Submission to consultations on enhancing retirement security

December 2018

The National Union of Public and General Employees (NUPGE) represents 390,000 people in 9 provinces.

We represent workers in both the public and private sectors, including many workers in both sectors who have workplace pension plans. Our members in the private sector with pension plans are directly affected by the very serious problems that led to this consultation. For our other members, because it is family, friends, or people for whom they provide services who are affected, protecting workplace pension plans is something that impacts them on a very personal level.

It is good to see the federal government acknowledging the seriousness of what happened to workers and retirees at Sears and other companies by holding these consultations. The fact that situations like the one facing workers at Sears are becoming a regular occurrence is deeply disturbing.

What is essential, however, is that action be taken to better protect pensions following these consultations. If pension security is not improved, then it is a case of when, not if, the disgraceful treatment of Sears workers and retirees is repeated.

Bankruptcy and Insolvency Act and Companies' Creditors Arrangement Act

The *Bankruptcy and Insolvency Act* (BIA) and the *Companies' Creditors Arrangement Act* (CCAA) need to be amended so workers and retirees have priority in insolvency proceedings.

Pensions are deferred wages. They are funds companies committed over decades to pay to their employees when they retired. Recognizing that fact requires that making good as much of the unfunded liability as possible, not just making scheduled contributions.

There are also benefits to giving priority to unfunded pension liabilities and employee benefits that go beyond the well-being of people whose employer enters insolvency or restructuring proceedings with an unfunded pension deficit

Protecting pensions helps the economy as a whole as well as workers and retirees

There is a growing problem with companies choosing to put short-term profit taking ahead of the long-term well-being of the company. Increasingly, companies are approving share buybacks or dividend increases when the funds being used are needed to help the company adapt or grow, or to meet pension obligations. Sears is the most notorious example, but it is hardly the only one.

A 2017 study by the Canadian Centre for Policy Alternatives looked at 39 companies on the S&P/TSX 60 Index with defined benefit pension plans. The study found that many of those companies have increased dividend payments, even though their pension plans are underfunded.[1]

Short-term profit taking isn't just a problem for retirees and workers. The economy as a whole suffers as the investments needed for long-term, sustainable growth aren't made.

Giving priority to unfunded pension deficits and employee benefits in insolvency proceedings removes the ability of investors, lenders, and senior executives to leave pension plans underfunded to avoid the consequences of their short-term profit taking.

Restoring confidence in our retirement income system

The treatment of workers and retirees at Sears and at far too many other workplaces is undermining confidence in our retirement system.

One message that NUPGE is hearing increasingly from our younger members is that they are far from certain that they will receive pensions when they retire. Based on public surveys, what we are hearing from our members reflects attitudes among young people in the general population.

There are serious consequences to a loss of confidence in the retirement income system. People will turn to more expensive ways of saving for retirement, or not save at all. That will mean a growing number of people reaching retirement without an adequate income.

Effective action to improve retirement security will encounter opposition

It is important to recognize that any action that will actually improve retirement security will encounter opposition. The funds that should be used to ensure pensions are fully funded are currently being used to make investors and senior executives richer than they would otherwise be.

Those that have benefited from rules that made it easy for companies to leave pension plans underfunded are not going to want that situation to change. They will oppose it. They will also attempt to come up with arguments to obscure the fact that what is behind their opposition is a desire to be allowed to continue profiting at the expense of pensioners.

That those profiting from the status quo can be counted on to oppose any meaningful action means it is not possible to find a compromise that will satisfy everyone. The federal government is going to have to make a choice. Are they on the side of those profiting from the deliberate underfunding of pensions? Or are they on the side of hard-working men and women whose pensions are at risk?

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[1] Cole Eisen, David Macdonald, and Chris Roberts, *The Lion's Share: Pension deficits and shareholder payments among Canada's largest companies*, (Ottawa: Canadian Centre for Policy Alternatives and the Canadian Labour Congress, 2017).