

January 4, 2019

Mr. Mark Schaan
Director General, Marketplace Framework Policy Branch
Innovation, Science and Economic Development
mark.schaan@canada.ca

Subject: CFIB response to consultations on enhancing retirement security

Dear Mr. Schaan:

We are writing to you on behalf of 110,000 small and medium-sized enterprises (SMEs) that are members of the Canadian Federation of Independent Business (CFIB) to provide their perspectives on the consultations regarding enhancing retirement security for Canadians. Our membership consists of independent businesses from all sectors of the economy and every region of the country.

As Defined Benefit (DB) plans are administratively complex and expensive, very few small businesses are able to afford, or even access, these plans for their employees. Additionally, only a small number of our members are in federally regulated industries, meaning that many of the changes suggested for pensions in the consultation document would have little to no impact on them. A few of our members would be regulated under the Canada Business Corporations Act (CBCA), so we caution the government against imposing too heavy an administrative burden on small firms by requiring them to provide additional corporate disclosure requirements.

We wish to focus our comments mainly on the insolvency options in the consultation document and provide feedback on measures that can have an impact on small businesses involved in bankruptcy proceedings. Stronger bankruptcy legislation can help provide much needed protection and fairness to employees and pensioners, as well as small businesses. As the government moves forward with measures to protect pensions and benefits, we urge them to also consider the impacts that any changes would have on suppliers dealing with a client's bankruptcy. When insolvencies occur, small businesses also struggle to recover revenue lost at the hands of a bankrupt client which can lead to difficulties that could be detrimental to that small business's ongoing viability and its ability to create and maintain jobs for Canadians.

It is our understanding that, under current legislation, up to \$2,000 can already be paid to employees for unpaid wages and outstanding pension contributions ahead of payouts to secured creditors, meaning some employee losses can already be recouped. We would strongly urge the government to carefully consider the impacts of providing unfunded pension liabilities and benefits with priority

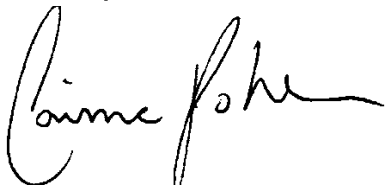
status as well, and weigh that against the losses that this may entail for unsecured creditors. The latter may find that their livelihood, and that of their employees, may also be dependent on trying to recoup at least some of their lost revenues as part of the bankruptcy proceedings.

There are also concerns about the impacts on the credit market if priority status were also given to unfunded pension liabilities and benefits. Small businesses already struggle to access financing, as they face higher costs and rejection rates from financial institutions. If less money is allocated to creditors in cases of insolvency, this may increase the perceived risks associated to loaning funds to smaller companies and would, in turn, increase the barriers SMEs face when trying to access financing.

Small business owners who are suppliers to other companies are often left out of bankruptcy proceedings, or go through a very difficult and time-consuming process to receive any form of financial compensation from a bankrupt client. Any changes to bankruptcy legislation must encourage fairness for all creditors. While we understand it is not currently under active consideration, we would encourage the government to continue to make sure that suppliers are not included in any claw backs when enhancing the “look-back” period during bankruptcy proceedings, as this would make it even more difficult for them to receive any outstanding compensation.

Stronger bankruptcy legislation can help provide much needed protection and fairness to retirees as well as small suppliers. We appreciate the opportunity to provide feedback on the enhancement of retirement security in cases of employer insolvency. Should you or your colleagues have any further questions, please do not hesitate to contact our office by email at Corinne.Pohlmann@cfib.ca or by phone at 613-235-2373.

Sincerely,

A handwritten signature in black ink, appearing to read "Corinne Pohlmann". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Corinne Pohlmann
Senior Vice-President, National Affairs and Partnerships