Submission by the

National Organization of Retired Postal Workers

to

Innovation, Science and Economic Development Canada

on

Enhancing Retirement Security for Canadians

December 2018

Introduction

The National Organization of Retired Postal Workers (NORPW) is Canada's newest retiree organization. The NORPW was incorporated in 2017, and its membership (CUPW retiree members) voted to adopt the Constitution in September 2018 and elected their officers in October 2018. Currently, two of the three retiree representatives on the Canada Post Pension Advisory Council (PAC) are executive officers of the NORPW who were elected by the 40,000 plus Canada Post retirees, survivors and beneficiaries of the Canada Post Pension Plan.

The NORPW is a member of the Canadian Coalition for Retirement Security (CCRS), a coalition that groups together all 25 major retiree and worker organizations in Canada representing over six million workers and retirees. The NORPW first became aware of the consultation being conducted by Innovation, Science and Economic Development Canada at the December 13, 2018 CCRS meeting. We are concerned by the short time frame for submissions and consultation on Enhancing the Retirement Security for Canadians, with the announcement and release of the consultation document on November 22, 2018 and a closing date for submissions of December 21, 2018. We hope that you will consider this NORPW submission even though we were not able to meet your tight time frame dealing with this extremely important issue affecting Canadians. We were informed that submissions received by the first week of January 2019 would be accepted due to this tight time frame and the Christmas holiday period.

We are pleased to see that the consultation document includes the statements: "The Government believes that all Canadians deserve a safe, secure and dignified retirement..." and "the Government is seeking feedback from pensioners, workers..." This is a step in the right direction compared to what we witnessed from the Government on October 19, 2016 when Finance Minister Bill Morneau introduced at first reading Bill C-27 on the Target Benefit Plan (TBP). There was no consultation with pensioners or workers prior to the introduction of this legislation that is designed to strip the workers and pensioners of all Federal Crown Corporations and federally-regulated institutions of their guaranteed Defined Benefit Pension plan and replace it with a Target Benefit Plan that comes with no guaranteed pensions or benefits!

We feel it is fitting at this point to remind the Government of the commitment made by the Member of Parliament for Papineau, Justin Trudeau, in a letter dated July 23, 2015. He said: "As we head into Election 2015, I would like to reiterate my position on TBPs. I continue to believe that while they may make sense in certain circumstances, any changes to existing Defined Benefit Pensions (DBP) should be made on a going-forward basis. DBPs, which have already paid for by employees and pensioners, should not retroactively be changed into TBPs."

As well, in a pre-election interview with the National Association of Federal Retirees published in SAGE magazine - fall 2015, Justin Trudeau provided the following response to the Sage question:

Sage: **The federal government intends to study a "voluntary target benefit option" for employees of federally-regulated entities. What's your position on accumulated benefits?**

Trudeau: I was relieved the government didn't move ahead on this. They probably made a smart calculation that taking away benefits from seniors that had been earned and accrued over years, retroactively, is unacceptable, would cost them too high politically and it's wrong in principle."

It also may be interesting to take note of a letter dated January 20, 2012 by the RT. Hon. Stephen Harper to M.P. Royal Galipeau, in which he wrote: "Thank you for your letter of January 9. I appreciate the opportunity to review your thoughts regarding changes to the public service pension plan," and "Royal I agree that no changes can be made retroactively."

Bill C-27 Target Benefit plan

The NORPW, the CCRS and the Canadian Labour Congress (CLC) have demanded that the Government withdraw Bill C-27 and repudiate design innovations that enable sponsors to abandon their legal requirement to fund DB plan benefits. A principal value and strength of DB pension plans is the security and predictability they provide to plan members, allowing them to budget for their daily lives in retirement. DB pensions operate under a legal covenant obliging employers to fund employees' earned benefits, guaranteeing retirement security regardless of market volatility. Already-earned (or "accrued") benefits are legally protected, and may not be retroactively reduced. Pensions are deferred compensation which an employer agrees to pay its employees, upon retirement, in return for services rendered by the employees. We believe a deal is a deal. Public and private sector employers must honour existing pension commitments made to pensioners and employees, and accrued pension benefits should not be changed.

An Ipsos Reid survey conducted in June of 2014 bears this out. This study found that while a substantial proportion of Canadians (44%) recognize the difficulty employers may have in providing pensions for their employees and pensioners, many more — more than nine in 10 Canadians (94%) – agree that employers should live up to the commitments they have made to pensioners and employees. And Canadians are clear that they expect their Government to make sure this happens: 92% agree that in developing a new pension framework, the federal government should ensure that companies honour the commitments made to pensioners and employees. (Submission of the Canadian Federation of Pensioners, June 23, 2014).

The NORPW is attaching its May 15, 2017 submission on Bill C-27 to the Finance Minister, which includes additional arguments for withdrawing the Liberal Government's Target Benefit Plan.

Correcting the Record on Defined Benefits

The federal government must look at ways to support an environment where defined benefit plans can thrive. Language in the consultation paper implies that defined benefit plans are a source of increased costs for employers – but over time, defined benefit plans are proven to be one of the most cost-effective ways of ensuring financial security in retirement. According to the National Institute on Retirement Security in the United States, defined benefit plans deliver the same retirement income at 48% lower cost than a defined contribution type plan. That's because defined benefit plans enable resource pooling, longevity risk protection, a balanced portfolio and lower fees.

They provide Canadians with one of the strongest retirement income systems in the world, and according to the World Bank, Canada is also home to some of the most successful defined benefit plans in the world. A Boston Consulting Group (BCG) study found that benefits paid out to defined benefit plan members cycle back into the Canadian economy in the form of consumer spending and taxes, generating business growth and employment. Smaller communities profit substantially from the impact of defined benefits. In Moose Jaw, Nanaimo and Orillia, defined benefit plans represented approximately 10% of total earnings in those communities.

Solvency Pension Deficits

The government's consultation document points out that Canada's retirement income system (RIS) is based on three pillars, and that the third pillar in particular has been impacted by changing demographic trends, the global economic downturn in 2008, and low long-term interest rates. The NORPW is aware of the effects that low long-term interest rates have had on the Canada Post Defined Benefit Pension Plan. At the Canada Post Review hearings on November 1, 2016, we heard evidence given by the then CPC CEO, Deepak Chopra, that the CPC pension estimated solvency deficit would be $8.1 billion by year end. This evidence was introduced to support the need for the government to allow CPC to eliminate door-to-door delivery along with 8,000 CPC jobs, as well as a need to restructure its pension plan. However, the fact is that the solvency deficit of the CPC pension plan was only $6.76 billion by year end 2016, not the $8.1 billion stated by Chopra! The solvency deficit of the CPC DBP has been steadily declining. As stated in the 2017 annual report, the deficit again dropped to $6.41 billion. At the December 12, 2018 Annual General Meeting, Wayne Cheesman, CPC's Chief Financial Officer, pointed out that, as of the third quarter report, the CPC pension plan had $25 billion in assets, a going-concern surplus of $3 billion, and that the solvency deficit had decreased to $4.9 billion. As well, Mr. Cheesman stated that CPC would not be required to make any special payments towards reducing the solvency deficit for 2019. (Note: CPC has not paid special payments to reduce the solvency deficit since 2010). It may be of interest to the Government to note that CPC, in its December 2018 letter to employees, stated: "As of the first pay period in 2019, the employee contribution rate for members of the Defined Benefit (DB) component of the Canada

Post pension plan will increase by 0.2% of pensionable earnings" to maintain the 50-50 split of employee and employer contributions to the pension plan.

The NORPW is in agreement, as is the CUPW, with CPC being permanently exempted from solvency funding as outlined in the February 10, 2017 letter from Robyn Benson, then President of the Public Service Alliance of Canada:

> "I am writing again to encourage you and your government to explore permanent exemption from solvency funding for the Plan and/or Crown corporations. While you state In your letter that solvency funding rules exist 'to protect the rights and interest of pension plan members, retirees and other beneficiaries,' it is our belief that the requirement of solvency funding will ultimately undermine the Plan, and that other policy alternatives (such as those implemented in other jurisdictions) can provide the same or similar protections for members, retirees and other beneficiaries. In the case of the Plan, we believe that the rights and interest of plan members will ultimately not be protected if the current solvency funding rules undermine an otherwise healthy pension plan recognizing that the Plan is more than fully funded on a going concern basis.
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> As reiterated in our previous letter, the Unions believe that there is very low risk that the Canada Post Corporation (Canada Post) will become insolvent and, because of this, the burden of the solvency funding requirement only serves to be counter-productive.
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> Minister, this is not uncharted territory. As I'm sure you are aware, the Government of Quebec has eliminated the solvency requirement for pension plans under its jurisdiction.
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> The Government of Ontario is studying the same issues currently. The Government of Saskatchewan has provided solvency exemptions for broader public sector plans under diverse circumstances, including single employer defined benefit plans. These options should be part of the legislative reforms and policy options considered in the federal jurisdiction.
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> Nor are we the only ones to suggest this exemption for the Plan. The discussion paper from the Task Force for the Canada Post Review includes solvency relief as an option. The House of Commons Government Operations and Estimates Committee states that the Plan should 'no longer be subject to solvency funding requirements.' Canada Post itself suggested that the government 'exempt federal Crown Corporations from solvency deficit rules' in a 2009 letter to the then-Finance Minister, the late Jim Flaherty."

At the December 12, 2018 CPC Annual General Meeting, in response to a NORPW representative's question as to whether CPC would join the CUPW in approaching the government to have CPC exempt from the solvency deficit requirement, the interim CPC CEO Jessica McDonald replied that "this is one of the options CPC is considering."

CPP expansion and Increase Old Age Security and Guaranteed Income

The recent increase by the government to the CPP was a good first start, but the NORPW continues to believe that the government did not go far enough. An increase in CPP contributions

from both workers and employers from the current rate to 7.8% implemented over seven years would effectively double the average CPP/QPP benefits to a maximum of $1,868 per month. The doubling of future CPP retirement benefits remains the most efficient and cost-effective means of addressing the problem of inadequate retirement savings in Canada. Unmatched by any private sector retirement savings scheme, the CPP delivers a secure, dependable retirement benefit, protected against inflation and payable until death, at a very low cost. A 2010 Canadian Centre for Policy Alternatives report states: "Expanding the CPP, whether by increasing the replacement rate or increasing the level of coverage of earnings, or both would address the issue of coverage, security of benefits, and low cost of administration – all the key objectives of pension reform."

The NORPW is in agreement with the CLC 2018 submission dealing with pillars 1 and 2, which states:

> "We are disappointed at the consultation documents inattention to the need for reform of public pensions in Canada (Pillars 1 and 2). With the retreat of private-sector workplace pension plans, the steady transfer of risk from employers to individual workers and their growing exposure to income shocks, declining participation in RRSPs, unsustainable and growing levels of household indebtedness, and the collapse in Canada's household saving rate, improvements to public pensions are urgently needed.
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> In our view, an integrated approach to improving public pensions within a strengthened retirement income system should examine further enhancements to the Guaranteed Income Supplement, targeted to low-income seniors, as part of Canada's Poverty Reduction Strategy. In particular, the GIS claw back on additional income should be reformed. The government should also explore improving the Old Age Security (OAS) benefit, the flat-rate residency-based benefit with the greatest value for low- and modest earners, women, Indigenous Canadians, and workers with disabilities. Indexed to inflation rather than the average nominal wage, the relative value of the OAS benefit and the relative incomes of OAS recipients will continue to fall unless the indexation of the benefit is improved. The government should also to continue to explore the opportunity to further improve Canada Pension Plan and Quebec Pension Plan benefits."

Changes to Canadian Bankruptcy and Insolvency Laws

The current bankruptcy law, the *Companies' Creditor Arrangement Act* (CCAA) exposes Canadians to reduced pensions and benefits. Retirees are in a particularly vulnerable position and the federal policy makers are responsible for protecting them. The NORPW supports Member of Parliament MP Scott Duvall's newly-introduced private member's Bill C-384 to protect the rights of retirees when a company goes bankrupt. It's completely unacceptable for retirees to have to scramble to adjust to reduced – or no – benefit payments and face reduced pensions because employers are allowed to push them to the back of the line under the current bankruptcy laws. The recent example of Sears Canada readily comes to mind as corporate management practices associated with hedge funds and private equity firms, epitomized by the controlling

investors in Sears. On March 5, 2018, the Superior Court appointed a litigation investigator to review $3 billion in payments made to Sears Canada shareholders, while the company's pension fund had a nearly $300 million shortfalls. CEO Eddie Lambert the main share holder in the ESL hedge fund he owned pocketed millions. The courts recently ruled in favour of allowing the same top 19 executives who drove Sears into chapter 11 bankruptcy $25.3 million in bonuses (averaging bonuses of $442,000 each on top of their salaries). This while the employees of Sears were fired with no severance pay and retiree's benefits were cut off and are facing a possible 20% reduction in their pensions! As corporate management practices associated with hedge funds and private equity firms, epitomized by the controlling investors in Sears Canada and Toys R Us, become increasingly common in Canada, the threat of large-scale corporate failures and widespread pension losses may even grow in future.

The NORPW is in agreement with the CLC submission's recommendation to convene and promote a parliamentary debate, by allowing Bill C-384 and/or Bill C-372 to proceed to committee, on amending the *Bankruptcy and Insolvency Act* to implement a super-priority charge for the wind-up deficiency. The government's consultation has thus far engaged stakeholders separately, in silos, without the opportunity to engage one another. A committee study would permit open inquiry, information gathering, and a healthy exchange on the risks and advantages of altering the priority of claims under the *Act*.

The NORPW also believes that the government should amend the *Canada Business Corporations Act*, and work with its provincial counterparts, to legislate greater protections for plan members when sponsors pursue shareholder buybacks, dividends and executive compensation where a solvency deficiency exists in the pension plan. The federal government should ensure that shareholder and executive payouts are restricted in these circumstances. The government should explore making dividends, share repurchases and increases in executive compensation contingent on the solvency funding ratio surpassing a specified threshold, and increasing required special payments and/or accelerating amortization schedules as a pre-condition for approving executive and shareholder payouts. This should be legislated as general requirements, rather than left to the discretion of the Minister in specific circumstances.

The federal government should also work with provincial governments to strengthen the authority and obligation of pension and corporate regulators at all levels to scrutinize, remain apprised of, and if necessary, intervene in corporate financial practices that raise the risk of a sponsor entering insolvency proceedings with a wind-up deficiency. The 2018 Ontario budget introduced changes that will require plan sponsors to disclose major financial events affecting the company or a pension plan, including asset stripping and extraordinary dividends. This information should be made available to pension regulators through the Canadian Association of Pension Supervisory Authorities (CAPSA). Reforms of this nature would follow the lead of United States and United Kingdom regulators that have the power to compel disclosure in

specific circumstances. Bill S-253, currently before the Senate, has recommendations in this regard that the NORPW also urges the government to consider adopting.

The federal government should explore the feasibility of working with provincial governments to establish a national, mandatory pension insurance scheme, akin to Ontario's Pension Benefits Guarantee Fund, to insure pensions against losses from restructuring and bankruptcy. Government representatives have suggested that this innovation would be cost-prohibitive. However, arguments and data in this respect have yet to be publicly shared and tested. In particular, different design options for a national mandatory pension insurance fund should be assessed and subjected to public scrutiny and debate.

Pension Surplus Regulations

The NORPW would like to remind the Government that, in 1999, the Chretien government took $30 billion out of the superannuation plan fund surplus to pay down the country's deficit. This surplus was taken out one year before the government turned over the postal employees' portion of the remaining funds to CPC when it established the current CPC pension plan, in 2000.

Postal workers and retirees have not forgotten CPC's abuse of its pension contribution holiday. "In a written communication to all plan members dated August 2, 2007, Canada Post Corporation President and Chief Executive Officer, Ms. Moya Greene, announced that, based on the fully-funded status of the Canada Post Corporation Plan, regular employer pension contributions would not be required through to the remainder of 2007. Ms. Greene also attempted to reassure Canada Post Corporation Pension Plan participants that the decision to pursue an employer contribution holiday *'...will in no way impact the overall financial strength of the Plan.'* This initiative was never discussed beforehand with any of the bargaining agent representatives at the Canada Post Corporation Pension Advisory Council. Within days of Ms. Greene's announcement, global capital markets experienced significant volatility arising from concerns over financial implications associated with sub-prime mortgages in the U.S. and the lowering of interest rates by the U.S. Federal Reserve Board. Canada Post Corporation bargaining agents continued to raise concerns regarding the uncertain long-term economic outlook and the potential implications for pension funding. Nonetheless, Canada Post Corporation maintained the employer contribution holiday throughout the economic and financial turmoil experienced during the first 10 months of 2008. It was only in November 2008, (knowing full well there was a solvency deficit as early as June 30, 2008) that Canada Post Corporation resumed employer pension contributions. The resumption came only after persistent objections of the bargaining agents represented on the Canada Post Corporation Pension Advisory Council. The NORPW does not want to see a repeat of CPC's callus actions of 2007-2008 in taking pension contribution holidays while the pension plan was entering into a solvency deficit. There is every indication that CPC will once again be pushing for contribution holidays if

a surplus occurs, and mechanisms have to be put in place to prevent a repeat of what happened to the CPC pension fund surplus in 2008!

The NORPW is aware of the Supreme Court of Canada 2014 ruling dealing with the pension surplus in Manitoba Telephone System. "This decision is a strong indication from the highest court in the country that pension surpluses cannot be used as corporate slush funds" said Jerry Dias. "It reinforces the idea that pensions are a deferred wage, agreed to as part of a contract promised to the worker for their efforts."

The NORPW supports the CLC's call for a separate consultation on proposals dealing with Solvency Reserve Accounts (SRAs). The question of ownership of the plan surplus, while waning in significance over the past decade, remains a fraught and contested issue, and the CLC has stated it would want to consider proposals for SRAs in light of this question, provincial experience where similar rules are in place, and existing incentives in the *Income Tax Act* to sponsors fostering a funding excess in the plan.

Clarify Benefit Entitlement

The NORPW also believes that as a basic principle, plan members' earned and promised DB benefits are protected by moral obligation and legal covenant, and must not be forfeited in bankruptcy. Insolvency does not alter this fundamental constraint.

In dealing with the question of pension indexation one only has to consider the following: "The buying power of a pension – absent protection from cost of living increases as low as two per cent annually – would drop nearly 50 percent by the end of retirement assuming normal life expectancy," wrote James Bagnall in *Capital Reckoning*, *The Ottawa Citizen,* May 31, 2014.

As a concrete example, without pension indexation, a postal worker who retired 15 years ago, at age 55, would have incurred, to date, an actual reduction in purchasing power of 27.06 %. If this retired postal worker lives to 86 years of age – the average life expectancy of a postal worker – the actual loss in purchasing power would be closer to 55%.

The NORPW is totally opposed to any changes to the guaranteed pension indexing, for which employees make extra contributions throughout their active employment to protect their pension's purchasing power from cost of living increases!

Jean-Claude Parrot
President of the National Organization of Retired Postal Workers