



**August 21, 2017**

**Re: Consultation Paper on Proposed Changes to Funding and Asset Allocation Rules Under a Future Agreement Respecting Multi-jurisdictional Pension Plans**

**MEBCO Comments**

The Multi-Employer Benefit Plan Council of Canada (MEBCO) was established in 1992 to represent the interests of Canadian multi-employer pension and benefit plans (MEPs). MEBCO consults with provincial and federal governments regarding proposed or existing legislation and policies affecting these plans. MEBCO is a federal no-share capital corporation, operating on a not-for-profit basis.

MEBCO is representative of all persons and disciplines involved in MEPs, including trustees (union, independent, professional and employer), professional third party administrators, non-profit or “in-house” plan administrators, and professionals including actuaries, benefit consultants, lawyers, investment managers, investment counsel and chartered public accountants. MEBCO is administered by a Board of Directors consisting of representatives from each of the above groups. The Board of Directors serve MEBCO on a volunteer basis, and are responsible for identifying issues that impact MEPs, developing a strategy to address those issues, and then carrying out the strategy. MEBCO’s member-plans provide comprehensive health coverage to over 1,000,000 Canadians.

**Background**

In recent years, legislators and regulators have increasingly become aware that there are fundamental differences between typical single employer defined benefit pension plans (SEPPs) and traditional multi-employer target benefit pension plans (MEPPs). This salutary recognition has resulted in different funding requirements and transfer value computations, in addition to the historic differences in the ability to reduce accrued benefits. MEBCO is disappointed that this consultation paper (CP) treats SEPPs and MEPPs identically.

A multi-jurisdictional SEPP typically has uniform provisions, a uniform history, and, of course, a single participating employer. That will often not be the case for a MEPP, particularly (but not exclusively) with respect to industrial MEPPs.

A MEPP has fixed contributions that are not within the control of the Trustees. Increased expenses, for regulatory purposes or otherwise, necessarily reduce the portion of those contributions available to provide participant benefits. Any increased expenses for regulatory purposes should therefore be subject to increased scrutiny before being imposed on MEPPs. Likewise, minimum benefit provisions usually come at the expense of adequate pensions for career participants.

MEBCO's position is that intergenerational equity is an important consideration for Trustees, but is not an appropriate subject for regulatory consideration. To the extent that regulation of MEPPs imposes intergenerational inequity, MEBCO opposes such regulation.

MEBCO is opposed to permitting terminating MEPP participants to cash out the value of their accrued pensions, as that converts the negotiated target benefit pension into a defined contribution entitlement that was not negotiated.<sup>1</sup>

MEBCO has long recognized that benefit security cannot be improved by lowering benefits – the only available option with fixed contributions. Therefore, MEBCO has consistently opposed solvency funding and mandatory provisions for adverse deviation for MEPPs, which, under current economic circumstances, compel lower current benefits and intergenerational inequity without adding to benefit security.

### **Funding**

As an example of differing funding requirements by jurisdiction, consider a real case involving a national MEPP registered in Ontario, a jurisdiction that has had a solvency funding moratorium for MEPPs that it intends to make permanent. A large Federal jurisdiction employer and its union petitioned to be accepted into the plan. The trustees rejected that application because of the risk that the plan might have its major authority transferred from Ontario to Federal,<sup>2</sup> which would require benefit reductions nationally. The result was that these employees now have a single employer defined contribution plan, against their wishes and perhaps against their best retirement income interests. They also do not have portability with other similar employers in the same industry who are already in the plan.

MEBCO recommends that the CP be modified so that a change in the major authority of a MEPP can only take place if (a) the Trustees consent or (b) the MEPP no longer has members in the current major authority's jurisdiction.

Further, MEBCO recommends that the CP be modified so that it is clear that the funding rules of the major jurisdiction for MEPPs are the sole applicable rules, even if there are members in a jurisdiction that has solvency funding, but solvency funding does not apply in the major authority's jurisdiction. All assets in a MEPP are available for benefits for all participants from all employers. A requirement to identify assets as "belonging" to a particular jurisdiction's participants (as would be required for solvency funding determinations for a minor authority) is completely inconsistent with the nature of a MEPP.

### **Asset Allocation**

Again, consider a real situation. A national MEPP was comprised primarily of employers in Western Canada, but more recently admitted a number of large employers from another province. The long-time employers had fully funded accrued benefits; the new groups, of course, came in with no assets.

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<sup>1</sup> Small amount cashouts are an acceptable exception to this position.

<sup>2</sup> One of the jurisdictions that continues to have solvency funding requirements for MEPPs.

For a variety of reasons, some years later the Trustees decided to spin off the newer groups into a separate plan. The requirement to allocate assets in proportion to liabilities distorted the allocation in favour of the new groups, and resulted in substantial benefit reductions for the members of the long-time employers, even though, without the new groups, those benefits were fully funded. The simplistic rules that are preserved in the CP resulted in a significant inequity.

MEBCO proposes that MEPPs be permitted to define asset allocations for major and minor events as the Trustees deem appropriate. The rules of the CP can be a default if the Trustees have not exercised this prerogative. Reasonable regulatory approval could be required to prevent abuses.

### **Transfer Values**

MEBCO proposes that the CP be expanded to provide that the availability and amount of transfer values be determined for all plan participants in accordance with the requirements of the major authority. The inequities and administrative complexities of multiple transfer value determinations, especially as these rules are now diverging among jurisdictions, operates against a principal objective of MEPPs – treating like situations alike and different situations differently.

### **Conclusion**

MEBCO urges CAPSA to follow the lead of several jurisdictions by having separate multi-jurisdictional plan rules for MEPPs and SEPPs, consistent with the fundamental differences between such plans. We would be pleased to have MEBCO and CAPSA representatives meet to discuss how best to implement our recommendations.

Yours truly

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