

A Permanent Framework for Target Benefits: Revised Proposals

**August 2023
Follow-Up Consultation
Document**

Contents

Introduction	4
Pillar One: Policies Regarding Funding, Benefits and Governance	7
Funding and Benefits Policy.....	7
Governance Policy.....	8
Filing Requirement for Funding and Benefits Policy and Governance Policy.....	9
Review of Funding and Benefits Policy and Governance Policy.....	9
Pillar Two: Enhance Communication to Members with Required Disclosures	10
Communications Policy.....	10
Filing Requirement for Communications Policy.....	11
Review of Communications Policy.....	11
Disclosure Requirements.....	11
Plan Amendments.....	13
Pillar Three: Requirements regarding Funding and Benefits	14
Provision for Adverse Deviations.....	14
Contribution Sufficiency Test.....	15
Use of Surplus to Fund Normal Cost.....	16
Amortization Period for Deficiencies.....	17
Benefit Reductions.....	17
Benefit Improvements.....	18
Commuted Values.....	19
Funding Concerns Test.....	19
Asset Transfers.....	19
Wind Up.....	20
Reporting Requirements	20
Stress Testing.....	21
Eligibility	21
Multi-Jurisdictional Pension Plans.....	22
Transition and Conversion	22
Notices of Conversion.....	22
Conversion Process.....	22

Effective Date of Conversion	23
Cancelling Solvency Special Payments.....	23
Time to File Policies regarding Funding and Benefits, Governance and Communications	23
Funding Transition Period.....	24
Family Law Considerations	24
Legislative and Consequential Amendments	24
Framework Review	24
Conclusion	24

Introduction

On March 15, 2023, the Ministry of Finance launched consultations on proposed regulations necessary for implementing a permanent framework for multi-employer pension plans (MEPPs) providing target benefits. The consultation closed on June 30, 2023.

During the consultation, the Ministry received a number of submissions from experts in the pension administration, actuarial, and legal professions.

Feedback included support for:

- a permanent framework, including a permanent exemption from funding on a solvency basis;
- funding and governance policies that are based on guidelines from the Canadian Association of Pension Supervisory Authorities (CAPSA);
- member communications and engagement being an important aspect of a plan that provides target benefits; and
- adopting new actuarial standards for calculating commuted values for target benefits.

Feedback included concerns about:

- the requirement to fund a provision for adverse deviations (PfAD) that involves the use of a benchmark discount rate;
- the number of legislated notice requirements with respect to conversion;
- the restriction on ability to reduce commuted values based on a plan's funded status;
- certain disclosure requirements; and
- the requirement that past benefit reductions be reversed before benefit improvements can be made.

As a result of the feedback received during the consultation, the Ministry is proposing a number of revisions to the proposed regulatory framework for target benefits.

Of these proposed revisions, the major proposed changes include:

- a revised approach to the PfAD in which plan administrators would have discretion to establish their plan's PfAD in line with the plan's funding policy. The Ministry is also proposing that "funding policy" be renamed "funding and benefits policy" to highlight the importance of benefit adjustments in response to funding issues;
- streamlining requirements for the conversion process;
- permitting the commuted value calculation to include a reduction by the plan's going concern funded status if required by the terms of the plan; and
- adding a requirement for plan administrators to establish and file a communications policy, while revising some of the proposed minimum information required to be included in member communications.

This paper builds on the previous consultation both by setting out the revised proposals and by providing additional details on some of the elements addressed in the previous consultation paper, including on the proposed requirement to reverse past benefit reductions before improving other benefits.

The Ministry's objective in these consultations has been to work with stakeholders towards an effective regulatory framework for target benefits. The level of engagement and involvement in this process has been encouraging, demonstrating the mutual interest in a permanent framework for target benefits that would support long-term plan sustainability for beneficiaries.

The Ministry remains committed to consultation and dialogue on these proposals, and is looking forward to continued engagement with the sector on a permanent regulatory framework for target benefits.

The government's objectives in supporting a permanent framework is to:



Provide Certainty: Enabling MEPPs to build funding and governance practices around regulatory requirements.



Increase Transparency: Including new target benefit-specific rules for information disclosure in member communications to ensure that members understand that their accrued target benefits may be reduced.



Improve Equity: Encouraging prudent investment strategies so that adverse events or lower than expected returns are not borne exclusively by future members.

The Ministry of Finance continues to encourage interested stakeholders to provide feedback on all aspects of the proposed target benefit regulatory framework. Interested parties can take part in the consultation by meeting with Ministry officials and through submissions made on the [Ontario Regulatory Registry](#). The deadline for submissions is **October 17, 2023**.

To request a meeting with Ministry officials, please email pension.feedback@ontario.ca.

Written submissions can be sent to:

pension.feedback@ontario.ca

or

Pension Policy Branch
Ministry of Finance, 5th Floor Frost South
7 Queen's Park Cres
Toronto, ON M7A 1Y7

Pillar One: Policies Regarding Funding, Benefits and Governance

Most stakeholders have been supportive of the requirement to have a funding and benefits policy and a governance policy, with several stakeholders indicating that their plan administrators already maintain these policies. Feedback has also encouraged use of best practices as outlined by CAPSA.

The Ministry has also heard that these regulatory provisions should not be overly prescriptive, as each plan has unique circumstances and plan administrators require discretion in order to address these situations.

A key change in the proposed approach outlined in this paper is with respect to the PfAD. Instead of proposing a prescribed method for determining the PfAD, the Ministry is proposing that each plan administrator establish and implement a PfAD that complies with their plan's funding and benefits policy. To support this new proposed approach, the regulations would require plan funding and benefits policies to include the method for determining the PfAD and an explanation of how a plan's PfAD would support the plan's funding and benefits objectives and mitigate material risks to benefits.

Funding and Benefits Policy

Under the proposed approach, plan administrators would be required to establish a funding and benefits policy that addresses the following:

1. The funding and benefits objectives for the pension plan as they relate to:
 - i. The benefits provided under the plan and the stability of those benefits.
 - ii. The stability of the contributions required under the plan.
 - iii. The equitable treatment of members, former members and retired members, in the context of both the current and the future membership of the plan.
2. The process, including metrics, that the plan administrator will use to assess whether the funding and benefits objectives have been achieved over the short and long terms, and how this process will be used to assess if changes to funding or benefits are needed.
3. The material risks relating to benefits provided under the plan that could result in reductions to accrued benefits, and the measures to be taken to quantify and manage those risks.
4. The method for determining the PfAD.

5. An explanation of how the PfAD, in conjunction with other actuarial methods and assumptions, supports the funding and benefits objectives.
6. An explanation of how the PfAD, in conjunction with other actuarial methods and assumptions, mitigates the material risks.
7. The methods for achieving the funding and benefits objectives, including the use of strategies and tools (e.g., choice of actuarial methods and assumptions, investment strategy, other funding margins, etc.) that may be appropriate in addition to the PfAD.
8. The processes that would be used to determine how benefits, including accrued benefits, will be reduced if contributions being made to the plan are not sufficient to meet the plan's funding requirements.
9. The default benefit reductions that would only apply if benefit reductions are needed but not implemented as required using the processes described above. This is to ensure that action is taken within the timelines set out in the regulations so that contributions are sufficient.
10. The circumstances in which benefit improvements could be made and how those improvements would be funded, including through the use of surplus. This should include whether, and if so how, previously reduced benefits would be restored before additional improvements are made.
11. The circumstances in which surplus could be used to offset contribution requirements for normal cost and PfAD, and an explanation how use of surplus for this reason is supported by the funding and benefits objectives.
12. The circumstances that would cause the funding and benefits policy to be reviewed outside of the regulated review process or amended and the process by which the funding and benefits policy would be amended.

Governance Policy

Plan administrators would also need to establish a governance policy that addresses the following:

1. The roles, responsibilities and reporting relationships of the persons involved in the administration of the pension plan or pension fund.
2. The operational policies in place to support the administration of the pension plan or pension fund, including any applicable organizational structures.
3. The skills, knowledge, experience and other attributes required of each person or class of persons involved in the administration of the pension plan or pension fund.

4. The measures in place to provide the persons involved in the administration of the pension plan or pension fund with the ongoing training necessary to meet their obligations.
5. The measures in place to monitor, review and assess the skills, knowledge and performance of the persons involved in the administration of the pension plan or pension fund.
6. The systems and measures in place, such as the PfAD, stress tests and projections, to identify, quantify and manage material risks to the pension plan or pension fund.
7. The frequency with which the administrator will assess whether the funding and benefits objectives have been achieved.
8. The processes in place to determine what changes to the administration of the pension plan or amendments to the plan may be appropriate based on the results of the stress testing required to be included in a valuation report (see Reporting Requirements below) and any other relevant tools.
9. The processes in place to ensure that persons involved in the administration of the pension plan or pension fund have access to relevant, timely and accurate information.
10. The code of conduct established for persons involved in the administration of the pension plan or pension fund, including the process for identifying, monitoring and addressing conflicts of interest.

Filing Requirement for Funding and Benefits Policy and Governance Policy

In light of the changes to the PfAD and the importance of alignment with the plan's funding and benefits policy, it is proposed that plan administrators have one year after the effective date of conversion to establish and file their funding and benefits policy and governance policy with the CEO of FSRA.

Review of Funding and Benefits Policy and Governance Policy

As outlined in the previous consultation paper, the administrator of a pension plan will be required to periodically conduct a review of the plan's funding and benefits policy and governance policy.

- The first review will need to be completed within three years after the day the funding and benefits policy or governance policy is established.
- Each subsequent review will need to be completed within three years after the day the previous review was completed.

At the request of the CEO of FSRA, the plan administrator will be required to provide the CEO of FSRA with evidence that the plan's funding and benefits policy or its governance policy has been reviewed. This would include supporting documents regarding how and what factors have been considered in making changes, if any, to these policies.

Any changes to the funding and benefits policy or governance policy would need to be filed within 60 days in accordance with subsection 12(3) of the *Pension Benefits Act* (PBA).

Pillar Two: Enhance Communication to Members with Required Disclosures

Stakeholders have consistently agreed that effective member communications and transparency are of utmost importance. Several stakeholders have provided examples of how members and others in the plan are engaged and the various activities that are undertaken to raise member awareness and understanding.

Communications Policy

Submissions from several stakeholders discussed the importance of distinguishing between minimum disclosure requirements and active member engagement. To this end, some stakeholders suggested also requiring a communications policy, where plan administrators would be required to outline their goals for engaging plan members, raising awareness and understanding of the plan, and evaluating the effectiveness of these activities.

The proposed target benefit framework would require the plan administrator to establish and file a communications policy with the CEO of FSRA. Given the possibility that benefits could be reduced, the plan administrator would need to consider what additional information about the plan, if any, should be included on statements to plan members, former members and retired members. Plan administrators would be required to describe any such information in the communications policy. The policy would also be required to set out any information that would be provided to individuals entitled to benefits using methods besides prescribed statements.

Plan administrators would need to consider plan demographics when designing their communication materials to ensure that relevant information about the plan is understood by the plan's membership.

It would be required to be documented in the communications policy the processes for the communication of relevant, timely and accurate information to individuals entitled to benefits under the pension plan, to employers participating in the plan, to trade unions and associations representing members of the plan and to the CEO of FSRA.

The communications policy would need to include a process for evaluating the effectiveness of communications.

Filing Requirement for Communications Policy

It is proposed that plan administrators have one year after the effective date of conversion to establish and file their communications policy with the CEO of FSRA.

Review of Communications Policy

As proposed for funding and benefits and governance policies, the administrator of a pension plan will be required to periodically conduct a review of the plan's communications policy.

- The first review will need to be completed within three years after the day the communications policy is established.
- Each subsequent review will need to be completed within three years after the day the previous review was completed.

At the request of the CEO of FSRA, the plan administrator will be required to provide the CEO of FSRA with evidence that the plan's communications policy has been reviewed. This would include supporting documents regarding how and what factors have been considered in making changes, if any, to the policy.

Any changes to the communications policy would need to be filed within 60 days in accordance with subsection 12(3) of the PBA.

Disclosure Requirements

Stakeholders have also expressed concern that the level of disclosure proposed in the previous consultation paper risked creating confusion or concern for plan members.

The Ministry is proposing to simplify the proposed member disclosure requirements by removing the proposals to require annual statements to include benefit adjustments over the past ten years and the plan's transfer ratio.

The proposed requirements below would be in addition to existing requirements under the Act and Regulations:

Information for new members:

- An explanation of how benefits provided under the plan are funded, including a statement that contributions to the plan are fixed and that benefits, including benefits already accrued under the plan, may be reduced.

- A summary of the plan's funding and benefits policy, including the processes that would be used to determine how benefits, including accrued benefits, will be reduced if contributions being made to the plan are not sufficient to meet the plan's funding requirements.
- A statement that the benefits provided under the plan are not guaranteed by the Guarantee Fund.
- The going concern funded ratio of the plan as of the valuation date of the report filed most recently.
- An explanation of the going concern funded ratio and a description of how it relates to the level of funding of members' benefits.
- If applicable, a statement indicating that upon termination of plan membership, the member may be entitled to elect a transfer of the commuted value of their deferred pension, and that, if required by the plan text, the calculation of the commuted value incorporates a reduction by the going concern funded status of the plan consistent with actuarial standards.
- An explanation of how the funding and benefits policy of the plan could affect the amount a member could receive in retirement relative to their accrued target benefit if the member were to transfer a pension benefit out of the plan at termination or at plan wind up.

In annual member statements:

- A statement that the member's benefits, including accrued benefits and benefits provided on the death of the member, may be reduced while the plan is ongoing and on wind up.
- The going concern funded ratio of the plan as of the valuation date of the most recently filed valuation report.
- The estimated going concern funded ratio calculated as of the end of the period covered by the statement.
- An explanation of the going concern funded ratio and how it relates to the level of funding of members' benefits.
- If special payments are required in respect of any going concern unfunded liability, a statement to that effect.
- A statement setting out the treatment of any surplus in a continuing plan and on wind up and explaining that no employer is entitled to payment of surplus under the plan.

- If applicable, a statement indicating that upon termination of plan membership, the member may be entitled to elect a transfer of the commuted value of their deferred pension, and that, if required by the plan text, the calculation of the commuted value incorporates a reduction by the going concern funded status of the plan consistent with actuarial standards.
- A statement that the member is entitled to inspect at FSRA or to receive a copy from the CEO of FSRA (after paying a fee) any of the following documents:
 - The plan's funding and benefits policy.
 - The plan's governance policy.
 - The plan's communications policy.
 - The plan's statement of investment policies and procedures.

Similar disclosure requirements, as applicable, are proposed for biennial statements for retired or deferred members, as well as for statements on death of a member or termination of plan membership.

Plan Amendments

If an amendment is made to the plan that reduces benefits or rights of members (commonly known as an adverse amendment), the following disclosures would be required in addition to an explanation of the amendment required under subsection 26(1) of the PBA:

- The going concern funded ratio of the plan as of the valuation date of the most recently filed report and the going concern funded ratio of the plan, calculated assuming the proposed amendment is in effect.
- If the recipient of the notice is a member or former member of the plan, the annual amount of the member or former member's pension benefit payable at the normal retirement date, calculated assuming the proposed amendment is in effect and calculated assuming the proposed amendment is not in effect.
- If the recipient of the notice is a retired member of the plan, the annual amount of the pension payable to the retired member as of the effective date of the proposed amendment, calculated assuming the proposed amendment is in effect and calculated assuming the proposed amendment is not in effect.
- If the recipient of the notice is a person, other than a member, former member or retired member, who is entitled to benefits under the plan, the amount of the benefit payable to the person, calculated assuming the proposed amendment is in effect and calculated assuming the proposed amendment is not in effect.

- If an amendment is made to meet the contribution sufficiency test,
 - The valuation date of the relevant valuation report that identifies the requirement to take action, and a statement that contributions to the plan are not sufficient to meet the plan's funding requirements.
 - A statement that the member is entitled to inspect at FSRA or to receive a copy from the CEO of FSRA (after paying a fee) any of the following documents:
 - The plan's funding and benefits policy.
 - The plan's governance policy.
 - The plan's communications policy.
 - The plan's statement of investment policies and procedures.

Pillar Three: Requirements regarding Funding and Benefits

Stakeholders supported the proposal for an exemption from funding on a solvency basis. In addition, other funding elements such as requiring valuations at least triennially were supported.

Provision for Adverse Deviations

During the consultation, the primary feedback the Ministry heard was concern with the proposed approach to the PfAD, in particular the potential for volatility based on the benchmark discount rate component of the proposed PfAD.

Most stakeholders have acknowledged the role of a PfAD but have suggested the Ministry look at approaches such as the recently implemented PfAD in British Columbia, which is simpler and includes a discretionary component.

Most stakeholders also noted that many plan administrators currently employ a form of funding margin. The Ministry also heard that a PfAD with a fixed minimum could be problematic for some plans given the diversity of MEPPs.

As a result, the Ministry is proposing a different approach in which each plan administrator would have the discretion to establish their own plan's PfAD in compliance with the plan's funding and benefits policy. FSRA, in consultation with stakeholders, is able to issue any guidance that may be required to support this approach. Valuation reports filed with the CEO of FSRA would need to include an explanation of how the PfAD was developed to comply with the plan's funding and benefits policy.

The regulator would assess the compliance of the PfAD with the plan's funding and benefits policy. To support this proposed approach, the CEO of FSRA would have the authority to request, without an order, information from the plan administrator or actuary to allow the CEO to determine if the PfAD complies with the plan's funding and benefits policy and the requirements under the PBA. For example, the CEO could request information on any tools or analysis (e.g., an asset-liability study, if used, stress tests, etc.) applied in the determination of the PfAD, any actuarial methods and assumptions used that would be relevant for FSRA's assessment of PfAD compliance, or any risk management strategies employed by the plan administrator other than the PfAD.

Contribution Sufficiency Test

As outlined in the previous paper, for each year covered by a valuation report, contributions would be required to meet a sufficiency test.

Under the proposed framework, the contribution sufficiency test would require contributions to the plan to be no less than the sum of the following:

1. The normal cost of the plan;
2. The PfAD in respect of the normal cost;
3. Going concern special payments set out in previous valuation reports that remain to be paid;
4. Going concern special payments as determined in the most recent valuation report; and
5. Going concern special payments in respect of target benefits that are required to fund an increase in going concern liabilities and a PfAD on the increase in going concern liabilities, due to a plan amendment.

If contributions to the plan do not satisfy this test, the plan administrator would be required to take action so that the plan passes the test (i.e., increasing contributions or reducing the target benefits) within 90 days of the report being filed. As mentioned above, the funding and benefits policy must set out the processes that would be used to determine how benefits would be reduced and the default reductions that would apply if no other action is taken.

Along with proposed changes to the PfAD, several stakeholders also proposed that the contribution sufficiency test only require that, in addition to the normal cost, contributions fund the greater of the PfAD or going concern special payments not due to benefit improvements.

One of the key considerations for the proposed framework is to support the long-term sustainability of the benefits that are provided by these plans, which includes having plan administrators take timely action to address funding shortfalls.

As a result, the Ministry is not proposing to allow the funding of only the greater of special payments for going concern unfunded liabilities and the PfAD, given that this approach could result in PfADs not being funded or being funded to a lesser degree when special payments are required. This approach would minimize the effect of the PfAD on the plan's risk management, and therefore could expose members to additional risks in the future should adverse scenarios occur.

Use of Surplus to Fund Normal Cost

Some stakeholders have raised the possibility of using going concern surplus as an offset to contribution requirements for normal cost and the PfAD in respect of normal cost in the contribution sufficiency test to avoid benefit reductions.

This has typically been proposed as a temporary measure plan administrators could use in between bargaining cycles where contributions may need to be changed.

The Ministry is proposing to allow the use of going concern surplus in the contribution sufficiency test under specific circumstances.

The proposed circumstances would be the following:

- The plan assets available to be used to offset requirements in the contribution sufficiency test would be, at most, one third of the lesser of:
 - plan assets in excess of 105% of the plan's going concern liabilities; and
 - plan assets in excess of 100% plus its PfAD percentage of the going concern liabilities of the plan.
- Annual valuation reports would be required if surplus is used to offset required funding.
- The use of surplus would be prohibited in the first valuation report after a new collective agreement affecting contributions to the plan has been implemented.

The intention of this approach would be to provide temporary flexibility for funding requirements for plans who would otherwise fail the contribution sufficiency test before being able to renegotiate contributions.

If a plan's contributions are not fixed in a collective agreement, it is proposed that surplus could not be used to offset required funding. The Ministry is interested in engaging further on this proposal with plans that have contributions fixed in documents other than a collective agreement.

Amortization Period for Deficiencies

As outlined in the previous consultation paper, special payments related to going concern unfunded liabilities (excluding those related to benefit improvements) would be amortized over 12 years starting one year after the applicable valuation date. Also as previously proposed, if previously scheduled special payments are not needed to satisfy funding requirements, current schedules could be shortened, but the monthly rate of special payments would remain the same if some are still needed.

Several stakeholders commented that schedules of special payments should be consolidated in each valuation report. In considering these proposals, the Ministry remains concerned with the possibility of long-term underfunding of plans if special payment schedules can be continually consolidated, and therefore the proposed framework will continue to maintain fixed payment schedules for unfunded liabilities.

Benefit Reductions

As noted in the previous consultation paper, the regulations would prescribe a process for equitable reductions in benefits. The intent of this proposal is not to prescribe a specific process for benefit reductions; this would be included in the plan's funding and benefits policy. Rather, the intent is to limit the possibility that former members are disproportionately affected by benefit reductions. Analysis of benefit reductions demonstrates that benefits of former members at times have been reduced more frequently and by higher amounts than benefits of members.

To support equitable reductions, the proposed regulations would prescribe that liabilities for former members could not be reduced by a greater percentage than for members.

Expressing the rule in terms of percentage reductions in plan liabilities, rather than benefits, would provide plan administrators with some flexibility in determining how benefit reductions are implemented. The proposed rule would also be consistent with actions needed to satisfy the contribution sufficiency test, since plan administrators would generally satisfy the test by reducing liabilities.

The proposed regulations would also prescribe that the percentage benefit reduction for one former member could not be more than twice the percentage benefit reduction of any other former member. This rule would help ensure that no former member is disproportionately affected by benefit reductions.

Lastly, the proposed regulations would prescribe that benefit reductions could not be made purely due to termination of plan membership or death. This rule would still allow plan texts to require that the commuted value calculation includes a reduction by the plan's going concern funded status. The proposed rule would only prohibit further reduction of commuted values due to termination of plan membership or death.

Benefit Improvements

As outlined in the previous consultation paper, the proposed framework would allow benefit improvements regardless of the plan's funded level. If a benefit improvement is made, any increase in going concern liabilities and the plan's PfAD on this increase would be required to be funded over 10 years.

Surplus could be used to fund benefit improvements as long as, after the benefit improvement, plan assets are at least the greater of:

- 105% of the plan's going concern liabilities; and
- 100% plus its PfAD percentage of the going concern liabilities of the plan.

As a consequence of this rule, schedules of special payments to fund benefit improvements could only be shortened (or eliminated) if the assets and remaining special payments would more than fully fund going concern liabilities and the PfAD in respect of the liabilities (consistent with the approach described in the previous consultation paper) and the assets would be in excess of 105% of going concern liabilities.

During the consultation, the Ministry received several submissions regarding the proposed requirement for plan administrators to restore past benefit reductions before making benefit improvements. The intent of the proposal is to support equitable changes to benefits. As noted above regarding benefit reductions, analysis of benefit changes shows that former members are sometimes affected by benefit reductions to a greater degree than members. As such, proposed regulations would require previously reduced accrued benefits for former members to be restored before accrued benefits for members could be improved beyond a restoration of previously reduced benefits.

The rule would apply only to accrued benefits (i.e., plan administrators would not be required to restore reductions made to members' future accruals before making other improvements). There would be no restrictions on improvements to future accruals or on pensions for retired members. There would also be no restrictions on benefit improvements once accrued benefits are restored for former members.

In particular, the proposed regulations in respect of benefit improvements would mirror the equitable benefit reduction rules. The regulations would prescribe that benefit improvements could not increase liabilities for members by a greater percentage than for former members. Similar to its parallel equitable benefit reduction rule, expressing this rule in terms of percentage reductions in liabilities, rather than benefits, would allow plan administrators a degree of discretion in their benefit improvement decisions.

Also, similar to the equitable benefit reduction rules, the regulations would prescribe that the percentage benefit increase for one former member could not be more than twice the percentage benefit increase for any other former member to better support the equitable treatment of former members.

Commuted Values

During the consultation, the Ministry heard broad support for adopting the standards for calculating commuted values for target benefits using the methodology outlined by the Canadian Institute of Actuaries.

Stakeholders also advocated that the rules allow the plan text to require the amount of a commuted value to be reduced based on the funded status of the plan in situations where the plan is underfunded.

Responding to this feedback, the proposed framework would permit commuted value calculations to include a reduction by the going concern funded status of the plan, if required by the terms of the plan, consistent with actuarial standards. This would apply to commuted values for terminating members and in the family law valuation context. The new basis for calculating commuted values would only be used for members with a termination date or family law valuation date on or after the effective date of the proposed regulations.

As noted under Pillar Two, to support transparency to members, it is proposed that plan administrators would be required to disclose that the plan text specifies that the calculation of the commuted value includes a reduction by the funded status of the plan when the plan is underfunded, where applicable.

Funding Concerns Test

Consistent with the previous consultation paper, administrators of plans with a going concern funded ratio that falls below 85% would be required to file annual valuation reports to support greater plan oversight and to ensure timely action is taken to address a deteriorating funded position.

FSRA would also continue to play an important supervisory role in monitoring, engaging with, and supporting plans that are experiencing funding challenges. This could include, but not be limited to, active reviews of valuation reports, holding supervisory meetings with plan administrators, and discussions and analysis of the actuarial assumptions and methods being used.

Asset Transfers

Section 81 of the PBA and Regulation 310/13 have specific provisions that facilitate asset transfers between MEPPs. Building on these provisions, regulatory amendments would be made regarding asset transfers involving target benefits so that accrued benefits are appropriately maintained.

Assets related to target benefits provided under the original plan that are transferred to a successor plan must be used to provide target benefits in the successor plan. The amount of a transferred member's accrued pension benefits, excluding ancillary benefits, under the successor plan could not be less than the amount of their accrued pension benefits, excluding ancillary benefits, under the original pension plan.

Also, the amount of assets transferred from the original plan would be based on the proportion of going concern liabilities transferred, not solvency liabilities.

In addition, after the transfer, the going concern funded ratio of the successor plan could not be less than the going concern funded ratio of the original plan, to avoid benefits being more poorly funded because of a transfer. However, there would be an exception to this if the original plan's assets fully fund the original plan's going concern liabilities and PfAD. In that case, the going concern funded ratio of the successor plan need only be at least the 100% plus the PfAD of the original plan; that is, any surplus in the original plan in excess of the PfAD is ignored for this test.

Similarly, the going concern funded ratio of the successor plan after the transfer could not be less than its going concern funded ratio before the transfer, except that the going concern funded ratio of the successor plan could be reduced if, after the transfer, its going concern funded ratio is at least 100% plus the PfAD of the successor plan.

So that transferred individuals understand their new plan, notices to members, former members, retired members, unions and advisory committees would be required to describe conditions that could lead to a reduction of benefits in the successor plan.

Wind Up

Note that the wind-up procedure will not affect the funding rules for target benefits on an ongoing basis since solvency funding requirements will not apply to target benefits.

Wind up of MEPPs under the proposed target benefit framework would be similar to the current wind-up process for MEPPs that can reduce benefits. Benefit entitlements would be determined using the same actuarial basis as would currently apply.

One change in the wind-up process, as indicated by the unproclaimed amendment to subsection 73(2) of the PBA, is that retired members will have the option to transfer the commuted value of their pension to a prescribed retirement savings arrangement. All individuals entitled to benefits on wind up will continue to have the option of purchasing an annuity at wind up. Also, there would be no requirement for contributions for shortfalls at wind up, and benefits would be adjusted depending on the available assets.

Reporting Requirements

Additional information will be required in filed valuation reports that are specific to target benefits, such as information regarding stress testing and an explanation of how the PfAD was developed to comply with the plan's funding and benefits policy.

Reports must also continue to set out, on the basis of a solvency valuation using plan benefits on the valuation date, both the plan's transfer ratio and the solvency ratio.

Stress Testing

Each filed valuation report would be required to include results of stress tests. For each risk identified in the funding and benefits policy, a stress test would be required to show the possible impact on the plan's funded position and plan benefits due to the risk if plan experience is poor (for example, a stress test could show impacts due to poor investment returns). The filed report would also be required to explain hypothetical changes to benefits or contributions that might be needed to ensure the sufficiency of the contributions under the scenarios illustrated by the stress tests.

Plan administrators would be able to choose the methodology to use for the stress tests that would be appropriate for the size and complexity of their plans. For example, stress testing could involve deterministic or stochastic projections of the plan based on reasonable assumptions for future returns, demographic changes and other factors that could affect the plan. The plan administrator would be able to select how the stress test would be performed, based on the circumstances of the plan. Larger plans may find stochastic projections to be a valuable way to manage plan risks.

Eligibility

Multi-employer pension plans established by collective agreement or trust agreement that can reduce accrued benefits would be able to provide target benefits.

In addition to the eligibility criteria established in the PBA for conversion of benefits to target benefits and ongoing criteria for target benefits, the following requirements that are based on the criteria for SOMEPPs would apply at the time of conversion and in each year that the plan provides target benefits:

- At the end of the previous year, no more than 95 per cent of the members of the plan were employed by one employer; and
- During the previous year, at least 15 employers made contributions to the plan or at least 10 per cent of the members of the plan were employed by two or more employers.

Understanding that some existing MEPPs whose accrued benefits can be reduced have both a defined benefit and a defined contribution component, administrators of these plans will be eligible to apply to convert the defined benefits to target benefits, provided the defined contribution component is treated separately. For example, the assets of the pension fund relating to target benefits (assets relating to defined benefits prior to conversion) must be held separately from the assets relating to the defined contribution benefits (assets that cannot be used to provide target benefits).

Multi-Jurisdictional Pension Plans

The previous consultation paper outlined a proposal that plans could provide target benefits if no more than 10% of their membership is in a jurisdiction in Canada whose jurisdiction does not provide for any process to reduce benefits.

The Ministry has received stakeholder input on this proposal and would like to continue to engage further with these plans on a potential approach that limits the risk that benefits of Ontarians would be disproportionately affected by benefit reductions.

Transition and Conversion

For existing benefits in eligible MEPPs to be converted to target benefits, plan administrators would be required to apply to the CEO of FSRA.

This conversion process will be important to ensure transparency to the plan's membership, and consultation with unions.

One of the major areas that stakeholders provided commentary on was the process for conversion. Stakeholders have generally raised concern with the proposed level of disclosure for members and employers, given that the nature of the benefits are not changing and the requirements of employers remain the same.

Notices of Conversion

Responding to stakeholder feedback, the Ministry is proposing to remove the requirements to provide notices of the proposed conversion and notices of the application for consent from the CEO of FSRA to convert.

As part of the conversion process, plan administrators would be required to engage in good faith consultation with participating trade unions and associations prior to applying for consent to convert.

After conversion, the notice of the registration of the plan amendment reflecting the conversion, required under subsection 26(3) of the PBA, would also be required to be sent to participating employers and trade unions and associations.

Conversion Process

As outlined in the PBA, the conversion process requires plan administrators to apply to the CEO of FSRA for consent to convert. Subsection 81.0.2 (2.1) of the PBA establishes the time period to apply for consent to convert, which is five years from the effective date of the proposed framework.

The requirements for the content of the application for consent to convert would be established through regulation. Under these requirements, the plan administrator would need to include in the application the following documents: a copy of the proposed plan amendment reflecting the conversion, a statement certifying that the plan administrator has consulted with any applicable trade union and/or association, and a statement from the plan administrator certifying that the eligibility criteria in subsection 81.0.2 (2) of the PBA have been satisfied.

Effective Date of Conversion

As mentioned in the previous consultation paper, the effective date of a conversion of benefits would be required to be within 12 months of the date that the CEO of FSRA consents to the proposed conversion.

The plan administrator would be required to prepare a valuation report under target benefit funding rules with a valuation date that is the effective date of conversion and file it with the CEO of FSRA within nine months of that valuation date.

Cancelling Solvency Special Payments

Consistent with the approach outlined in the previous consultation paper, as part of the conversion process, reduced solvency special payments and solvency special payments due after the conversion of benefits to target benefits would be cancelled, provided the following conditions are satisfied:

1. The CEO of FSRA consents to the conversion; and
2. The special payments relate to a solvency deficiency or a reduced solvency deficiency (or a consolidated solvency deficiency) identified in a valuation report with a valuation date that is before the effective date of conversion.

Time to File Policies regarding Funding and Benefits, Governance and Communications

The Ministry wishes to ensure that plan administrators have enough time to transition their plans into the target benefit framework appropriately once benefits have been converted.

Given the importance of proposed funding and benefits, governance and communications policies to these plans, particularly given the revised proposed approach to the PfAD, the proposed regulations would give plan administrators one year after the effective date of conversion to file these policies with the CEO of FSRA. This would provide plan administrators with time to obtain any required actuarial input and other advice from their advisors to finalize these policies, where they do not already exist.

Funding Transition Period

In the previous consultation paper, a transitional funding period was proposed so that funding requirements for plans whose benefits are converted to target benefits would not be greater than the currently applicable funding requirements for five years.

Given the new approach to the proposed PfAD, it is now proposed that plan administrators would not be required to include a PfAD in their minimum funding requirements in the valuation report filed upon conversion. Subsequent reports would be required to include funding for a PfAD.

This proposed transition period should provide plan administrators with sufficient time to develop their plan's funding and benefits policy, which must include the method for determining the PfAD, before the PfAD would have to be included in the plan's minimum funding requirements.

Family Law Considerations

Family law provisions in Regulation 287/11 would be amended to accommodate target benefits. These proposed amendments would include, as noted in Pillar Three, the adoption of the standards for calculating commuted values for target benefits using the methodology outlined by the Canadian Institute of Actuaries. In addition, commuted value calculations could include a reduction by the going concern funded status of the plan if required by the terms of the plan, consistent with actuarial standards.

Legislative and Consequential Amendments

The Ministry intends to propose legislative amendments necessary to implement the proposed target benefit framework (e.g., removing the requirements to provide advance notices with respect to a conversion, etc.) and any necessary consequential regulatory amendments.

Framework Review

Given the comprehensive nature of the proposed regulatory regime, the Ministry also intends to review the framework against its objectives in the future.

Conclusion

Since the launch of the consultation on target benefits, the government has made clear the importance of establishing a framework that is informed by stakeholders and will help strengthen the sustainability of these plans and ensure transparency and protection for members.

The government welcomes feedback and comments on the proposals set out in this paper. Written submissions can be sent to the following addresses by October 17, 2023:

pension.feedback@ontario.ca

or:

Pension Policy Branch, 5th Floor Frost South
Ministry of Finance
7 Queen's Park Cres
Toronto, ON M7A 1Y7