



OPSEU Pension Trust

Fiducie du régime de
retraite du SEFPO

April 6, 2011

Attention: Tim Thomson, Project Manager
Financial Services Commission of Ontario
5160 Yonge Street (Box 85)
Toronto ON
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RE: Consultation on FSCO's proposed Risk Based Regulation Framework

The OPSEU Pension Trust (OPTrust) is pleased that the Financial Services Commission of Ontario ("FSCO") has requested comment on its proposed Risk Based Regulation of pension plans in Ontario.

The OPSEU Pension Plan (the Plan) is a contributory defined-benefit pension plan with approximately 82,000 members and pensioners and \$13 billion in assets. It is a jointly sponsored pension plan sponsored by the Ontario Public Service Employees' Union and the Government of Ontario. Being a large public sector pension plan, we are acutely aware of the importance of effective regulation of pension plans, and that particular focus should be paid to those plans that are deemed to be at highest risk.

We trust that our comments on the proposed framework will be of use to FSCO. We have addressed those areas that we feel are most important to OPTrust and that require further clarification on the part of FSCO. We realize that this consultation is a fluid process and are hopeful that FSCO will consider certain changes to strengthen the proposed regulation process.

OPTrust input

OPTrust agrees that risk based regulation is an important process that will identify and continuously monitor those pension plans that are at highest risk of failure or funding pressures. We are also in agreement that the proposed Framework is a useful tool in helping to expand the existing regulatory processes employed by FSCO.

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We have provided our comments in two sections. The first outlines our views on an additional proactive technique to assist pension plans in ensuring a more secure level of funding. The second section provides comments on the proposed mechanisms that have been presented in the consultation document.

Promoting the creation of Contribution Rate Stabilization Reserves

Though it was not specifically identified in the current consultation document, we felt it important to identify one other option that could assist pension plans (and FSCO) in ensuring a more secure level of funding. FSCO's risk-based approach seems to focus more on assessment and monitoring as the means to dealing with risk. We believe that the adoption of proactive mechanisms to mitigate funding risk should also be encouraged.

Within this context, we feel that some consideration should be given to encouraging plans to use funding reserves or contribution rate stabilization reserves. This is a key technique used by the sponsors of the OPSEU Pension Plan to manage downturns in the investment market. The level of the reserves is unique to each plan and is determined based on the plan's investment policy and demographic profile.

A stabilization reserve is a powerful instrument in the management of defined benefit plans during poor market conditions. It allows funding of required contribution increases without an immediate impact on the plan sponsor(s) and/or members. Stabilization funds have proven to be very successful at OPTrust. We would be glad to share our knowledge and experience with FSCO about this approach, as it can easily be used by other pension plans.

Comments on the proposed Framework

Framework principles

We feel that the design principles on which the Framework is based are sound. However, we suggest the addition of one further principle: "balanced". By "balanced" we mean that FSCO should take into account all circumstances and use a balanced approach when examining any pension plan under the Framework. We feel that the greatest focus should remain those plans that are at highest risk of solvency threats or even outright failure. We do not necessarily agree that "widening the net" to examine all plans more closely is the most prudent approach.

Instead, we feel that FSCO should continue to focus primarily on at-risk plans, particularly those that are most likely to have an event that may put them in a precarious position. We would urge against taking a "scattershot approach" and

instead, urge FSCO to continue to identify the plans that require the most scrutiny.

We recognize that much of the risk based framework is based on the wind-up liability and the transfer ratio. Though this may be an appropriate risk measure for some pension plans, we are not certain that this is the case for the larger public pension plans. This may be an area for further consideration in the design of the framework principles and the risk quadrants.

Regulatory Response Model

We feel that the Regulatory Response Model, as well as the risk universe and risk assessment methodology is effective as proposed, however, we do have some comments on certain parts of the model where we feel it could be strengthened.

We agree that documentation and filings from plans are effective tools in the ongoing monitoring approach. It is unclear, however, if FSCO will impose additional filing requirements. We feel that FSCO should use prudence weighing the type of plan, the actual risk level and the resources required to conduct such a review.

On the "Intervention" quadrant you identify *significant number of complaints about plan administration or benefit entitlements* as a risk indicator. We feel that this is not defined sufficiently and needs further clarification. The nature of the complaints as well as the representative size of the plan need to be assessed objectively. A complaint that a termination option form was not provided in a timely matter is valid; a complaint that a specific plan does not provide a subsidized early retirement is not.

This example highlights the concerns that we have about using all complaints as a measure against a plan administrator. We are wary of FSCO using complaints (or the numbers of complaints) as a trigger with which it would begin monitoring pension plans more closely. We feel that this could place a plan administrator in a position of being "guilty until proven innocent". We suggest that the types of complaints should be considered, as well as threshold numbers and other factors if this mechanism is to be used as a trigger point. Complaints should be characterized and placed in relevant categories which could then be used in a proper assessment. We believe that FSCO should focus on appropriate complaints and only then take actions to remedy them.

Detailed Risk Assessment

In the "Detailed Risk Assessment" area of the document you indicate that risk factors must not be considered in isolation, but that a "holistic" approach needs to be taken to assess the risk picture. Yet, there is no mention of what this approach should entail. We are concerned that this implies a subjective review. Additional information is required on this subject as well as what criteria will allow a plan to move from one quadrant to another.

We suggest the adoption of a "risk report card" for all pension plans. FSCO should establish performance measures against which plans may be assessed. This would assist plans in understanding FSCO's expectations, how they may be measuring up as well as acting as an ongoing communication tool to interact with plans. These report cards should be shared with the respective plans so that they could track their input and progress. A report card allows plans and FSCO a quantifiable and appropriate way to monitor progress. Report cards could also be used for all pension plans and not only those deemed at-risk.

We understand that a large part of this framework revolves around the use of checklists to identify potential problem areas. We are not opposed to this approach. However, we do have some concerns about the ongoing use of a checklist. If FSCO is satisfied with the responses provided in the initial review and no trigger points have been engaged nor has a situation materially changed, we would hope that the regulator would not repeat this same process the following year. If FSCO is satisfied that a plan is not at risk it should not pose the same questions again unless it has a valid reason to suspect that the situation has changed. Otherwise, this process could become onerous for the plan administrator, potentially stretch the resources of the regulator and also add unnecessary interactions between the respective parties.

Regulatory tools in support of the Framework

We feel that the business processes identified in the Framework are robust, however, we would urge that more emphasis be placed on the "Education and Engagement" component. It is important that all stakeholders and administrators are made aware of any new processes, how they will be applied and which resources will be made available to implement this program effectively.

Transition plan

We agree that the review of pension plan governance processes is imperative in the risk based regulation process. Jointly sponsored pension plans, such as the OPSEU Pension Plan, are based on a shared risk and reward relationship. We feel that a number of the mechanisms and governance standards in effect at

jointly-sponsored plans would also benefit other plans in the province. While we recognize that a large number of plans are not jointly sponsored, it is critical for all sponsors and members to realize the importance of fostering the climate of a pension partnership. In this context, we would suggest using existing plans with proven governance success as the models for the future. This is an area where we would be glad to share our experiences with FSCO.

We trust that our comments have been helpful. We look forward to being kept apprised of the progress of this initiative and to further opportunities to provide input on this process.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Foster", with a long horizontal flourish extending to the right.

Bill Foster
Chief Administrative Officer