HRM PENSION PLAN

January 31, 2012

Honourable Marilyn More
Minister of Labour & Workforce Development
5151 Terminal Road, 6th Floor
Halifax, NS B3J 2T8

Dear Minister More:

Re: Proposed Pension Regulations

We are writing to express our comments on the proposed regulations.

The Halifax Regional Municipality Pension Plan (HRMPP) is a multi-employer pension plan that represents approximately 10,000 plan members from HRM and 13 other participating employers including the Halifax Regional School Board, Ocean View Manor, Quest, and the Halifax Water Commission. The HRMPP is a Jointly Sponsored Pension Plan because of its joint governance model: shared decision-making amongst union, management, and retiree representatives. In addition, contributions, deficits, and surpluses are shared 50/50 amongst plan members and employers. Represented unions are: Halifax Regional Police Association, International Association of Fire Fighters, Canadian Union of Public Employees, Amalgamated Transit Union, and Nova Scotia Union of Public Employees.

Summary of Recommended Changes:

1. JSPPs should be given a permanent 100% exemption for funding solvency deficits.
2. At a minimum, JSPPs should be able to opt out of solvency funding or to determine an appropriate threshold for funding solvency deficits based on the jointly governed Administrator's wishes.
3. JSPPs should be able to opt out of immediate vesting.
4. JSPPs should be able to opt out of "partial wind-ups."
5. For JSPPs, the "prior year credit balance" should be based on total contributions, not just employer contributions.
6. Funding of amendments for JSPPs should mirror Ontario's regulations.
7. JSPPs should be exempt from providing advance notice for all planned amendments.

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8. JSPPs should not have to file an annual actuarial valuation report but rather should file at least once every three years.

The following sections provide the supporting rationale for our recommendations. We also seek clarity on some other aspects of the regulations.

Solvency Funding

We applaud the NS Government for the recognition of JSPPs. However, we are disappointed that the NS Government did not provide a permanent 100% exemption for funding solvency deficits for JSPPs or allow JSPPs to determine an appropriate threshold for funding solvency deficits. Instead, the NS Government provided a permanent exemption for funding solvency deficits at or above 80%. While the NS Government followed Ontario's regulations to a large extent, including JSPPs, the NS Government did not provide a permanent 100% exemption for funding solvency deficits, as is the case in Ontario.

We recommend that JSPPs be given a permanent 100% exemption for funding solvency deficits.

The rationale for this is logical and as follows:

- JSPPs operate completely differently than single employer pension plans.
- The members of JSPPs have direct representation in all key decisions made about the running of the plan, including benefit levels and funding strategies.
- Accrued benefits can be reduced upon wind-up if the plan is underfunded.
- Inter-generational equity in the 50/50 funding of benefits is paramount to these plans, but is completely destroyed by having to fund solvency deficits given the short term view associated with solvency funding requirements. Due to solvency funding requirements, current plan members would have to pay significantly more contributions or reduce benefits for a certain amount of time, while other plan members would benefit from lower contributions and/or higher benefits when long-term interest rates increase. This does not make sense and adds to plan member confusion and frustration. For JSPPs, solvency funding forces irrational behaviour by responding to solvency deficits in the short-term at the expense of maintaining long-term strategies.

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- With JSPPs, there is an automatic rebalancing mechanism in place for the optimal level of contributions/benefits. When contribution rates exceed what is "tolerable," benefits have to be adjusted accordingly as per the actuarial valuation. We have seen this with a number of Ontario JSPPs, where they have moved from automatic indexation to indexation based on ability of the fund to finance it (e.g., Ontario Teachers, HOOPP, and CAAT). The HRMPP has done this as well, with the reduction in grow-in benefits in 2002 and the reduction in retirement ancillary benefits for members who terminate prior to retirement eligibility in 2010. Contribution increases have increased from $21.5 million/year in 2001 to $66 million/year in 2011.
- Municipal employers in JSPPs have taxing powers, which makes them more akin to the Provincial Government, which is not required to fund solvency deficits, than other employers. As the largest municipality in NS, HRM has an extremely low probability of going bankrupt. Standard & Poors gives an A+ (Positive Outlook) rating for HRM. To put this in perspective, Standard and Poors gives the Province of NS an A+ (Stable Outlook) rating. The Positive Outlook for HRM is better than the Stable Outlook for the Province of Nova Scotia.
- The pension review commission for Ontario and the joint commission for BC and Alberta both supported the concept of having different funding rules for plans with different risk-sharing arrangements.
- The Nova Scotia government discussion paper on pension (March 2010) indicated openness to the concept of a risk-based approach to funding that would meet the tests proposed in Ontario' review report. It is unclear why Nova Scotia has veered away from considering risk-based funding.
- Municipal pension plans are exempt in many jurisdictions from funding solvency deficits (i.e., British Columbia. Alberta, Manitoba, Quebec and New Brunswick). Saskatchewan has announced its intention to exempt municipalities. Prince Edward Island doesn't have pension legislation, so solvency funding is not required. Newfoundland Labrador historically provided temporary relief from solvency funding when required.
- JSPPs in Ontario, including OMERS, which includes most municipalities in Ontario, are exempt from funding solvency deficits.

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- It makes it extremely difficult to develop a common regulatory framework across Canada if single jurisdictions go their own way on important aspects of pension regulations.

We are extremely disappointed that the NS Government has not provided a permanent 100% exemption for funding solvency deficits to the HRMPP since it is a JSPP and an A+ rated municipal pension plan. **At a minimum, JSPPs should be able to opt out of solvency funding similarly to their ability to opt out of grow-in benefits or to determine an appropriate threshold for funding solvency deficits.**

As an aside, the proposed 80% funding threshold for funding solvency deficits is too high since it would require significant benefit reductions and/or contribution increases at a time when long-term Canadian government bond yield are at historic lows. According to the Mercer's Canadian Pension Health Index, the median Canadian pension plan had a solvency funded status of 60% as at September 30, 2011. This is a sharp decline from 71% only three months earlier. This decline is largely due to the significant decrease in long-term Canadian government bond yields resulting from the economic uncertainty in Europe.

In late 2011 and at the beginning of 2012, Manitoba, New Brunswick, Quebec and Newfoundland have announced additional solvency funding relief for pension plans because of current and recent negative economic events. Municipal pension plans are exempt from funding solvency deficits in these provinces.

Funding Rules – Actuarial Funding

If solvency funding remains a requirement for JSPPs, please clarify that the present value of Going Concerns payments may be used to reduce solvency funding in order to avoid duplication of funding requirements.

Immediate Vesting

While immediate vesting has been included in the new Pension and Benefits Act, which we understand has not yet been proclaimed, **we recommend a regulation that allows JSPPs to determine whether to offer immediate vesting or not**.

The HRMPP currently offers immediate membership to our Plan for employees with vesting retroactive to the first day of employment upon completion of 2 years of

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employment. To address concerns regarding turnover of "seasonal" plan members or those new employees who do not plan to remain employed with a participating employer for more than 2 years, we offer a full refund of contributions with interest. We wish to keep this model and encourage the NS Government to grandfather this practice for the HRMPP or to allow JSPPs to opt out of the provision of immediate vesting so that it can choose a vesting design that works best for the JSPP entity. The administrator of a JSPP, through joint representation of union, retiree, non-union employee, and employer groups, reflects the wishes of the plan membership.

Immediate vesting as proposed in Bill 96 will result in higher costs for the Plan, from higher actuarial costs associated with calculating the termination benefit for employees who leave within 2 years, which impacts all plan members in the Plan because the Plan pays for this. This is unfortunate.

The NS Government advised us that we could delay offering membership in the Plan for 24 months in order to address the higher cost issue. While this is a partial solution, it is not ideal. An employee, who ends up terminating after 2 years of employment, would not earn credited service for 2 years. We prefer our existing model.

Partial Wind-up

We recommend that the regulations allow JSPPs to elect to exempt itself from partial wind-ups. Section 97 (11) allows a JSPP to elect to exempt itself from the requirement to provide grow-in benefits upon partial wind-up, within the "prescribed period." Please define "prescribed period." Requiring a partial wind-up where the plan members will not benefit from grow-in is of little benefit to plan members and an administration burden for the plan administrator. Because of its joint governance, a JSPP is best equipped to decide whether to provide grow-in benefits and whether to exempt itself from "partial wind-ups." The trend is towards the elimination of partial wind-ups across the country (e.g., Federal, Quebec, and Ontario).

Prior Year Credit Balance

The focus appears to be solely on employer contributions. **For JSPPs, where funding is split 50/50 between plan members and employers, the concept of a prior year credit balance should be based on total contributions not just employer contributions.**

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JSPP Funding Rules

The requirements of subsection 14(6) seem odd and its purpose unclear. Sections 14(1)(a) and 14(1)(d) set out the amortization periods for special payments, which are clear. Clause 14(9)1 indicates that special payments for a JSPP, both going concern and solvency, should be a level % of projected pay until the end of the respective amortization period, which is what is currently in force for all pension plans (not just JSPPs). Given clause 14(9)1, the three-year restriction in subsection 14(6) doesn't seem to make sense. It looks like it is overriding subsection 14(9) because subsection 14(9) is referenced in subsection 14(6), but only for going concern special payments. This does not make sense and it is not immediately obvious what purpose this serves.

Funding of Amendments

The draft Regulations are not clear on this matter. In particular, subsection 11(3) states "A pension plan must not be amended during the first 5 years of the 10-year amortization period under this Section." We could find no reference to a "10-year amortization schedule" in Section 11. A 10-year period is available for solvency funding under temporary solvency relief provisions later in the Regulations. Perhaps this is a reference error. The other aspect of paragraph 11(3)(a) that is not clear is the wording "to fully fund the cost of those benefits." It is not clear whether "full funding" means 100% or just up to the solvency ratio in effect immediately before the amendment, or some other standard, such as the proposed 80% level in the case of JSPPs.

The 2010 Ontario Budget contained specific references to JSPPs, indicating that amendments causing the Going Concern funded ratio of JSPPs to fall below 85% would have to be amortized over 5 years. Solvency ratios are irrelevant since they do not apply to JSPPs in Ontario for the purpose of funding. **We recommend that the NS Government be consistent with Ontario's approach for the funding of amendments for JSPPs.**

Notification of Amendments

Section 39(1) of the new NS Act requires pre-notification of members of proposed amendments, with Section 39(3) requiring that "the notice must be given within the prescribed period." Section 11(10) of the draft Regulations allows for exceptions to pre-notification, allowing notification to be made after the amendment is filed. Exceptions exist for amendments that are primarily of a technical nature that don't substantially

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affect benefits and changes agreed to through the collectively bargained process. **We recommend that the NS Government exempt JSPPs from providing advance notice for all planned amendments.** While the plan amendments do not go through a collectively bargaining process, they do result from a joint governance process. Each of the 5 unions in the HRM Pension Plan or HRM Council can veto an amendment that impacts benefits or contributions.

Valuation Filing Requirements

We are disappointed with the requirement for JSPPs to file an annual actuarial valuation report if the solvency funded status is 80% or lower. Ontario specifically exempts JSPPs from any annual filing requirement based on solvency position because JSPPs are exempt from solvency funding in Ontario. The requirement to file an annual valuation increases the contribution volatility for our plan members and employers because the act of filing a valuation report triggers the need to assess contribution rates annually, instead of the current three-year cycle. This annual volatility is not helpful to our plan members or participating employers. In order to be transparent, we disclose both our estimated funded status on a going concern basis and a solvency basis to plan members annually. These numbers are calculated by our actuaries without having to do a comprehensive valuation report, which would only result in an unnecessary cost of operating the Plan. By using the most recent comprehensive actuarial valuation, which is filed with the Superintendent of Pensions at least every three years, the actuary can simply project the numbers forward one year to account for such things as the change in the market value of assets and the impact of changes in interest rates on the pension liabilities. **We recommend that JSPPs file an actuarial valuation report at least once every three years.** This is consistent with Ontario's approach.

JSPP Eligibility Criteria

Clause 6(1)2. – The general provisions prohibiting reduction of benefits can be found in Section 24 of the Act, the focus of which is to prohibit reduction in benefits earned prior to the effective date of the amendment. Clause 6(1)2 makes no reference to benefits accrued prior to effective date of the amendment; it simply refers to the commuted value of benefit. This should be clarified as it would be an intolerable restriction on JSPPs if they could not, for example, reduce early retirement subsides for benefits earned in the past for members not eligible at time of change.

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Clause 6(1)3. – In the HRMPP, participating employers do not have a vote. Participating employer representatives may attend meetings as Observers and get all the information sent to Pension Committee members except for matters relating to "In-Camera" affairs. Participating employers enter into a contract with the Pension Committee which clearly lays out the obligations of each party. The Pension Committee is the Pension Administrator and votes on all matters impacting all plan members. In Section 6(1) 3, the wording refers to parties who are "jointly responsible for making all decisions." It is not clear if it is expected that all parties should have direct representation. For example, <u>do all employers need to have a representative on the jointly governed Pension Committee, or can participating employers delegate decision making on their behalf to the Pension Committee?</u>

<u>Letters of Credit</u>

Please clarify whether JSPPs may use Letters of Credit. How would this work?

In closing, please clarify whether the new regulations will apply to valuations performed by the end of 2012 even if they are proclaimed on a date later than December 31, 2012.

We would be happy to meet with you to answer any questions you may have about our concerns.

Respectfully,
On behalf of the HRM Pension Committee,

Teresa Troy, CEO
Halifax Regional Municipality Pension Plan

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