

**Response of Christopher Hiscock  
President IAM&AW Local Lodge 764 and  
Chairman of the ex-CAIL IAM&AW Pension Committee for Air Canada  
to the Department of Finance Consultation Paper “Strengthening the Legislative  
and Regulatory Framework for Private Pension Plans subject to the Pension  
Benefits Standards Act 1985”**

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I thank the committee for the opportunity to appear before you today as part of this National consultation process on federally regulated pension plans. I am here in a dual capacity as both a representative for the members of my Union, the Machinists Union, as well as an individual member of the Air Canada Defined Benefit pension plan.

During the past 18 months we have seen a confluence of international events and circumstances that have resulted in a devastation of global financial markets and the vapourization of countless trillions of dollars of equity capital. These conditions have placed the vast majority of pension plans around the globe in peril. We in Canada have not escaped this rapid and excessive decline in the value of our investments.

We have all come together at the invitation of the Federal Department of Finance to contribute input, guidance and perspective in the quest for a made in Canada solution to our mutual morass. All of the parties involved, employers, employees and the government are all seeking changes that will strengthen Canadian pension plans and allow them to continue well into the future as viable entities.

As we stand at this crossroads of action we have the capacity for great deeds and foresight within our grasp. There is a role for all stakeholders to play in shaping the future of Canadian pension plans. I am here to represent the views of the employees and our often overlooked and ignored perspective.

We are not a collective of greedy pariahs seeking more than our fair share. In fact, all we seek is our *fair* share, with a huge emphasis on fair. Defined benefit pension plans

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form the single biggest benefit after wages in our collective agreements. Unions have bargained for, fought for and paid for these pension plans over many decades. Our pension plans have been maintained at the bargaining table through countless rounds of negotiations at the expense of future wage increases and enhancements to other benefits.

We have paid for our pensions with more than just our monthly contributions. They have come at a cost and been maintained over the years at further cost. They have not simply been bestowed upon us by the benevolent goodwill of our employers. They were envisioned, designed and entered into as an agreed to employment benefit between the parties. Our pension plans were entered into and maintained in good faith.

The employees of Air Canada have had their defined benefits pension plan threatened once before. In 2004 armed with the decidedly company friendly CCAA legislation Air Canada tried to coerce us into abandoning our defined benefit plan for a defined contribution plan. That proved to be the line in the sand that saw all five of the major unions representing Air Canada's employees unite as one in opposition. It took that show of strength and determination to maintain our benefit in the face of an employer determined to make its employees pay the full cost of that employer's own mistakes.

The time is at hand for the Canadian Federal government to demonstrate great foresight and seize that chance for great deeds as they re-evaluate the regulatory environment governing Canadian pension plans. We employees and Unions are not so myopic as to overlook the financial demands being placed upon our employers by the current federal pension funding regulations. We agree that relief must be provided to them to prevent a self-fulfilling prophecy of solvency deficit induced pension plan windups.

The Group of Seven companies who have made a joint submission to this committee form a veritable who's who of Canadian businesses. They are all forerunners and industry giants in their respective fields of transportation and communications. These

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are companies of international renown for their business practices and technological innovation. They are woven into the very fabric of our country's history, shaping who we are as a people and how we inhabit this vast land of ours. The mere fact that they are petitioning the government for regulatory relief signals the need for an overhaul of federal pension legislation to the betterment of all parties.

These employers have made their presentations to you outlining the assistance they require and now I want to impress upon you the assistance that the employees require from their government.

If the government chooses to extend the 5 year payback period to 10 years, as has already been agreed to on a temporary basis, you are placing the employees at a much greater risk of forfeiture of our moneys. The same is true if the discount rate is changed to the AA corporate or similar rate, thereby lessening the value of the employer's required funding contributions. We are essentially being asked to provide interest free loans to our employers as they use the moneys owed to our pension plans to fund the company's day to day operations and to further enrich the executives, select groups of shareholders and lenders of last resort.

The global credit markets have dried up and previously negotiated lines of credit have been revoked. With traditional sources of credit no longer readily available to them the employers are in essence borrowing from their employee's pension plans to fund their operations if the government agrees to reduce their pension funding obligations and leave those funds in the companies' operating accounts. If we are to be asked by the employers and the government to assume this role as the banker of last resort, then we are requesting the same protection afforded to other lenders of Debtor in Possession financing.

First, we the employees are asking to have our pension trust funds guaranteed as secured creditors with first in line access to Company assets in the event of a cessation of business and resultant plan windup. Second, we are asking that the federal

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government develop and provide a pension plan insurance fund that would guarantee members of terminated pension plans 100% of their earned and accumulated benefits. Third, the PBSA and ITA should be amended to allow up to 150% overfunding of pension plans during robust markets.

By implementing our first request and making the pension plans and their members secured creditors with primary rights to Company assets you would certainly diminish the number and size of any claims on the government backed insurance fund in the event of a plan termination and windup.

What we are asking is nothing more than that which is routinely granted by the courts to third party lenders and vulture capitalists who swoop in to distressed companies and make instant millions on the back of coerced employee concessions. If the employees are to be asked to put our earned benefit and money at risk as our part in this regulatory revamp, then we are requesting that the government provide us with a degree of protection.

With respect to our request to be made secured creditors with primary access to company assets, this change can be made with a zero dollar cost to either the companies or the government. It would not be triggered until such time as a company actually ceased doing business as a viable entity and moved to terminate and wind up its pension plan. At that time, the company is no longer in need of money; its creditors are simply liquidating its remaining assets. We are asking to be accorded legal status as the primary creditor.

The employee / employer relationship is the prima face business relationship of any enterprise. The success or failure of the business is shared and dependent to a greater degree between these two groups than any other. As such, there needs to be a legal recognition of the primacy of this covenant. In so doing the government also moves to limit its liabilities while simultaneously upholding its responsibilities to its citizens. By securing the employees and their pension benefits as primary creditors of the company

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they are both protecting those citizens directly as well as limiting the burden that would otherwise have been placed upon federal and provincial social programs if these pension plans are allowed to fail.

Our second recommendation is for a government sponsored pension plan insurance fund. The federal government would create and underwrite an insurance plan that would guarantee the earned benefits and assets of any pension plan that was terminated and wound up while in an underfunded position. It would insure that the plan members received 100% of their earned pension benefit.

The companies would be assessed premiums based on the funding position of their plans as determined in their annual actuarial filings with OSFI averaged over a 5 or 10 year period. This would allow a generally well funded plan to not be too adversely affected by a short period of underfunding. As previously stated, these are some of Canada's most venerable companies. Absent the huge pension funding obligations currently required under the existing regulations, all are performing well on a going concern basis.

This insurance plan would offer great protection and peace of mind to the employees of these companies yet the chance of the insurance fund actually having to payout in a pension termination situation is indeed small. In terms of the financial wealth of the federal government any payout made by this insurance plan would be minimal. In terms of the personal future financial health of the individual plan members it would be monumental.

By underwriting any possible underfunding in a terminated pension plan, the government is directly supporting the social safety net it currently affords its citizens. If such an insurance plan was not in existence, as is currently the case, the government would still end up absorbing much of the same cost in the form of an increased demand these employees would place on other existing social programs if they lost all or some of their earned pension benefit to employer underfunding.

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The employees view this pension plan insurance program as an absolutely vital requirement if the government implements the employer requested changes that will serve to limit their funding obligations. If the employee's role in this process is to be asked to allow a limited payback of pension funding money to help finance our company's continued viability, then the government's role must be to underwrite and limit the resultant increased exposure to risk.

The third proposal we have put forward, allowing pension plan overfunding of up to 150% during good economic cycles allows for a method of smoothing out the extreme volatility that we have seen over the past decade. This over payment would be repayable directly back to the employers down to a minimum funding level of 125% if the overfunding continued to exist on a year over year basis. We realize that this has the near term effect of reducing tax revenues by permitting a larger pool of capital to be sheltered in the pension funds. We also believe that this short term reduction would be offset by the long term stability that it would bring to the pension plans and the corresponding reduction in the need for emergency relief such as that currently being sought by the employers.

There is a tangible benefit to be derived by all parties with an increased level of stability for plan funding. This predictability brought about by the asset smoothing effect of increased overfunding allows for enhanced financial forecasting. Both the employers, who must budget for annual pension payments and the government who must forecast future tax revenues are afforded a greater degree of reliability in making these calculations.

These are bold strokes that will provide a win, win situation for all involved. By implementing these three requested changes, the government is able to fulfill a dual mandate of protecting its citizen workers and simultaneously enhancing the business environment for its companies. With their earned benefits secured and insured, the employees are free to focus on their key role in rejuvenating and reinvigorating the core

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business functions of their employers without having to worry about their financial future.

That would leave the government free to implement key regulatory changes that will provide funding relief to employers and enable them to continue their pension plans as viable long term benefits for their employees. These plans also serve as very valuable recruiting and retention tools for these employers. While these plans are often portrayed as legacy costs weighing down the employers, they also serve an invaluable function in attracting and keeping trained, knowledgeable and experienced staff.

This federal government has a unique opportunity handed to it by this confluence of events to make bold, enlightened decisions that can be both fiscally and socially sound. I encourage this committee to carefully consider all of the testimony placed before it. Be Solomon like in your judgment and recommendations. Make sure that this process recognizes all of the stakeholder's requirements and in the end renders a regulatory framework that enhances the fiscal and social imperatives this legislation was initially conceived to protect. I implore you not to let this opportunity to enhance the legitimacy and legacy of Canadian pension plans slip through your grasp.

In the government's efforts to assist the employer's by implementing their requested changes to the PBSA, we implore you not to do it at the expense of the employees. The PBSA serves as the primary legislative protection for workers pension benefits and that level of protection must not be allowed to be diminished through this review process.

Indeed, we the employees have made a case for an opportunity to increase the protection afforded to the pension plan members that would come at a negligible cost to either the employers or the government. We trust that this review and consultation process will be thorough and its recommendations will be for the best pension legislation possible.

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That can only be accomplished by ensuring an adequate funding framework for employers that allow them to provide pension plans for their employees without bankrupting them in the process. Just as importantly, it can only be meaningful legislation if it provides at the minimum a comparable level of protection to that in existence today but preferably with an enhanced and entrenched degree of benefit protection for employees.

I have outlined my three key recommendations for the consideration of this committee. By making pension plans front of the line secured creditors in the event of a plan windup, insuring the plans to provide 100% of the earned benefit amounts and by allowing up to 150% overfunding to smoothen the volatility of employer pension funding, I feel that the opportunity exists for a great piece of legislation can be crafted and enacted for the benefit of all parties.

Thank you for your time and consideration.

Respectfully submitted,

The 14<sup>th</sup> day of April 2009 at Vancouver, British Columbia

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