime, NCPPs would have to illustrate a PfAD in the going concern actuarial valuation. It is expected that NCPPs adopt a written funding policy which considers the nature of the plan, the fiduciary obligations of the Administrator, and industry best practices. The PfAD will act as a buffer that would increase or decrease based on plan experience and/or contributions.

Under the Proposed Regime, the minimum PfAD requirement would be calculated as follows:

Step 1. Determine the "Base PfAD":

The Base PfAD would depend on the asset allocation of the plan. The following table provides an illustration of the Base PfAD requirements.

Equity Allocation (%)	PfAD (%)	Equity Allocation (%)	PfAD (%)
0	5	60	17
10	7.5	70	18.5
20	10	80	20
30	11.5	90	22.5
40	13	100	25
50	15		

Step 2. Determine Increase to PfAD:

The Base PfAD, as determined under Step 1, would be increased if the assumed going concern discount rate ("Discount Rate") exceeds the benchmark discount rate ("BDR"). The amount of increase to the Base PfAD is 0.15% for every basis point that the Discount Rate exceeds the BDR.

The BDR would equal to the sum of:

= (A x B) + (C x D) + 0.40%

Where "A" is equity allocation, "B" is maximum equity risk premium (calculated as [4% + CANSIM V122544]), "C" is non-equity allocation, and "D" is corporate bond yield[6]

Step 3. Add the Increase to the Base PfAD:

An example has been provided on the following page.

[6] 30-year spot rate of an extrapolated yield curve of AA-rated corporate bonds; Fiera Capital's Canadian Institute of Actuaries method Account Discount Rate Curve

Example of Calculating the Minimum PfAD

Step 1. Determine the Base PfAD:

The Discount Rate used in a December 31, 2015 AVR was 6.0%. The plan's assets are invested 60% in equities.

The Base PfAD = 17%

Step 2. Determine Increase to PfAD:

The BDR as at December 31, 2015 (for a plan with 60% equities) would be:

BDR = (A x B) + (C x D) + 0.40%
= [60% x 6.16%] + (40% x 4.4312%) + 0.40%
= 3.696% + 1.7725% + 0.40%
= 5.87%

- "A" = equity allocation = 60%
- "B" = Maximum equity risk premium = 4% + 2.16% = 6.16% (from CANSIM V122544)
- "C" = non-equity allocation = 40%
- "D" = Corporate bond yield = AA Corp. long bond yield (30 years): 4.4312%

If the Discount Rate is 6.0%, the difference between the Discount Rate and the BDR would be 13 basis points. The PfAD would be increased by an amount equal to 0.15% of the actuarial liability for each basis point that the discount rate exceeded the BDR; the PfAD would be increased by 1.95% (13 x 0.15).

Step 3. Add the increase to the Base PfAD:

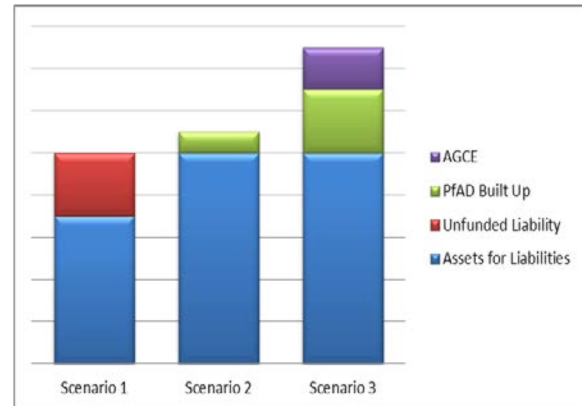
The minimum PfAD requirement would be 18.95%. (17% + 1.95%)

Benefit Improvement Restrictions

Under the Proposed Regime, as discussed in greater detail in Part 3, in order for an NCPP to improve benefits, Accessible Going Concern Excess ("AGCE") would have to exist. AGCE would only exist when the NCPP's going concern assets exceed the sum of the going concern actuarial liability plus the PfAD.

As mentioned earlier, the PfAD would be built up during times of positive actuarial experience plus any excess contributions and would be drawn upon during periods of adverse plan experience. The PfAD illustrated in the going concern valuation would not have to be funded. Requirements to make special payments, or perhaps even benefit reductions (discussed further in Part 3), would not be triggered until the PfAD has been reduced to zero and an unfunded liability established.

This example illustrates the dynamic nature of the proposed PfAD:



<u>Scenario 1</u>
An underfunded NCPP; CSC and UL payments required (and/or benefit reductions); no PfAD has been built up.

<u>Scenario 2</u>
The liabilities of the NCPP are funded; CSC payments required; a small PfAD has been built up.

<u>Scenario 3</u>
The liabilites of the NCPP are fully funded; CSC payments required; the PfAD is fully funded; there is AGCE and it would be possible for benefit improvements.

2.5 Stress Testing

Under the Proposed Regime, an NCPP would be required to perform and report the results of stress testing. Stress testing is a tool for the Administrator and plan sponsors used to manage the NCPP's risks.

Stress testing requires the actuary to identify the risks which are most applicable to the NCPP. The Proposed Regime would provide the actuary with leeway to identify any stresses, and to determine the extent of the stress testing, subject to any conditions required by the Deputy Superintendent.

While not an exhaustive list, the types of stress testing which may be applicable include:

- Hours of work assumption,
- Cash flow analysis from (a) new contributions and (b) internally generated from invested assets,
- Decline in the value of the equity component of plan assets,
- Withdrawal of the largest participating employer(s), or a significant portion of members, and
- Any other relevant risks identified by the actuary or the Administrator.

Stress testing would not impact the NCPP's funding obligation. The results of the stress testing would have to be reported in the AVR, including the actuary's justification for the magnitude of the stress test.

The purpose of the stress testing is primarily a tool for the Administrator to understand the nature and magnitude of the risk factors present in the plan. In some instances, the Deputy Superintendent may use the stress testing results to challenge the appropriateness of the actuarial assumptions which were used in calculating that NCPP's going concern liability.

2.6 Withdrawal of AGCE

Under the Proposed Regime, if an NCPP has AGCE[7], the AGCE may be used to improve benefits or be left in the NCPP. Withdrawal of AGCE or a contribution holiday using AGCE will not be permitted, subject to any requirements of the *Income Tax Act* (Canada).

2.7 Actuarial Gains

Actuarial Gain is not the same concept as AGCE. Under the current regime, if the current AVR establishes that the total amount of all unfunded liabilities is less than the total amount of all unfunded liabilities projected in the previous AVR, the amount of that actuarial gain may be used to:

- Reduce or eliminate the outstanding balance of any unfunded liability, with the oldest established unfunded liabilities being eliminated or reduced before later ones; and
- Further special payments may be reduced on a prorated basis over the remainder of the applicable amortization period or current service contributions may be reduced.

Under the Proposed Regime, if the current AVR identifies an actuarial gain, that gain may be used to:

- Reduce or eliminate the outstanding balance of any unfunded liability, with the oldest established unfunded liabilities being eliminated or reduced before later ones.

Under the Proposed Regime, it will be explicitly prohibited to use actuarial gains to reduce special payments or contributions to an NCPP, subject to any requirements of the *Income Tax Act* (Canada). If, after applying actuarial gains to all of the past unfunded liabilities there remains assets, then the assets may be used to improve benefits in the NCPP, subject to the proposed rules for benefit improvements. Please see Part 3 for details regarding the proposed rules for benefit improvements.

2.8 Funding Policy

It is not anticipated that the Proposed Regime will prescribe the requirement to establish and maintain a funding policy. The Deputy Superintendent expects that pension plans will be administered in accordance with the Act and Regulations, and that the Administrator and plan decision makers will carefully consider industry best practices in administering the plan.

The Deputy Superintendent has endorsed the CAPSA documents published with respect to pension plan funding policies and pension fund prudent investment. Specific to this subject, are "*Guideline No. 6 – Pension Plan Prudent Investment Practices Guideline*" and "*Guideline No. 7 – Pension Plan Funding Policy Guideline*".

[7] AGCE, or "accessible going concern excess", is introduced earlier in this Part and explained further in Part 3.

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Part 3: Benefit Improvements & Benefit Reductions

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3.0 Introduction

The purpose of this Part is to outline the proposed benefit improvement restrictions and benefit reduction requirements that would be applicable to NCPPs. Consultation questions related to this topic are found in Part 9 of this paper.

3.1 Benefit Improvements

Under the Proposed Regime, benefit improvements (i.e. improvements to the current service benefit and/or ad hoc improvements to monthly pension payments) would be permitted only if the plan has Accessible Going Concern Excess ("AGCE") as measured in the last filed AVR.

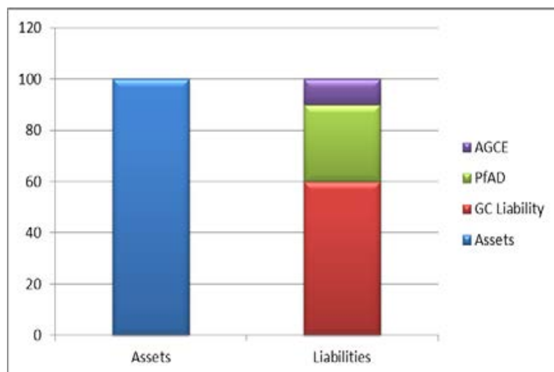
Accessible Going Concern Excess

AGCE would mean the value by which the going concern assets exceed the sum of the going concern actuarial liabilities and the PfAD less a PfAD offset[8].

The following examples are provided in order to assist with understanding of AGCE. The PfAD illustrated in these examples is net of the PfAD offset.

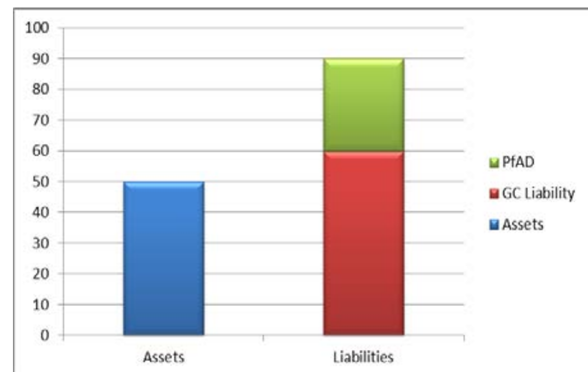
Example A:

AGCE exists therefore it would be possible for benefit improvements



Example B:

AGCE does not exist therefore it would not be possible for benefit improvements



[8] The PfAD offset would mean the sum of the following:

- The present value of contributions which are in excess of the current service costs plus the applicable PfAD on the current service costs, over the period until the next actuarial valuation, to a maximum of three years; and
- The amount, if any, by which the actuarial value of the plan assets is less than the fair market value of the plan assets.

Withdrawal of the AGCE would not be permitted in an ongoing plan. For greater clarity, under the proposed framework, AGCE cannot be used to offset contributions. AGCE could be used to improve benefits. On Plan Termination, surplus assets would be distributed in accordance with the plan documents and the Act.

Under the Proposed Regime, in order to provide a benefit improvement where an NCPP has AGCE, the Administrator must amend the plan documents. After taking into consideration the improvement, the NCPP must continue to have AGCE. The actuarial present value of a benefit improvement would be equal to the additional going concern liability determined on a best estimate basis, plus the PfAD applicable to the additional liability that is created by the benefit improvement.

The restriction on benefit improvements would apply immediately on the effective date of the amending regulation, but would not apply to any benefit improvements negotiated prior to the effective date of the amending regulation.

3.2 Benefit Reductions

Ongoing NCPP – To Meet the Solvency Tests

Currently, an NCPP's negotiated contributions must cover the following costs:

- Current service costs;
- Unfunded liability special payments, if any; and
- Solvency deficiency special payments, if any.

Under the Proposed Regime, an NCPP's negotiated contributions would have to cover the following costs:

- Current service costs, including administrative expenses,
- The PfAD on the CSC, and
- Unfunded liability special payments, if any.

As is currently the case, under the Proposed Regime, if an NCPP's negotiated contributions are not enough to cover the costs of the NCPP, the NCPP would be required to reduce benefits (i.e. future, accrued or both). Regardless of the manner in which the commuted value is calculated (i.e. CIA CV or GC CV), an NCPP would continue to be able to reduce benefits in order to meet the solvency tests. Any benefit reductions must comply with the Act and should be completed in accordance with a funding policy and benefit policy.

It should be noted, that as an alternative to or in addition to benefit reductions, contribution rate increases could be negotiated.

These changes (i.e. benefit reductions and/or contribution rate increases) would continue to have to be made via amendment to the plan documents.

Termination of an NCPP ("Plan Termination")

Currently, benefits can be reduced on Plan Termination if the NCPP's assets are not enough to cover its liabilities. The Proposed Regime does not contemplate any changes to this methodology. The distribution of assets on Plan Termination would continue to be subject to section 39 of the Regulations.

3.3 Benefit Policy

It is not anticipated that the Proposed Regime will prescribe the requirement to establish and maintain a benefit policy. Often a benefit policy is incorporated into a funding policy. The Deputy Superintendent expects all pension plans will be administered in accordance with the Act and Regulations, and that the Administrator and decision makers carefully consider industry best practices.

The Deputy Superintendent has endorsed the CAPSA documents published with respect to pension plan funding policies and pension fund prudent investment. Specific to this subject, are "*Guideline No. 6 – Pension Plan Prudent Investment Practices Guideline*" and "*Guideline No. 7 – Pension Plan Funding Policy Guideline*".

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Part 4: Benefit Types

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4.0 Introduction

The purpose of this Part is to set out the pension benefit types of an NCPP under the Proposed Regime. Consultation questions related to pension benefit types can be found under Part 9 of this paper.

4.1 Types of Benefits

A member of an NCPP can usually[9] transfer the commuted value of that benefit out of the plan on termination of membership. That commuted value must currently be determined in accordance with the standards of practice issued by the Canadian Institute of Actuaries. This commuted value was referred to earlier as a "CIA CV". If the plan is underfunded at the time of termination of membership, the person would receive only the funded portion (based on the solvency ratio) of the CIA CV and would receive the remaining portion of the CIA CV within five years. It is important to note that, if the NCPP's negotiated contribution rates are not sufficient to cover the funding requirements of the plan, an NCPP is required to reduce benefits, which could include any held back portions of transfers.

Under the Proposed Regime, an NCPP could continue to calculate commuted values using the CIA CV methodology. It would also be possible for the NCPP to be amended, or a new NCPP established, to provide for the calculation of commuted values using the GC CV methodology. Calculating commuted values using the GC CV methodology would be a plan design option for an NCPP. At their core, benefits calculated using the GC CV methodology would have the following characteristics:

- The intended pension benefit is based on a formula, in the same fashion as any other defined benefit provision,
- Can be reduced to meet the solvency tests of the NCPP, in the same fashion as any other defined benefit provision; and
- The commuted value would be based on the funded position of the plan (on a going concern basis) and calculated using the going concern actuarial assumptions of the most recently filed AVR. Calculating the GC CV is discussed further under section 4.2 of this Part.

4.2 Calculating the Commuted Value

<u>CIA CV</u>

Under the Proposed Regime, NCPPs could continue to provide benefits that are calculated using the CIA CV methodologies.

As is currently the case for all NCPPs, the value that a person (i.e., member, former member, spouse on death of member/former member, etc.) is or may become entitled to receive must be determined in accordance with the standards of practice issued by the Canadian Institute of Actuaries. This rule will not change.

[9] Provided the person is terminating membership in the plan and is younger than the early retirement age of the plan, the person may transfer the value of his or her benefit out of the plan.

<u>GC CV</u>

Under the Proposed Regime, an NCPP can be amended (or established) to provide for the calculation of commuted values based on the GC CV methodology, on a go forward basis. The calculation of the GC CV would be as follows:

- On termination of membership, the member's benefit value is calculated using the going concern assumptions used in the most recently filed AVR. The member's GC CV is equal to the lesser of:

  - the benefit value; and

  - the benefit value multiplied by the funded ratio of the plan.

  The member's GC CV does not include the unfunded portion of the benefit value (as is the case in a CIA CV). For example, if the benefit value was $55,000 and the going concern position of the plan was 80%, the amount transferred – the GC CV - would be $44,000. There would be no holdback payable.

As discussed under section 4.4 of this Part using this GC CV methodology would be on a go forward basis only; conversion of accrued benefits using the CIA CV methodology to benefits using the GC CV methodology would not be permissible.

4.3 Benefits Payable on Termination of Membership

<u>CIA CV</u>

Under the Proposed Regime, there would be no change to the payment of the CIA CV.

If the NCPP is fully funded (on a solvency basis) in the most recently filed AVR, on termination of membership, the member is entitled to receive 100% of the commuted value.

If the NCPP is not fully funded (on a solvency basis) in the most recently filed AVR, on termination of membership, the member is entitled to receive the funded portion of the commuted value. Any held-back portion would be transferred, with interest, to the member within five years. As mentioned earlier, if, during that five year window, the NCPP's negotiated contribution rates are not sufficient to meet the funding requirements of the plan, an NCPP would be required to reduce accrued benefits, which could include any held back portion of a transfer.

GC CV

Under the Proposed Regime, the GC CV takes into consideration the funded position of the plan (on a going concern basis).

If the NCPP is fully funded (on a going concern basis) in the most recently filed AVR, on termination of membership, the member's GC CV will pay 100% of the benefit value.

If the NCPP is not fully funded (on a going concern basis) in the most recently filed AVR, on termination of membership, the member's GC CV will equal only the funded portion of the benefit value. There would be no future amount payable with respect to the unfunded portion of the benefit value.

The calculation and payment of the GC CV can only be reduced when the GC CV is transferred out of the NCPP. If the entitlement remains in the NCPP, it would not be acceptable to reduce the entitlement on individual termination of membership. However, as mentioned earlier, an NCPP continues to be able to reduce accrued and future benefits in order to meet the funding requirements of the NCPP.

4.4 Applying the GC CV methodology to accrued benefits

Under the Proposed Regime, conversion of accrued benefits using the CIA CV methodology to benefits using the GC CV methodology would not be permissible. An NCPP could either:

- Establish a new plan that provides for benefits using only the GC CV methodology and freeze or close the NCPP that holds the accrued benefits calculated using the CIA CV methodology; or
- Amend the current plan to provide for the calculation of benefits using the GC CV methodology on a go forward basis and freeze, close, or maintain the accrued benefits that use the CIA CV methodology under the current plan.

4.5 Benefits Payable on Plan Termination

As is currently the case, full funding on plan termination is not required under the Act. It is anticipated that this will not change under the Proposed Regime. Under the Proposed Regime, section 39 of the Regulations would continue to set out the methods for allocation and distribution assets on plan termination.

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Part 5: Communications

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5.0 Introduction

The purpose of this Part is to set out the communication and disclosure requirements and expectations of an NCPP under the Proposed Regime. Consultation questions related to communication and disclosure requirements can be found under Part 9 of this paper.

5.1 Communications with Members

Currently, as would be the case under the Proposed Regime, NCPPs are required to provide various communication and disclosure items to plan participants.

Under the Proposed Regime, the following additional information would be required on the NCPP member's annual statement:

- The NCPP's going concern funded ratio, and an explanation of what that ratio means;
- If NCPP provides benefits that are calculated based on the GC CV methodology, an explanation of how the GC CV is calculated;
- An explanation of the PfAD and AGCE and the impact of the PfAD and AGCE to funding and benefit improvements; and
- A statement that benefits, in the event of adverse plan experience, can be reduced.

Similar disclosure requirements would be required for statements respecting death, termination of membership, plan termination, and spousal relationship breakdown.

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Part 6: Administration & Governance

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6.0 Introduction

The purpose of this Part is to set out the requirements and expectations for the administration and governance of a pension plan. Consultation questions related to administration and governance can be found under Part 9 of this paper.

6.1 Plan Administrator

Under the Proposed Regime, there are no changes anticipated regarding who can be an Administrator. Under the current rules, the Administrator of each of the current eligible NCPPs is a board of trustees.

It is acceptable under the current rules for a joint governance structure to exist; one that involves the participation of employers, members, retirees, other plan beneficiaries and independent participants. As is currently the case, the plan documents must provide for the administration and maintenance of the NCPP.

6.2 Governance Policy

It is anticipated that the Proposed Regime will not prescribe the requirement to establish and maintain a governance policy. The Deputy Superintendent expects all pension plans to be administered in accordance with the Act and Regulations, and that the administrator and decision makers carefully consider industry best practices.

The Deputy Superintendent has endorsed the Canadian Association of Pension Supervisory Authority's (CAPSA) published documents respecting pension plan governance and administration. Specific to this subject, is "*Guideline 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire*".

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Part 7: Transition Rules

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7.0 Introduction

The purpose of this Part is to set out the transition rules and considerations. Consultation questions related to transition rules can be found under Part 9 of this paper.

7.1 Applicable Date and Transition Report

The Proposed Regime would apply to an NCPP with the filing of a Transition Report, which is an AVR with a review date of December 31, 2016 or later.

The Transition Report would be required to reflect the PfAD and stress testing requirements addressed earlier in this paper. The Transition Report would serve as a baseline for the Deputy Superintendent and would not trigger the requirement to fund the PfAD on the CSC (please see section 7.2 for additional information regarding the funding of PfAD on the CSC).

With the filing of the subsequent actuarial valuation report, the requirement to fund the PfAD on the CSC would commence.

7.2 GC CV

Under the Proposed Regime, an NCPP may provide benefits that are calculated using the GC CV methodology. An NCPP would not automatically be considered a plan which calculated commuted values using the GC CV methodology. In order to use the GC CV methodology, the Administrator of an NCPP would be required to submit the following:

- An amendment to the plan documents which incorporates the GC CV methodology; and
- An AVR that reflects the benefits that are calculated using the GC CV methodology.

NCPPs can be amended, or established, to calculate benefits using the GC CV methodology on a go forward basis and continue to maintain benefits calculated using the CIA CV methodology on either a going concern, closed, or frozen plan basis.

7.3 Restrictions of Benefit Improvements

The restriction on benefit improvements would apply immediately on the effective date of the regulatory amendment, but would not apply to any benefit improvements negotiated prior to the effective date of the amending regulation.

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Part 8: Additional Considerations

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8.0 Introduction

The following section provides additional consultation questions aimed at three different audiences. Please note that all audiences are invited to comment on any and all questions found in this paper.

- Section 8.1 provides NCPPs with an alternate regime for consideration and comment.
- Section 8.2 seeks input from a wider audience with respect to offering a similar regime to other pension plans.
- Section 8.3 seeks input, about the proposed GC CV, from the administrators, sponsors, participating employers, members, and other stakeholders of plans that are registered in other jurisdictions and have members who are subject to Saskatchewan pension law.

8.1 Alternative – "Enhanced Going Concern"

This paper outlines an alternative to the Proposed Regimes for NCPPs, called "Enhanced Going Concern". This alternative is largely based on the regulatory and funding regime for most public sector pension plans, also known as "Specified Plans" in the Regulations.

Intended audience:

(1) Stakeholders of NCPPs currently registered under the Act; and
(2) As it applies to the fact that this option would not allow for GC CVs, stakeholders of similar plans that are not registered under the Act (multi-jurisdictional, multi-employer negotiated cost defined benefit pension plans).

"Enhanced Going Concern" was provided to most public sector pension plans and may be a suitable regulatory regime for NCPPs registered in Saskatchewan. The main components of Enhanced Going Concern are:

(1) Elimination of solvency deficiency funding, while maintaining the requirement for a solvency valuation;
(2) Decrease the period of time for amortizing newly established going concern unfunded liabilities from fifteen years to ten years; and
(3) Restricting benefit improvements based on a 0.90 solvency ratio test.

Note: This alternative would <u>not</u> provide NCPPs with the option of GC CVs, as described in this paper.

Please review Appendix A for a summary of "Enhanced Going Concern". Please note that if the alternative regime is implemented, the Deputy Superintendent will continue to require PfADs. The Deputy Superintendents expectations regarding PfADs can be found in FCAA's publication "Actuarial Assumptions".

Consultation questions related to the alternative regime can be found in Part 9 of this paper.

8.2 Expand the Proposed Regime to Other Pension Plans

Intended Audience: Stakeholders of all plans registered under the Act.

Based on the Proposed Regime, which includes GC CV, we are interested in seeking an indication of the interest among single-employer pension plans in this option.

As already mentioned, the Proposed Regime explicitly excludes NCPP Public Plans. Based on the Proposed Regime, which includes GC CVs, we are interested in seeking an indication of the interest from NCPP Public Plans regarding this option for pension plan design.

Consultation questions related to this topic can be found in Part 9 of this paper.

8.3 Multi-Jurisdictional Pension Plans

Intended Audience: Stakeholders of multi-jurisdictional NCPPs registered outside of Saskatchewan that provide pension benefits to Saskatchewan members.

Pension benefit entitlement matters, such as the manner in which a commuted value is calculated, are governed by the pension laws of the jurisdiction in which a member was employed at the relevant time[10]. For example, if a member terminated membership while living in Saskatchewan and that member was entitled to benefits under an NCPP, those benefits would be subject to the pension law of Saskatchewan, regardless of where the pension plan is registered. Those calculations may include the assumptions and methodologies used to calculate the commuted value. For example, a GC CV is calculated based on the going concern assumptions and is limited in value to the funded position (on a going concern basis) of the plan, to a maximum of 100% of the benefit value.

Broader pension matters, such as the plan's funding rules, are governed by the pension laws of the jurisdiction in which the plan is registered. For example, if a plan is registered in Ontario and provides benefits to members in Ontario, Saskatchewan and British Columbia, the funding rules (which includes "hold back" rules; see Part 1 and Part 4 of this paper) of Ontario's pension laws would apply to the whole of the plan.

The funding rules set out in this paper would apply only to NCPPs registered in Saskatchewan.

The rules respecting GC CVs would apply to a member that is entitled to benefits payable under the Act, regardless of where the plan is registered. This is because, as was mentioned earlier, the manner in which a CV is calculated is governed by the pension law of the jurisdiction in which a member was employed at the relevant time.

Consultation questions related to this topic can be found in Part 9 of this paper.

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10 The relevant time depends on the situation; it could be the date one terminated employment, passed away or went through relationship breakdown, for example.

Part 9: Consultation Questions

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9.0 Comments

For each question, please explain your response and provide a detailed explanation supporting your response. In addition to the following questions, please respond to this general question:

1. With respect to each Part, are there any additional concerns or considerations that you wish to identify.

Part 1: Introduction & Background

2. Do you agree with the principles?

Part 2: Funding

3. Do you agree with the proposed funding requirements, including the method of calculating the PfAD?
4. Should the rules be more prescriptive regarding the funding policy for an NCPP (e.g. require that such plans have a funding policy; set-out the minimum contents of a funding policy)?
5. Is stress testing an appropriate way to understand the risks of an NCPP?

Part 3: Benefit Improvements & Benefit Reductions

6. Do you agree that an NCPP should have AGCE in order to improve benefits?
7. Do you feel that there should be rules in the Regulations regarding the order of benefits to be reduced to meet the solvency tests?

Part 4: Benefit Types

8. Would the NCPPs that you are involved with be interested in GC CVs?
9. Are there any significant issues respecting preparation of an AVR, member communications, or inequity where an NCPP provides for both methodologies of calculating commuted values (i.e. CIA CV and GC CV)?
10. What are your views on the proposed methodology used to calculate the GC CV?
11. Given that members could be entitled to a GC CV (a CV that reflects the funded status), should plans that provide use the GC CV methodology be required to file periodic updates on their funded position to ensure that commuted value more accurately reflects the funded position of the plan at the time of transfer?
12. Should the ability to convert past benefits to benefits calculated using the GC CV methodologies be provided at this time to NCPPs?

Part 5: Communications

13. Is the communications framework appropriate for NCPPs?

Part 6: Administration & Governance

14. Should there be more or less rules regarding NCPP governing bodies (Administrator and/or sponsor)? For example, should the regulations prescribe the proportion of plan members and retirees, presence of independent trustees, required knowledge and skills, etc.?
15. Should the legislation or regulations be more prescriptive regarding the governance policy for NCPPs (e.g. require that such plans have a governance policy; set-out the minimum contents of a governance policy)?

Part 7: Transition Rules

16. Is the transition framework appropriate? Have all issues been addressed?
17. Do you agree with transitioning the PfAD on the CSC over a 3 year period?

Part 8: Additional Considerations – Section 8.1: Alternative – "Enhanced Going Concern"

18. Do you feel the "Enhanced Going Concern" option would be an acceptable regime as opposed to the Proposed Regime?

Part 8: Additional Considerations – Section 8.2: Expand the Proposed Regime to Other Pension Plans

19. Should a framework similar to the Proposed Regime be an option available to other types of pension plans registered under the Act?

Part 8: Additional Considerations – Section 8.3: Multi-Jurisdictional Pension Plans

20. What issues do you foresee will need to be addressed with respect to GC CVs and multi-jurisdictional plans?

Part 9: Closing Comments & Contact Information

21. Please provide any additional comments or information related to this paper.

Part 10: Closing Comments & Contact Information

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10.0 HOW TO PARTICIPATE

We are interested in hearing your comments.

FCAA is seeking feedback from all interested parties on how best to implement a new regulatory and funding regime for private-sector negotiated cost pension plans. This consultation process will help inform the development of the framework. While some parts of this paper are of a more technical nature, comments of any level of detail are welcome.

A list of consultation questions can be found in Part 9. Further to commenting on the questions we have asked, we would be pleased to hear any additional comments or feedback.

Your comments may be disclosed to others who have provided feedback, or any other interested parties, during and after the consultation process. Your personal information will not be disclosed without your express written consent; however, the identity of an organization may be made public in connection with its submission or comments. *The Freedom of Information and Protection of Privacy Act* of Saskatchewan will apply to any submission received by our office.

Comments must be submitted by July 31, 2016.

You can email your comments to Tami Dove, Senior Policy Analyst, FCAA at tami.dove@gov.sk.ca.

Alternatively, comments can be mailed or faxed to:

Pensions Division
Financial and Consumer Affairs Authority
Suite 601, 1919 Saskatchewan Drive
REGINA SK S4P 4H2

Tel: (306) 787-7650
Fax: (306) 798-4425

Website: www.fcaa.gov.sk.ca

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Appendix A – Alternative Regime

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Appendix A – Alternative Regime: Enhanced Going Concern

A. INTRODUCTION

The main components of Enhanced Going Concern would be: (1) elimination of solvency deficiency funding, while maintaining the requirement for a solvency valuation; (2) decreasing the period of time for amortizing newly established going concern unfunded liabilities ("UL") from fifteen years to ten years; and (3) restrict benefit improvements based on a 0.90 solvency ratio test.

B. GOING CONCERN VALUATION AND CURRENT SERVICE COSTS

Any UL that was established prior to the transition valuation would continue to be funded in accordance with the funding recommendation in the valuation filed prior to the transition valuation. An UL established in the transition valuation or subsequent valuation would have to be amortized over not more than ten years. In other words, each UL must be funded separately.

CSC would continue to be calculated using the same methodologies as is currently the case.

C. PROVISIONS FOR ADVERSE DEVIATION

Under this option, the Deputy Superintendent's expectations for PfAD would not be prescribed by Regulation. While the Deputy Superintendent would continue to expect that the Administrator continues to set appropriate levels of PfAD for their pension plans, such expectations would continue to be communicated through our policy bulletins.

D. BENEFIT IMPROVEMENTS

We feel that plan sponsors should remain diligent in making decisions about the cost of their plan. The proposed new rules strive to assist sponsors in dealing with contribution volatility by tempering the extraordinary fluctuations resulting from the current solvency funding rules. The new rules also strive to ensure that plans are adequately funded over the long term. We feel that introducing a benefit improvement while a plan is insolvent is counter to the objective of ensuring adequate funding over the long term. Once benefit improvements are made to a plan, it would be unusual that they would be removed. It follows that until a plan is on a more solid financial footing, a plan sponsor should not make a plan more expensive.

Therefore, under this option, a benefit improvement would not be allowed if the solvency ratio is less than 0.90, or if the benefit improvement would cause the solvency ratio to fall below 0.90. However, a benefit improvement would be allowed if it is immediately funded by an amount which will result in the plan's solvency ratio being no less than 0.90. The restriction on benefit improvements would not apply to benefit improvements which were established by collective bargaining agreement or other contract before the coming into force of the amended regulations.