HANSARD

NOVA SCOTIA HOUSE OF ASSEMBLY

COMMITTEE

ON

PUBLIC ACCOUNTS

Wednesday, November 28, 2012

LEGISLATIVE CHAMBER

Public and Private Pension Plans

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Public Accounts Committee

Hon. Keith Colwell, Chairman
Mr. Howard Epstein, Vice-Chairman
Mr. Clarrie MacKinnon
Mr. Gary Ramey
Mr. Mat Whynott
Mr. Brian Skabar
Mr. Andrew Younger
Mr. Chuck Porter
Mr. Allan MacMaster

In Attendance:

Mrs. Darlene Henry
Legislative Committee Clerk

Ms. Ann McDonald
Assistant Auditor General

WITNESSES

Department of Finance
Mr. Byron Rafuse, Associate Deputy Minister

Nova Scotia Pension Agency
Mr. Steven Wolff, CEO

Pension Regulation Division
Ms. Nancy MacNeill Smith, Superintendent of Pensions

House of Assembly
Nova Scotia

HALIFAX, WEDNESDAY, NOVEMBER 28, 2012

STANDING COMMITTEE ON PUBLIC ACCOUNTS

9:00 A.M.

CHAIRMAN
Mr. Keith Colwell

VICE-CHAIRMAN
Mr. Howard Epstein

MR. CHAIRMAN: Good morning, I'd like to call the meeting to order and begin introductions with Mr. Ramey.

[The committee members introduced themselves.]

MR. CHAIRMAN: I'd like to welcome our guests this morning. I'll start with Mr. Rafuse; make a brief presentation if you would.

MR. BYRON RAFUSE: Good morning, thank you for this opportunity to speak about how private pension plans are regulated in Nova Scotia and how provincial public plans are managed for the benefit of plan members, employers and taxpayers. With two departments represented here and an agency, we have agreed that I will deliver one opening statement to set the stage for your questions.

The topic of pensions is very important to thousands of Nova Scotia seniors who rely on them for their income every month and for thousands of working-age people who expect to receive pension in their retirement. I believe pensions have become a topic of broader discussions lately due to the ongoing problems in a global financial market and changing demographics. These are real issues that are facing most pension plans in Canada right now.

As controller I have been here a few times to meet with you about our provincial Public Accounts. Pension accounting did come up a number of times during those sessions; I will do my best to provide explanations to you on how pension obligations affect the statements of the Province of Nova Scotia and any other questions that you may have in that regard.

The Department of Labour and Advanced Education has oversight on pension plans offered by private companies as well as municipalities, universities and multi-employer plans. Nancy MacNeill Smith, to my right, will be speaking on those issues. Speaking on her behalf right now though, as the superintendent of pensions, here are some statistics about private pension plans in Nova Scotia.

For the year ended March 31, 2011, we had 496 private pension plans in Nova Scotia, representing retirement savings for over 107,000 men and women, with combined employer and employee contributions in excess of $680 million. As impressive as these numbers may be, about 60 per cent of Nova Scotian workers are not members of pension plans.

I think it's worth some time to speak about the legislative role of the superintendent of pensions. It is one of oversight, responsible for ensuring that private pension plan administrators file the reports on time, that actual evaluations are done and things like that.

The superintendent is not a trustee of any pension plan. The superintendent does not have the authority to review investments that the plan administrator makes nor does it determine whether the benefits of the plans are affordable. Those roles fall to the administrators and the sponsors of each plan and they will answer those to their plan members.

There are essentially two types of plans in use now, the defined benefit plan and the defined contribution plan. The differences between these two plans have been described in other testimonies before this committee so I won't take time to reintroduce these remarks. If any member would like an overview of these types of plans, the superintendent would be very happy to provide that information to you when responding to your questions.

Defined benefit plans must pass two tests to be considered financially sound. The first is a going concern test, which assumes the plan will continue at the present form for some time and is prepared on the best estimate basis. The second test is a solvency test, essentially a stress test, which asks if the plan has enough assets to deliver the benefits that have already been earned by the plan members.

The other issue for topic today is public pension plans for groups like civil servants, teachers, MLAs and others. These are currently administered through the Nova Scotia Pension Agency and that is why Mr. Wolff is here with us. Each plan is governed differently and falls under its own legislation. The agency directly serves tens of thousands of retirees and working pension plan members and has a highly skilled team available to plan and manage the pension investments.

As I mentioned, the recent global financial markets have seen better days and has created challenges for Canada's pension plans. Every plan - each plan is different - is faced with adapting and adjusting to protect the long-term benefits for its members and each one is at a different stage of that reform. As an example, the Minister of Finance, as sole trustee of this Public Service Superannuation Plan, was able to move rather quickly to address the plan's $1.5 billion unfunded liability. This is a large pension plan with over 12,900 retirees and survivors and about 16,500 active working members.

The province introduced changes in 2010 and more in 2012, both through the Financial Measures Act. Today the Public Service Superannuation Plan is one of the better funded plans in Canada with a funded ratio around 97.6 per cent, as of December 31, 2011. The 2010 reforms included reducing pension benefits and refinancing a portion of the unfunded liability at a lower interest rate. This action helped return the plan to a more fully funded position and reduced debt servicing costs and pension expenses for taxpayers at about an average of $150 million a year. So you can see how pension plan reform was an important part of the government's fiscal plan to get back to balance.

The latest changes, a complete revision of the Public Service Superannuation Act and a new Nova Scotia Pension Services Corporation Act, followed two years of consultation, best practice research, and lessons that we have learned as we go through these ongoing market challenges. Since the FMA was passed last Spring, we have been preparing the plan's transformation from a sole trustee to a joint governance framework. The new governance approach is more collaborative, involving the employee union and other pension stakeholders. The governance model, participation of many experts at the table, and a new legislative funding policy will help guide this plan through many anticipated challenges into the future.

It is a common practice for public pension plans to be managed by bodies that are independent of government that they serve. That's why the Nova Scotia Pension Agency is also preparing to be devolved from being part of a government agency to a not-for-profit statutory corporation, probably expected to come into effect in the Spring of 2013. The decision to devolve from government was made jointly between the government, the Teachers' Pension Plan Trustee, the Teachers Union, the NSGEU and the Pension Agency itself.

The new corporation will continue the practice of full disclosure through annual audits and reporting, including business plans and annual reports. Between myself and Mr. Wolff, we will answer questions about that work and any other plans that are under the agency's responsibility. As I said earlier, Ms. MacNeil Smith will answer questions regarding the regulation of private pension plans in Nova Scotia. With that, Mr. Chairman, we are ready to answer your questions.

MR. CHAIRMAN: Thank you very much. We'll start the first round. We're going to allow 30 minutes in the first round this time because we're going until noon today, as we had scheduled. Mr. Younger, you may start.

MR. ANDREW YOUNGER: Thank you, Mr. Chairman. There are a number of issues. I didn't realize the first one would be 30 minutes, so that might allow me to cover more of this than I thought. There are basically five current and former pension plans that I want to ask a few questions about, to start with. Some of the questions, I think, are probably related to other - probably will apply to other pension plans.

Just to give you an idea, a couple of those are the Nova Scotia Power pension plan, which is currently being discussed; the former Bowater plan and a couple of questions around how that was funded or not funded; the NewPage plan; the Teachers' Pension Plan and the Superannuation Plan for the province. I want to start by asking a question related to the Bowater and NewPage ones, because the issue I want to ask you is the same for both. It's something that many people have raised in the Legislature before. Those are two examples of ones that were largely, or were to a certain extent, underfunded, and at one time they were claimed to be fully funded.

I'll start by asking, how do you manage that? How do you regulate that? On the one hand, I know that there has been a move to require full insolvency funding of pensions. I know that the municipalities, for example, were looking down the barrel of having to suddenly raise rates and contributions because they had to fully fund, and yet we've seen the windup of a number of pensions that it turned out were not fully funded. So I want to start by asking how that is monitored by whoever - whichever one of you wants to take that.

MS. NANCY MACNEILL SMITH: I'll respond. The pension plan's liabilities are based on long-term bond rates, so that's the solvency of the plan: is there is enough money there if the plan winds up? The basis for that calculation is the long-term bond rates, so that approximates the cost of actually providing that pension in the marketplace.

Within the last three years, long-term bond rates have declined significantly, and as the rates declined, the liabilities of the plan have risen. Also, since 2001, pension plans have suffered some severe losses with respect to the marketplace and their investments, the same way as our own personal RSPs have declined.

First there was the market problem in 2001, and we had the massive problem experienced in 2008, so pension plans also suffered those losses. On the one hand, their asset values declined, and on the other hand, the liabilities increased because of changes in the marketplace. So when an employer is required to do an assessment of their plan every three years, at that point the actuary, who has done the evaluation of the plan, determines what the unfunded position of the plan is and makes recommendations as to how that unfunded liability is going to be paid.

Now, in the normal course of events, an employer has five years to fund a solvency deficiency in a pension plan. The market losses in 2008 were so severe that the government changed the regulations under the Pension Benefits Act to permit employers to extend those payments over 10 years instead of the five years. They could only do that if no more than one-third of the members of the pension plan objected to that change. This change was similar to other jurisdictions in Canada, in recognition that requiring the market losses in 2008 to be amortized over five years was going to cause significant distress for a lot of employers, so we looked at trying to preserve the protection of the members' benefits with not wanting to force employers to wind up the plan or to go into bankruptcy themselves just trying to meet the pension obligations.

MR. YOUNGER: It strikes me, however, that - I mean, you sort of pointed it out yourself. Listen, I think anybody who has an RSP saw it in their own RSP. I saw it in my own, where in 2001 you saw the first dip and there was not a full recovery between 2001 and 2008. I understand the principle in 2008 of saying, okay, things are bad, we need to give people the option to go to 10 years if the plan members don't object. I understand that principle, but what happened between 2000 - a lot of these plans seem to have been significantly underfunded since 2001 before that change was made in 2008. So what was being done to solve that because now what we've had - and there are small ones obviously, there are a lot of small ones too, they're just the two biggest ones because I want to get to the asset question in a second but, first, I want to understand that issue of, that change was made in 2008, but what was happening before that because it still should have been 95 per cent funded or 90 per cent, or pretty close to 100 per cent, right?

MS. MACNEILL SMITH: In 2001 the market took a big hit. The regulations at the time required an employer to fund that deficiency over five years. So by 2006, that loss that was experienced in 2001 would have been paid for, but also what was happening at the time is that the long-term bond rates were declining. They used to be at 6 per cent and even higher. So you've got the employer making the payments to correct for the market losses and then they do another valuation for three years from now, and their liabilities are higher again because of other things that are happening. Basically the basis for calculating the solvency liabilities - that has worsened. So they have a new deficiency and they have five years to pay that off. So every three years is a valuation and assessment, five-year's worth of payments scheduled, the next valuation, something else has worsened, they've got another five years.

MR. YOUNGER: Haven't you created a cascading effect there? It keeps stacking on top of it to the point where you actually can't - you almost make it impossible to create a solvency situation especially in a situation, like many companies have, where they start reducing it. They may still be in operation but they reduce employees so there would be fewer people paying into the plan and the bond rates are down, doesn't that actually create a stacked problem?

MS. MACNEILL SMITH: The situation pension plans are facing now is not good but the causes for it are not within the control of the companies and employers with the government; it is the worldwide economy. So it's very difficult to try to recoup any losses, say, due to investment returns. In the 1990s investment returns were high. The long-term bond rates were high. There was no solvency issue, right? But as market conditions change, the pressures are put on the pension plans.

MR. YOUNGER: Well, I'm not sure that I agree with you that it isn't in the responsibility of the company or the government, or anybody else, to try to solve the problem. If we spend our life relying just on the markets, we're in a lot of trouble because we've seen how the markets have performed and they always have the boom and bust cycle. I mean that's the nature of the markets. That's why people take out, you know, they do profit taking and all that sort of thing in the market. That's always going to have an effect on bond rates, stocks and everything else.

How much of these, especially in larger plans, have to be backed up by tangible assets? So, for example, down on the South Shore there was a lot of woodland there and at the time we suggested that that woodland be forced to be used to fund the unfunded liability of the pension. Unfortunately, at the time the government and the company were arguing that the pension was fully funded. Now we've learned that that one is not either. What is your role in requiring that the assets of any company first go to paying the pension liability if there's a windup?

MS. MACNEILL SMITH: Under the pension legislation, if an employer winds up a pension plan, they are required to fully fund all of the benefits under the plan.

MR. YOUNGER: Well, they can only do that if they . . .

MS. MACNEILL SMITH: If they have assets, that's right.

MR. YOUNGER: Right.

MS. MACNEILL SMITH: So to the extent that the company has assets, that is the protection for the plan members.

MR. YOUNGER: Well, that protection obviously isn't working very well and I'm trying to find out why that's not working.

MS. MACNEILL SMITH: I don't know why you're saying that's not working.

MR. YOUNGER: Well, I mean look at either one of those, take a look at the NewPage plant, they've had assets . . .

MS. MACNEILL SMITH: Those are different situations.

MR. YOUNGER: Okay, well, explain why it is a different situation because, I mean that's exactly what I'm saying. There is a company that had assets and you are saying, well, if they cease business, they're required to fully fund it, but it wasn't fully funded, so they're obviously not required to fully fund it.

MS. MACNEILL SMITH: The situation with NewPage is that the company went into CCAA protection and Bowater has not done that.

MR. YOUNGER: Okay, so if a company goes into - well let's talk about the difference - there is concern with Bowater that it's not fully funded and now there is talk about, well, how do we do that? And now they're back at what was talked about months ago, which was use some of the proceeds from the sale of the forestry lands that they own to fund that.

MS. MACNEILL SMITH: Under the pension legislation, Bowater is liable for the deficit in the plan on windup. How they meet that obligation is not within my control.

MR. YOUNGER: Right, but if they were to choose, and to be honest, I'm not sure how Resolute has that company structured, but for the sake of argument, if they are like most companies and have a Nova Scotia holding company and then another holding company for their operations in Quebec and one for their whatever - the same as NewPage did - then they could just go into receivership for the Nova Scotia company and they wouldn't be liable to pay for that, right?

MS. MACNEILL SMITH: They would still be liable but it's whether or not there are any assets. NewPage was liable to the extent that it had any assets to pay into the plan.

MR. YOUNGER: Well they have assets, they have a mill.

MS. MACNEILL SMITH: And the assets were used to pay the secured creditors. The pension plan is not a secured creditor.

MR. YOUNGER: Exactly, and that's my point. The pension plans are not secured creditors, so have you looked at changing legislation so that pension plans are a secured creditor? I mean you can't do it retroactively, I understand that, but I think we're crazy if we think that this isn't going to happen again in the future.

MS. MACNEILL SMITH: CCAA protection and the Bankruptcy Act are federal legislation and provincial legislation cannot override federal legislation, so that's the difficulty.

MR. YOUNGER: Have we made a request to the federal government to look at that kind of change?

MS. MACNEILL SMITH: I don't know what the provincial government has done but I do know that it is an issue and that it has been raised on previous occasions with the federal government.

MR. YOUNGER: So what happens when a new company takes over? Somebody will take over the assets on the South Shore, just as somebody has taken over the assets in Port Hawkesbury, right? What is the responsibility of - because there's successorship in most cases, for union agreements and things like that, and I know they can negotiate new agreements, but there are successor rights and all that sort of thing. You're still liable for environmental issues on your property, all kinds of things like that. What liability is there for pensions?

MS. MACNEILL SMITH: There is no liability unless the two parties agree that the pension plan will continue with a successor employer but there's no requirement under the pension legislation that the new employer continue the existing pension plan.

MR. YOUNGER: Does it seem to you that the pension liabilities are treated like the poor cousin, compared to other things such as successor rights in a collective agreement or environmental restrictions on the property because you can't walk away from those?

MS. MACNEILL SMITH: I can only speak to what the Act and the regulations require.

MR. YOUNGER: Do you make recommendations to government on changes that might be advisable?

MS. MACNEILL SMITH: I'm part of the process but I certainly . . .

MR. YOUNGER: I know you wouldn't be the only person. So is that a recommendation that your department has looked at?

MS. MACNEILL SMITH: Certainly there are pros and cons to it so if a government was to look at that issue, they would certainly need to explore all of the implications.

MR. YOUNGER: When you look at other private pensions - and I'll just focus on private pensions for a moment - so take the Nova Scotia Power one, for example, which has received a lot of attention lately, especially from the consumer advocate at the Utility and Review Board because they are not going bankrupt, obviously. They're not going out of business but they're underfunded as well, much like a lot of other pensions and they're trying to figure out how to pay that. I'm not sure whether this is true or not but the claim by the consumer advocate and some of the other interveners is it is either the richest or one of the richest pensions in the province, in terms of the private sector, maybe even more so than the Public Service Superannuation Plan, now, as I say, I'm not sure if that's true but that's the argument being put forward at the board.

You said earlier that you don't look at whether a plan is too rich or whether it is "affordable" - I think was the word that was used - so what do you look at? At a certain point that seems to be problematic, especially with the way the bond markets are, and the average bond markets over the years, it's very easy to negotiate a pension that people honestly believe they're going to get - and a combination of pension, salary, benefits and everything else - that then disappears because, well, it really wasn't affordable and the company goes belly up and they hadn't fully funded it because nobody protected the market. So I'm wondering, what is your role to look at that sort of thing?

MS. MACNEIL SMITH: There is no requirement for an employer to establish a pension plan, so when an employer does establish a pension plan it may be done in negotiation with unionized employees or they may design it based on what they can afford. The terms of the pension plan are established by the employer. Once the plan is established, it's our role, in my office, to ensure that the terms of the pension plan meet the requirements of the legislation. The funding of the plan has to be in accordance with the legislation, so we make sure that the contributions are being remitted as required; that the plans are assessed every three years; and that if there are any deficiencies those deficiencies are funded. We check statements every year to make sure that the money that is required to go into the plan is being remitted.

MR. YOUNGER: I'm just wondering if you see a problem with that because - and I understand what you're saying - that's what the regulations or the legislation has you do, but here we have a variety of situations where if you look at municipalities, and I know there have been some changes there, but municipalities and universities suddenly went, oh my goodness, we're going to have to charge property taxpayers and our staff huge rates to reach solvency because the market went belly up, it crashed.

Then you have a situation like NewPage where the company goes out of business and all of a sudden people have - whatever it was - 30 per cent less. I know there have been a lot of proposals around; I know the member for Richmond had suggested that stumpage fees to the province be used to top up that fund. There have been a lot of things proposed. Then you have someone like Nova Scotia Power where they're saying, well, it's an expensive plan so now we're going to go to ratepayers and try and get that funded because our collective agreement doesn't allow us to collect any more from the employees for the pension plan.

To me there seems to be a problem because your office - and I understand what you're saying, that the regulations say this is what your job is and what I'm wondering is, does there need to be a change? At least, even if not telling people don't do this, it might be providing guidance that there may be issues on the horizon. It sounds like a variety of organizations are ending up in different areas of trouble where they didn't foresee this. They didn't foresee things coming, whether it's the market or whether it's the collapse of an industry. It's not the companies or the municipalities or the universities or anybody else who is left out in the cold, it's the people who are either already retirees or coming close to retirement, or even sometimes the employees who suddenly are hit with huge increases in their contributions.

The reason I ask this is because I don't think this is going to change, because you look at the government - if I remember the number correctly, I think the Deputy Premier had said that they were looking to reduce the civil service by, I think, it was 10 per cent or 1,000 people, so that's fewer people contributing. A lot of companies - at NewPage there are fewer people, obviously it's a different situation, but they have a smaller pool of people contributing into a pension plan. Maritime Paper have fewer people now contributing into a plan.

This sounds like it's going to be an increasing issue, so isn't there a role for your department to at least provide guidance? Fine, people may choose not to accept your guidance, but telling them after the fact, well, sorry, you have five years or ten years to now true-up your pension - sometimes that's not even possible for them; that could be a pretty big hit.

MS. MACNEILL SMITH: When the actuarial evaluation is done on a pension plan the actuary works with the employer due to the review projections for the workforce. How many people are going to be in the plan? Is the average age of the workforce increasing? Do you expect to have more employees, fewer employees? All of those factors are considered by the actuary in determining what assumptions to use in the valuation of the pension plan and that is done - actuaries are held to the set of standards established by the Canadian Institute of Actuaries, so that piece of it is assessed.

Employers have always been able to make changes to their pension plan, and they have been actively doing that. Some of them have to work within the environment of collective agreements but changes are made to reduce benefits. They can be earned in the future. Changes have been to increase employees contributions to the plan, to make the plan more 50/50 funded, the employees paying half the cost of the plan. Plans have been changed to say that benefits to be earned in the future are just on a defined contribution basis that there are no more defined benefits to be based. These are all decisions that are made by the employer meeting in conjunction with the employees in determining what the employer can afford and what changes to they need to make, to make the plans affordable into the future.

MR. YOUNGER: You mentioned a couple times it is employers meeting with employees, but what requirement is there to meet with retirees?

MS. MACNEILL SMITH: The new Pension Benefits Act that will come into effect next year will improve the information provided to retirees but retirees are not paying for the benefits being earned so the negations that go on between an employer and its active employees relate to the employees' contributions, both with respected owned benefits and to pay for any unfunded reliability associated with the retiree group because the retirees are no longer paying for the cost of their pensions.

MR. YOUNGER: Well they are not paying for it but they are the ones who are sometimes impacted. We saw that happen in the provincial plan where it was the retirees group that said, well, hold it nobody asked us and now you've - in that case it was a cutting of indexing - you've seen that with NewPage and you've seen that in other places where it's the retirees who probably have less ability to handle cuts and so forth. So if I'm an employee somewhere and find that my pension contribution is going up, I'm not retired yet, I still have an income, if the pension date is going to be later or the pension is going to be less I can plan for that. If I'm already retired, it's pretty hard to plan for that when the benefits change.

MS. MACNEILL SMITH: Yes.

MR. YOUNGER: So why shouldn't they - I understand what you're saying that they are not the ones who are contributing now but they did contribute - so why shouldn't they be part of that consultation?

MS. MACNEILL SMITH: I'm not saying that they are excluded, in many cases they are. . .

MR. YOUNGER: If I am understanding you correctly, they are not required to be consulted, it's just communication to them. If I'm understanding it wrong correct me.

MS. MACNEILL SMITH: Under the Nova Scotia Pension Benefits Act you cannot reduce benefits that are already accrued. That's the Public Service Pension Plan that you referred to does not fall under the Pension Benefits Act so the changes made to that plan would not be permitted under the Nova Scotia Pension Benefits Act.

MR. YOUNGER: I'm sure that will make all of those retirees much happier. But the same thing is - and again if I am incorrect on this, please correct me - but my understanding is that in the windup of a company, unlike the existing employees who have standing, the retired group of employees do not have standing in the bankruptcy proceeding because as you said they are not a secured creditor. I mean they can go just like anybody else can go, I guess. I'm trying to figure out how we solve that.

MS. MACNEILL SMITH: The pension plan has standing in the bankruptcy proceedings. So the administrator of the pension plan represents the plan members during the proceedings.

MR. YOUNGER: Are they representing the retired and existing employees?

MS. MACNEILL SMITH: Yes.

MR. YOUNGER: Should there not be a separate representative for both groups? In a bankruptcy proceeding, aren't the interests of the two groups often different?

MS. MACNEILL SMITH: The administrator is required to represent all members.

MR. YOUNGER: What I'm asking you is whether maybe that should be changed. We changed it for power rate hearings, where we realized that there should be a small business advocate because the consumer advocate and small businesses had slightly different interests sometimes - and sometimes competing interests. I'm just wondering if that's a change that should be considered, to have a separate representative in the case of a bankruptcy proceeding?

MS. MACNEILL SMITH: It could be looked at, yes.

MR. YOUNGER: On a go-forward basis, it strikes me that there are - I actually really think that this is going to be a bigger issue going forward. Do you have any ability to change your requirements in terms of the projections used by actuaries when submitting their reports to you, versus being optimistic versus less optimistic? There's a range, right? This is not a criticism of that group, but they're trying to make projections, and you can make projections optimistically or you can make them negatively. I'm sure there's the whole range, but I'm wondering how you deal with that range?

MS. MACNEILL SMITH: The regulations actually address that. The actuarial evaluations now - the Canadian Institute of Actuaries changed their standard in 2010, so that when they do an ongoing valuation for a pension plan, they do it on a best-estimate basis - what is their expectation? They could be varied on either side as to right or wrong.

Also, the requirement is for a solvency test, which is based on existing market conditions - what is the situation now? - and the pension legislation requires that the plan be assessed and funded on both bases. That captures the problem, if it exists on an ongoing basis, if it's not conservative enough. The issue comes into play if plans are exempted from solvency funding. Then you're relying solely on an ongoing valuation, and then what margins for conservatism do you require on that basis? That is something that the Canadian Institute of Actuaries and the superintendents of pensions across the country are working on, to determine what appropriate margins for pension plans are to make sure that the estimates of the actuaries are going to be highly accurate.

MR. YOUNGER: It seems to me that for very large companies that would have locations outside of this province, a lot of them seem to have separate plans for their operations, either by location or in each province. I know all wouldn't, but some appear to have that. If you take a look at Resolute, they obviously have a separate plan here for their members than they do elsewhere. I realize it would be complicated for you to regulate across provincial borders, but I'm wondering whether that creates a problem, because it benefits the companies . . .

MR. CHAIRMAN: Order. Mr. Younger, your time has expired. Mr. MacMaster.

MR. ALLAN MACMASTER: Thank you for coming today. I know that you know that a lot of people who I represent in my area were affected by the situation at NewPage with their pensions. A lot of the questions I have today are about that particular situation, but people should know that this matter affects more than just those mill pensioners.

Some of them are with us today. They've been up as early as 4:30 a.m. and on the road, because this is a matter that greatly impacts them.

What happened here could affect other Nova Scotians who have defined benefit pension plans. My questions today aim to identify what happened with the New Page pension plan. From what I've seen, it appears that the company didn't really care about the impact on the pension plan that things like solvency relief and early retirements had. For them, it helped them reduce their operating costs at the time.

We all know what happened to NewPage. They're no longer with us, and the result of these changes caused great strain on the pension plan.

I guess there's a risk that if we're not protecting people's pensions through proper regulation, we are creating make-believe pension plans. I know in your opening remarks, Mr. Rafuse, you mentioned that it's not the regulators' job to really go in and look at the integrity - and I won't quote you because I don't have your remarks verbatim - but I guess what I would say, with RRSPs as one example, certainly it is buyer beware. When people enter the investment markets, they are doing so on their own risk.

However, the whole purpose of defined benefit plans, and why they are defined as the best kind of a pension plan to have, is because participants are protected from making investment decisions but they're also promised a pension based on the contributions they make. If we don't have integrity around that and around decisions that are made that impact the integrity of those pensions, then defined benefit pension plans can no longer make that claim that they are the best pension to have.

So my first questions surround the solvency relief for NewPage. When solvency relief was extended to NewPage, to that pension plan in 2011, it increased the risk that pensions would be underfunded should the mill cease operations and while I will not cast judgment on whether it was a good decision to extend solvency relief from five years to 10 years, members should have been given a proper understanding of what they were voting for. Instead, each member received a five-page memo, I've read it myself, very complicated. There was a requirement for them to write a letter within 30 days if they opposed the extension of the solvency relief from five to 10 years. There was no ballot, there was no return envelope, and as a result few people responded. It was further assumed that if people didn't respond, they chose to accept the change to go from five years to 10 years.

So we know that one-third voting against is required to stop the extension. If the memo in May 2011 from NewPage was approved by the superintendent, who counted the ballots and what were the results?

MS. MACNEILL SMITH: There is no involvement of my office in the voting, as such. The regulations do not go into specific detail as to including envelopes, mailings, or who does the counting. That is done by the company themselves and I would suggest that if you see flaws in the regulatory requirements, you would make suggestions for improvements so that we can capture those.

MR. MACMASTER: I guess - and somebody actually put it like this to me - it's almost like someone running in an election, counting the votes, and declaring themselves a winner. If there's no oversight, that's the risk that we face and from my discussions with people, there doesn't appear to be any evidence and it amazes me that that wouldn't be more closely monitored by your office to ensure that there was integrity in the vote, that there were votes counted. Was there communication to the membership approved by your office?

MS. MACNEILL SMITH: There's no requirement for pre-approval of any notification for a request for extending the solvency funding period. The regulations that we have in place are similar to the regulations put in place across Canada for solvency funding extension. So while we can probably see areas for improvement, we have not been inconsistent with other jurisdictions.

MR. MACMASTER: I'm going to give you one example. In the memo from NewPage it stated, "The benefits to which you are entitled under the pension plan will not be affected with the extension of the amortization period," So, to me, that was irresponsible because if the plan was terminated before the end of the extension, the pension benefits would need to be reduced more, under the 10-year solvency requirement, than the 5-year solvency relief standard.

MS. MACNEILL SMITH: Yes, and I believe that is included somewhere within that five-page letter.

MR. MACMASTER: Well, it's like the memo communicated to the employees - don't worry about this change, it's not going to affect your benefits - when we know that if we extend solvency relief from five to 10 years it means the company pays less into the pension fund to bring it to where it should be. If that company, as in the case of NewPage, enters creditor protection, then they don't have any responsibility to do that anymore - it really hurt the pensioners, did it not?

MS. MACNEILL SMITH: Yes, it did. Now the extent to which they were affected by the solvency funding relief is dependent upon how long the company paid those reduced contributions versus what they would have been paying all along. You would need to look at what was the actual period the company paid reduced solvency payments.

MR. MACMASTER: Suffice it to say I think it was a situation that people were - I also recall there was a postal strike at the same time as the 30-day period to respond. I think it was extended, but it was a situation where people were given a legal document, required to write a letter, instead of being given a ballot and something to mail back to indicate their intention. They weren't really informed, in my mind, of what they were - they weren't informed in terms they could understand what they were either going to vote for by not replying, or by taking the initiative to write a letter to say, no, we don't want this change.

MS. MACNEILL SMITH: Yes, and again if you have suggestions for improvements to the regulations, we would welcome them.

MR. MACMASTER: Okay. The next theme I have is early retirements. Pension plan changes to support early retirements occurred after the stock market crash of 2008 which, in my mind, made them even more irresponsible because those changes meant that more funds would be drawn from an already distressed pension plan because there would be fewer workers contributing to the plan - they would be off in early retirement.

Why did your office allow the company to offer benefits it would have little ability to provide?

MS. MACNEILL SMITH: At the time of benefit improvements, the company makes a commitment as an operating company to fund any deficiencies arising as a result of benefit improvements, in the same way as it does for any plan improvement. So there's nothing to indicate at the time of the amendment that the company is going to go into CCAA protection four years from now - no one knows that. So we have to operate on the basis that the company is ongoing, it is making improvements based on its assessment of its needs and what is appropriate.

MR. MACMASTER: I guess if we operate in good faith - in this case the pensioners got hurt. In my mind, if we're going to have defined benefit pensions we need to make sure that the pensioners are protected, and good faith just doesn't cut it. Is there anything you would have to say about that?

MS. MACNEILL SMITH: I don't believe there's any way of forecasting which companies are going to go bankrupt.

MR. MACMASTER: Okay. From December 2010 to September 2011, the funded status of the plan dropped 10 per cent, or $32 million, despite little change in the investment markets over that time. Was the drop in the pension funds due to the early retirements that were offered by the company and, if not, what would have caused that drop?

MS. MACNEILL SMITH: I can't speak specifically to NewPage, but generally, during 2011, the investment rate of return was very, very poor, so if you are assuming an investment return of 6 per cent and you earn 1 per cent or zero, then, in fact, your funding position worsens.

MR. MACMASTER: I guess if we look at the S&P Index over that period, I think it dropped somewhere between 50 and 100 points - I think it was closer to 50 points. There was something else that caused the drop and, from what I can tell, these early retirement benefits were something extended by the company. It worked for them because it took people off their payroll, reduced their operating costs, but it put strain on all the pensioners - it put strain on all those who were contributing to the pension plan because it is drawing away from the assets of the plan.

In my mind, it is irresponsible, especially after a market decline when the funds were stressed already. I know you can say that you can't predict whether or not a company is going to go out of business, and I know hindsight is 20/20, but looking at that industry and how risky it was and still is - that business, the paper industry - to me, if you're responsible for ensuring the integrity of a defined benefit pension, is it not incumbent upon your office to make sure that companies aren't offering defined benefit pension plans that make no sense, that don't have any reality in the terms that they're offering pensioners? Those pensioners are depending on your office to ensure that the benefits that are promised to them are the ones that they get.

MS. MACNEILL SMITH: Again, I have no authority under the legislation or any ability to assess an industry to determine whether or not the companies operating within the industry are at risk of closure.

If an employer has a pension plan and they can't afford it or their business is declining, then it is incumbent upon the employer to address that issue. It's not really the role of government to determine what an employer should or should not be offering to its employees for benefits.

MR. MACMASTER: I know that there are conferences for various jurisdictions for pension regulation. Are these matters discussed at those conferences - sharing of ideas, sharing experience to try to help improve things?

MS. MACNEILL SMITH: Yes, the role of the Canadian Association of Pension Supervisory Authorities is to share ideas and concerns and come up with recommendations for improvements to the pension system.

MR. MACMASTER: I trust some of these items might come up for discussion in future conferences?

MS. MACNEILL SMITH: Yes.

MR. MACMASTER: The question that comes to my mind is, who looks after the average worker who contributes to their defined benefit pension plan and trusts that the pension they're promised is the one that they get? Is there anybody that they can look to as an advocate?

MS. MACNEILL SMITH: Do you mean beyond what the legislation provides?

MR. MACMASTER: Well, to me - and I guess I'm not looking at it in such technical terms, but that's certainly relevant, to look at it in technical terms - there just doesn't seem to be anybody out there protecting these people. When they have questions, they seem to get passed around. I know sometimes they're told to speak - in some cases, in the NewPage situation - they're told to speak to the union when they have questions, but there doesn't seem to be anybody specifically looking out for their interests.

MS. MACNEILL SMITH: We certainly investigate complaints that members may have with respect to the benefits earned. In some cases, issues need to be addressed by the plan administrator because we don't have the information necessary to do an assessment. If it's an issue relating to the calculation of a person's benefit, we don't have salary records, and we don't have membership records. If the member obtains all of the information from the administrator and then still has a problem with it - if they identify where they believe the issue is - then we would look at it, but oftentimes it's difficult to get to that point.

MR. MACMASTER: My next questions are around bridging benefit errors. NewPage pensioners have recently learned that an error was made when calculating their bridging benefit years ago. Apparently the bridging offered was greater than allowed by the Income Tax Act. One gentleman recently received a letter saying he owes the pension plan over $30,000. This is at a time when his pension is worth 63 per cent of what the value should be, and he gets a letter in the mail saying he owes the plan $30,000. There's somebody else I've heard about whose scenario is over $60,000 that they owe to the pension plan. For how long did those bridging benefits payments go out in error?

MS. MACNEILL SMITH: Again, I can't speak to that pension plan in particular, but administrators of pension plans are responsible for making sure that the terms of the pension plan and the legislation - both provincially and federally - under the Income Tax Act are met in the administration of the plan and the provision of benefits.

If there are errors identified, it is the responsibility of the administrator to ensure that they are corrected. They are also responsible, in many cases, for the financial cost of making those corrections. So when there is a change in the administrator and the new administrator identifies some problems, they would look to the previous administrator for funding the costs of any corrections first, before they would look to an individual member.

MR. MACMASTER: If the administrator of the plan made the mistake, which it appears they have, why didn't your office, as the regulator, discover the error?

MS. MACNEILL SMITH: As I indicated before, we don't do individual calculations of members' benefits; we don't have the information. Our role is to review the actual reports to make sure that the recommendations for funding are appropriate, but that's done on a global basis, not an individual basis. The information returns that are filed are globally, not individually, so we do not have the information that would enable us to audit a calculation of a member.

MR. MACMASTER: This error, though, did happen on a global basis; it affected a lot of people . . .

MS. MACNEILL SMITH: But they are individual calculations.

MR. MACMASTER: They might be individual calculations, but there was obviously a flaw in every calculation that was in error - it was the same flaw that caused the error in each of those individual calculations.

Why wasn't the error discovered in the first valuation report after it occurred? I know that the administrator is required to send in a report every three years that is quite detailed on the plan - why wasn't the error discovered in one of those plans, the first one, after the error had occurred?

MS. MACNEILL SMITH: A valuation report provides a summary of the benefits that are provided under the plan, but they do not provide illustrations of the application of those rules to individual members. The information is just not provided on an individual basis for us to check on an individual basis even if, as you say, the same error applies to different people.

Administrators themselves, generally, are either audited, as a business practice, because they want to make sure that their liability or exposure to liability is reduced, so as general business practice administrators review their own work or have an outside auditor review their work just to limit their liability. In a case where someone else, as I've indicated before, identifies a problem that was done by a previous administrator, that previous administrator is responsible.

MR. MACMASTER: I guess what it comes down to is how can employees be expected to trust an administrator - and I know there has been more than one with the NewPage plan - how can they trust the administrator? How can they trust the company they work for when they call the HR office and are told a mistake was made in your benefit calculation? Is that not the regulator's job to monitor and approve that activity? I mean, even something like in this case the calculation and the benefits that were paid in error were contravening the Income Tax Act - is that not the job of the superintendent to ensure that the pension is following things like the Income Tax Act?

MS. MACNEILL SMITH: No, it is not our responsibility. That would be the responsibility of the federal government to ensure that its legislation was complied with. Certainly we have no expertise with respect to the requirements of the Income Tax Act.

MR. MACMASTER: And who in the federal government - are you talking about Revenue Canada?

MS. MACNEILL SMITH: The Canada Revenue Agency, yes.

MR. MACMASTER: I guess the other question I would ask is if the plan administrator made the mistake, do they not carry liability insurance to pay for the mistake?

MS. MACNEILL SMITH: I would assume so, yes.

MR. MACMASTER: So who goes after them? Instead of the pensioners now getting letters saying they owe $30,000 and $60,000 to their pension plan, who is going after the plan administrator who made the error, to ask them to pay for the mistake?

MS. MACNEILL SMITH: The current administrator of a plan would go after the prior administrator with respect to mistakes that a prior administrator had made.

MR. MACMASTER: Because if pensioners sign off on basically a contract that indicates their pension benefit when they retire, that's what's offered to them - it's not their fault, in my mind, if the offer was mistaken when it was made to them.

MS. MACNEILL SMITH: That's right. They are relying on that information to make financial decisions, yes.

MR. MACMASTER: So do you think that the plan administrator should pay for this mistake?

MS. MACNEILL SMITH: The previous plan administrator - yes, most certainly.

MR. MACMASTER: Would it help if there was an audit of the pension plan to ensure that we can provide evidence to hold that previous plan administrator to account?

MS. MACNEILL SMITH: In any case where an administrator determines there were mistakes made by a previous administrator, certainly it is their duty to ensure that the plan is returned to the state that it should have been and that the benefits paid out are what they should have been. So it is the role of the administrator of the plan to make sure that the corrections are made.

MR. MACMASTER: Okay, well, I'm hoping that they can go after that administrator, because to get a letter in the mail that you owe $30,000 on your pension is not a nice experience to have and, in my mind, it's not fair either.

Mr. Chairman, how much time do I have left?

MR. CHAIRMAN: Just under eight minutes.

MR. MACMASTER: The next set of questions involve the timing of the pension windup. Now, according to the Pension Benefits Act, how will you decide the date of the windup?

MS. MACNEILL SMITH: Are you talking about NewPage?

MR. MACMASTER: NewPage, yes.

MS. MACNEILL SMITH: The NewPage Port Hawkesbury Pension Plans Act - there was a separate Act established for NewPage pension plans and, under that, the Governor in Council establishes the effective date of the windup.

MR. MACMASTER: Why was there a separate Act established for the NewPage pension plan?

MS. MACNEILL SMITH: The Act was established at the request of the members to allow them to delay the process for winding up the NewPage pension plans. Normally, when a plan is wound up, the assets of the plan are realized and the benefits are paid out in respect of how much the plan is funded. But because of the severity of, I guess, the deficiency in the plan, the membership wanted to provide for a longer period for the actual windup process in the hope or expectation that over an extended period the fund assets will increase and the long-term bond rates on which they have to settle their benefits of that, those rates increase.

So, in effect, they want the assets to increase, liabilities to decrease, and then, hopefully, they would suffer a lesser reduction in their benefits.

MR. MACMASTER: According to this separate Act that has been established, would it follow the typical rules under the Pension Benefits Act with respect to windup as far as choosing the actual date and what factors would contribute to making a decision about what that date is?

MS. MACNEILL SMITH: It is government's decision to establish that date, so I can't speak to that.

MR. MACMASTER: Okay. When you say government, would that be the Cabinet of government?

MS. MACNEILL SMITH: Yes.

MR. MACMASTER: It's a tricky situation because you've got people who are still actively employed this summer in the woodlands division who are contributing into the pension plan; you've got people who are closing in on an early retirement and their pension benefits change significantly if they manage to qualify for early retirement; and you've got people who are retired whose pensions will drop the more people who are given early retirement because there's more strain - there will be more funds coming out of the plan to support their pensions. It's a very tricky situation - do you have any thoughts on what the government might do?

MS. MACNEILL SMITH: No, I would not want to mislead anyone as to what the government might do.

MR. MACMASTER: Would you have any recommendations for the government?

MS. MACNEILL SMITH: Most certainly, but they would be confidential.

MR. MACMASTER: Is there a process for intervention to change the date that the government chooses for the windup?

MS. MACNEILL SMITH: No, the NewPage Port Hawkesbury Pension Plans Act does not provide for that.

MR. MACMASTER: Pension contributions that have been made the past number of months, and payments that have been going out, would they be corrected retroactively to the date of the windup that is chosen?

MS. MACNEILL SMITH: Yes.

MR. MACMASTER: Okay, I have another question, Mr. Chairman, and I think the first round here is coming to a close pretty soon, and I know the member from Dartmouth East was asking you about this matter, about the ability of the pensioners to be able to go after, or for the government to go after, a company that has gone bankrupt. I know you say in the case of NewPage, the pension is not a secure creditor with the ability to go after any assets still owned by the company, to be sold, to be put into the pension plan to help make up for the shortfalls, which the company is partly responsible for had the plan continued.

My question is this: If NewPage Port Hawkesbury was not wholly owned by NewPage, as I understand there was a percentage owned by Stora Enso, would not there be some ability to go after that company to ensure that the plan was properly funded before it was wound up?

MS. MACNEILL SMITH: If an employer has an obligation to fund benefits under the plan, it's captured under the terms of the plan. So if Stora Enso was listed as an employer, then they would be responsible.

MR. MACMASTER: And would they have to be technically the employer, or could they be a part owner of the company?

MS. MACNEILL SMITH: The requirement under the legislation is for the employer to fund.

MR. MACMASTER: Is that something that could be looked at to be changed to reflect the responsibly owners of the company have? As well, they may not technically be the employer, they are a part owner of a company that is making promises to employees who are working for that company.

MS. MACNEILL SMITH: I believe there are limitations under the Income Tax Act as to who can make contributions to a pension plan and that there does have to be that employer/employee relationship.

MR. MACMASTER: Can you say that again?

MS. MACNEILL SMITH: There has to be a relationship between the employers and the employees in order for contributions to a pension plan to qualify under the Income Tax Act as pension contributions.

MR. MACMASTER; Okay, that's helpful. My next question is - there has been some concern, and I know I've seen response to it, but I want to ask it here today - can you provide evidence that there was a bidding process on the tendering for the new plan administrator for the NewPage Pension Plan, which occurred after NewPage entered a creditor protection resolving itself of responsibility of the plan?

MS. MACNEILL SMITH: Yes there was a bidding process. The union had come forward with a specific request, but we requested bids and made a selection based on that bidding process.

MR. MACMASTER: Is that something that you can provide some evidence to the committee here?

MS. MACNEILL SMITH: Yes.

MR. CHAIRMAN: Order, please. Mr. MacMaster your time has expired.

Mr. Epstein.

MR. HOWARD EPSTEIN: Before I turn to some general questions about pensions, I wonder if I might also follow up on the NewPage situation, since we've focused on it here.

I also was concerned about the bridging benefits error that is a difficult situation for those individuals concerned, that just compounds the general very difficult situation that all the employees and former employees of NewPage have found themselves in. I just wanted to see if I understood correctly the situation about those who have been found to have received some of the bridging benefits on the basis of erroneous calculations.

The first thing, I don't think I heard correctly, or heard at all was, is it the case that it was Morneau Shepell that actually discovered the discrepancy? That is, the new administrator? Were they the ones who discovered the discrepancy? Does anyone know?

MS. MACNEILL SMITH: I can't speak specifically to the NewPage situation, but generally it would be a current administrator who would identify errors made by previous administrators.

MR. EPSTEIN: Okay. Is it normally the case that administrators of plans would carry insurance that would perhaps be applicable in circumstances where they have made erroneous calculations and paid out benefits erroneously? Is that common practice in the industry? Does anyone know?

MS. MACNEILL SMITH: It's my understanding that that's the case, but I can't speak as an expert on that.

MR. EPSTEIN: Okay, that's fine. Has the situation proceeded to a lawsuit? I couldn't remember whether that's actually the case - that is, whether the previous administrator is now actually being sued. Does anyone know that?

MS. MACNEILL SMITH: Again, that's specific to NewPage?

MR. EPSTEIN: Yes, it is specific to NewPage.

MS. MACNEILL SMITH: The administrator of the plan would be the one who would be able to answer any questions regarding . . .

MR. EPSTEIN: Okay, so none of our witnesses today actually knows the answer to that, whether a lawsuit has been started? I see heads shaking, so the answer is no, at this point. It's just that we don't know the answer on that. Thanks. I think that brings a bit more of the context into focus, so that helps. We're very concerned about this situation, and certainly we're aware of it and are trying to follow it as best we can.

I wonder if we could now go back to the general situation that we're here to discuss, which is about pensions overall in Nova Scotia. Of course, there's a national context for it, and so I'm wondering if we can start by hearing something about the general picture of pension plans, both public and private, throughout Canada. We hear a great deal about underfunded pension plans now, and I'm wondering if we can hear something of an overview of where the situation is for both public and private pension plans across the country, and then move on to something about where we are in Nova Scotia.

MR. STEVEN WOLFF: I think in general, pension plans across Canada are under great financial challenge, and in essence facing a perfect storm for defined benefit plans in particular. Many of these plans were designed 50 or 60 years ago. They were designed based upon investment return assumptions that were much higher assumptions than have been achieved in many of the recent years. They were designed at a time when their members were generally living shorter lives, and we've seen an improvement in mortality. In general, the population is living an extra year for every decade now.

They were designed at a time where there was lower salary growth, and they were designed to provide what has proved to be very generous benefits. Couple that now with very challenging investment markets, highly volatile markets, so returns are very uncertain. Asset classes are extremely correlated, which means that when equities go down we're seeing other markets follow suit quite dramatically, moving in tandem. In recent years we've experienced record low-interest rates. As the superintendent mentioned, when interest rates come down, plan liabilities go up.

In essence, it's a very challenging environment for defined benefit plans, and similarly, extremely challenging for defined contribution plans. I think perhaps that's coupled with a lack of education for the general public, who's responsible for these defined contribution plans, for making the investment decisions and the products that are being sold to them are becoming increasingly complex and very opaque, in terms of what their actual costs are, so a great number of challenges.

MR. EPSTEIN: Maybe before we continue our discussion we could straighten out our vocabulary and make sure we're all dealing with the same terms, or terms we all understand. So far I heard you refer to a defined benefit plan and I also heard you refer to a defined contribution plan. My understanding is that defined benefit pension plan is one in which the employer and the employee agree on certain levels of contributions to the plan but they also agree on the ultimate payments that are to be made to the beneficiaries and that seems to be the defining characteristic. But for defined contribution plans, the employer and employee would agree only on the contributions, not on the benefits. Is that correct or is there something that we should understand in a different way about that?

MR. WOLFF: Yes, that's generally correct. The distinction then with the defined contribution plan is that you really don't know what is available to you for your retirement until the time that you do retire and you stop contributing and you start drawing down on the amount that has been contributed by the employer and the employee and invested.

MR. EPSTEIN: Yes, just to focus for a moment on the defined contribution plans, it's fairly clear, I would have thought, that there's a lot of risk that is assumed by the employee in those circumstances because they just don't know what the value of their pension plan will be on the date they retire. Is that a fair statement?

MR. WOLFF: That's entirely correct so really, in essence, all of the risk is assumed by the employee.

MR. EPSTEIN: I was very struck by this the first time I heard about the nature of defined contribution plans back in - was it 1985 that the stock market took a big drop, or 1987, one or the other? It happened very quickly in a one- or two-day period in October of that year and someone who had a defined contribution plan but who retired in September would have had a pension that was at least one-third more than someone who retired in November or December, because of that drop in the stock market. Is that a fair way to understand the risk that an employee would take with that kind of plan?

MR. WOLFF: Yes, it's a very good example of the vulnerability that the employee has, or the risk the employee is taking, with a defined contribution plan.

MR. EPSTEIN: Yes, and in terms of risk, for defined benefit plans, I guess it's the case that the employer takes a lot of the risk although employees certainly have to be assured in some way that their employer and the plan are going to be able to deliver what has been agreed to but the risk is perhaps more on the part of the employer, is that right?

MR. WOLFF: That's correct.

MR. EPSTEIN: All right, so now we know more or less what we're talking about for defined benefit and defined contribution plans. You were explaining some of the factors that affect pension plans throughout our country. I wondered, since you said the factors would affect both defined benefit and defined contribution plans, what you had in mind when you said that for defined contribution plans these factors also come into play. Did you mean the stock market drop that I talked about or did you mean something different? How do these factors affect the defined contribution plans?

MR. WOLFF: Well, first of all, I'm not an expert on defined contribution plans but yes, what I'm trying to suggest is that for defined contribution plans, they are extremely vulnerable to the ups and downs of the investment markets. In recent years that has been a very challenging environment.

MR. EPSTEIN: I'm sorry, you said "invulnerable", did you mean vulnerable?

MR. WOLFF: Very vulnerable.

MR. EPSTEIN: Very vulnerable, I mis-heard, thank you.

MR. WOLFF: Very vulnerable to the investment markets and to negative returns, which we certainly experienced in general since 2007.

MR. EPSTEIN: One of the things that I wondered about was, and I think this perhaps has mostly to do with the defined benefit plans, it has to do with how solvency is actually calculated and how this links to long-term bond rates. I heard the superintendent say a couple of times - and I think it was in the opening remarks as well - that long-term bond rates are an important factor, and if there's a low interest rate being paid on long-term bonds this is going to affect the solvency calculations and the solvency of the plan. I'm wondering if we can have an explanation of how that actually works - why is that such an important factor?

MS. MACNEILL SMITH: The long-term bond rate is used to approximate the cost of buying a pension from an insurance company. So the only way a pension can be paid is either through a life annuity with an insurance company, or out of a pension plan.

MR. EPSTEIN: So if I could just stop here for a moment just to be clear - in that respect does that mean that for either a defined benefit or a defined contribution plan, when an individual actually retires the mechanism that then kicks in is that an annuity or an equivalent kind of financial vehicle is purchased for the individual in order to actually pay their pension, whether it's a defined benefit or a defined contribution plan?

MS. MACNEILL SMITH: Yes. The life annuity is a purchase and it guarantees a specific amount of pension payable for that individual's lifetime. There's a requirement under the legislation for spousal protection, so that if the retired person dies then 60 per cent of that pension would be continued to the spouse, unless the spouse waived that right. So that is the provision of a pension, and the long-term bond rate is used in the solvency evaluation to determine what would the assets have to be in order to provide for all of the pensions under the pension plan to be purchased from an insurance company.

MR. EPSTEIN: Okay, I think I understand it for a defined contribution plan, because if interest rates and returns are very low at the time a person happens to retire, or if the value of their share of the investment plan has dropped, then what they can actually purchase is something less than perhaps they had hoped for - but how does it actually work for a defined benefit plan if interest rates are low?

MS. MACNEILL SMITH: Well, it's the cost required to provide for that pension. Now, insurance companies are required to hold certain reserves with respect to the benefits they promised, and that's reviewed by the Office of the Superintendent of Financial Institutions federally. So the insurance companies have to set up certain reserves in order to meet the obligations that they have committed to when they sold their annuities. A pension plan has to have a similar asset base in order to provide for the pensions they promise under the terms of the pension plan.

MR. EPSTEIN: So the way it links to solvency is that if long-term bond rates are low, then people like you, as superintendents or the administrators, or actuaries who are looking at the plan, will say this plan needs a lot more money because returns for the foreseeable future are likely to be low, and so when we think about whether this fund is funded at an appropriate level - it needs more money if rates are low?

MS. MACNEILL SMITH: Yes.

MR. EPSTEIN: And, therefore, that increases the unfunded portion - is that right?

MS. MACNEILL SMITH: All we know for certain is what the situation is now; the future is uncertain. So we don't know how long long-term bond rates are going to be. The financial situation in the past 10 years has not been good and the expectation is it's not going to be good for a while out into the future. So the best assessment we can make on a pension plan is, do you have enough money now to provide for the benefits you promised to date?

MR. EPSTEIN: I was asking about the national picture, and if we can go back to that - I was wondering, are there numbers about what percentage of plans across Canada are actually underfunded at the moment?

MS. MACNEILL SMITH: It ranges about 70 per cent of pension plans have a solvency deficiency.

MR. EPSTEIN: I'm sorry, you said 7?

MS. MACNEILL SMITH: Seventy.

MR. EPSTEIN: Yes, 70 per cent of the plans are underfunded?

MS. MACNEILL SMITH: No, I'm sorry.

MR. EPSTEIN: Oh, you mean they're at the level of 70 per cent?

MS. MACNEILL SMITH: They are at the level of 70 per cent.

MR. EPSTEIN: Okay, so that was another question I have, so that's very useful, thank you. Just to focus on that number, is that taking into account both public and private plans, nationally?

MS. MACNEILL SMITH: I would assume so.

MR. EPSTEIN: Okay. Could I get you to double-check and perhaps write to the committee afterward and let us know if that number is just private or just public and perhaps what the numbers are for public, private, and aggregated? That would help. Thank you.

Then I was asking about if we know what proportion of the plans are actually underfunded on a national basis. Does anyone know?

MS. MACNEILL SMITH: No. There might be some information available from Statistics Canada on that.

MR. EPSTEIN: Okay, there's no immediate answer on that at the moment. You don't happen to remember that, okay. And in Nova Scotia, if we can move here, again, the same question, do we know what portion of the total number of plans here are underfunded? And as you correctly anticipated, the second question is, what's the level of the underfunding?

MS. MACNEILL SMITH: If you look back at my last annual report to the minister, we keep our statistics a bit differently rather than looking at each individual plan, because our concern is how many members are exposed to the liability of underfunding. We have pension plans that may have one member in them and we have pension plans with 10,000 members, so we don't want to give them equal weight. We look at what percentage of members are in plans that are underfunded. As of the last report, the majority of plans were funded at 80 per cent or better - pardon me, 20 per cent of members were in plans that were under 80 per cent funded.

MR. EPSTEIN: Twenty per cent of members were in plans that were not . . .

MS. MACNEILL SMITH: It might be best to just refer back to the report itself. It's quite clearly stated there.

MR. EPSTEIN: Yes. I don't have it in front of me, I'm sorry. I guess you don't as well.

MS. MACNEILL SMITH: Nor do I, unfortunately. My apologies.

MR. EPSTEIN: That's all right. What I wondered - I think a number of the questions that were asked earlier were very correctly based on concerns for the employees and their families as to whether there is some secure future for them. Of course, underfunded plans put pressure on employers as well, since it becomes part of the dynamic of how they see their businesses running.

I'm wondering how you would characterize the situation. Is it something that we, as a government, should be worried about? Is it something that should be left to correct itself? Is it something that some additional steps should be taken to deal with? Have you any suggestions for us? My question is to any of the witnesses.

MS. MACNEILL SMITH: There is certainly concern about what funding requirements should exist for pension plans. The role of the government legislation overall, really, is to ensure that that pension promise is met. Unfortunately, there are instances where that promise hasn't been fulfilled.

The balancing act government has is to, while requiring employers to fund the benefits that are promised - they are legal obligations, those promises that are made under a pension plan. It is a balancing act such that we don't want to make the funding requirements so cumbersome or so onerous on the employer that they either do not provide a pension plan or that it will result in the windup of the employer and the closure of the business. It is a concern to try to balance those two, while protecting the members' benefits.

There's pretty much continuous analysis of our funding system, our requirements, what's happening across the world, insofar as the funding requirements in other countries and just trying to perfect the rules and regulations to achieve the proper outcome, which is the protection of the members' benefits.

MR. EPSTEIN: Yes, in terms of the pension benefits legislation that we have in place in Nova Scotia, are there any particular or striking differences between the legal framework we have in place here and the legal framework that is in place in other provinces?

MS. MACNEILL SMITH: No, it's very similar to other jurisdictions.

MR. EPSTEIN: So the general outline being that plans have to be registered, there is an office - or the superintendent- that requires solvency information and applies statutory tests to look at the solvency. There are rules around administration and disclosure. These are, I guess, the main . . .

MS. MACNEILL SMITH: They're all very similar. We have a new Pension Benefits Act that was passed in 2011 and we're working on regulations to go with that Act. That Act will modernize and update what we currently have. The regulations with respect to funding requirements, we had a consultation on draft funding regulations that ended in January of this year and so the analysis and the preparation of recommendations for government for funding a pension plan will capture that feedback that we received during that consultation process.

MR. EPSTEIN: The new legislation and the regs would go into effect at the same time, is that the plan?

MS. MACNEILL SMITH: Yes, because the Act was completely revised and the regulations need that same work.

MR. EPSTEIN: But essentially the same kind of regulatory system is in place, province by province, across the country, is that right?

MS. MACNEILL SMITH: Yes.

MR. EPSTEIN: Do the superintendents meet regularly?

MS. MACNEILL SMITH: Yes, we meet twice a year in person. We also have two conference call meetings and then we have subcommittees of CAPSA that meet on various issues that we're reviewing.

MR. EPSTEIN: Are joint positions taken about law reform or about changes that might be useful in the statutory arrangements? Is that part of the purpose of your talks?

MS. MACNEILL SMITH: Yes, in fact CAPSA had developed what we called a model pension law, which were principles for pension regulation that governments could look to when they were updating and improving their pension legislation. When the new Pension Benefits Act for Nova Scotia was developed, we looked at what the model law recommendations were and captured a lot of that in the new Act.

MR. EPSTEIN: So the new legislation in Nova Scotia was based on the model that the superintendents had generated as a national body. Is that right?

MS. MACNEILL SMITH: We looked to that as well as to what was actually in existence in the other jurisdictions.

MR. EPSTEIN: Okay, that's a help. Before I go on with some of the other questions I have, I wanted to go back to the initial question I had, or one of the earlier questions I had, about kinds of pension plans that exist. We talked a bit about defined benefit and then defined contribution plans, it's my understanding that there is a third kind that has been discussed a fair bit over the last few years, something called target benefit plans. I'm wondering if first we could have an explanation, perhaps Mr. Wolff again, as to what a target benefit plan is, and then perhaps we could just talk a bit about them.

MR. WOLFF: Yes, target benefit plan really is a rather new innovation for pension plans. Essentially it's a hybrid-defined benefit plan structured such that the amount of benefits paid is really driven by the health of the plan so the benefit can change depending upon the health of the plan. The benefit can go up or down.

MR. EPSTEIN: Do we have target benefit plans at work in Canada right now?

MR. WOLFF: Yes.

MR. EPSTEIN: And do they qualify under the CRA, the Canada Revenue Agency, rules for pension plans, that is, are contributions deductible and so on?

MR. WOLFF: They are registered pension plans, yes.

MS. MACNEILL SMITH: In Nova Scotia we actually have target benefit plans operating. They are what we call the specified multi-employer pension plans, primarily pension plans for the building trades where the contributions going into the plan, the commitment of the employer just to make the contributions negotiated under the collective agreements. The trustees of the plan establish what the benefits should be, and if the funding is insufficient to provide those promised benefits, the benefits are reduced.

MR. EPSTEIN: And these have been of some long standing, I think, is that right?

MS. MACNEILL SMITH: Yes.

MR. EPSTEIN: I had a look at a report that was done in Ontario a year or two ago. I think it was called the Ontario Expert Commission on Pensions, chaired by Harry Arthurs. Harry Arthurs is a person for whom I have a huge amount of respect. He's a former dean of Osgoode Hall Law School and former president of York University, and a labour law expert - probably Canada's leading labour law expert. If Harry Arthurs says that something is worth looking at, I tend to believe him immediately.

This report suggested that target benefit plans were a way of, perhaps, responding to some of the solvency crisis in pension plans in Ontario, if I understood it correctly - meaning that if some of the pressure for liability could be taken off of employers, they'd be less likely to abandon their plans or move completely to defined benefit plans. Do I understand the dynamic correctly? Is that how these might work?

MR. WOLFF: Yes, that is essentially correct. It basically provides for a greater sharing of risk or a sharing of risk between the employer and the employee, because on the employee side the risk is that the benefit can be reduced. As well, that's why the Ontario Expert Commission on Pensions and other experts are really promoting target plans. In line with my earlier comments, they're another option besides transitioning from a defined benefit plan that was designed 60 years ago and going to a defined contribution plan where you transfer all the risk to the employee. A target plan represents another alternative, and perhaps a fairer alternative. In essence, the changes that were made to the Superannuation Plan in 2010 and 2012 incorporate many of these concepts.

MR. EPSTEIN: I take it we could reasonably expect that there might be more public discussion of this option in Nova Scotia in future months and years. Is that right?

MR. RAFUSE: I would add that you could expect that across the nation as a lot of employers are looking at targeted plans as an option. As you said, it has appeal to employers because it reduces the liabilities that are on their books and it avoids those issues of solvency test payments and the like, so yes, you should expect more conversation on this across the nation.

MR. EPSTEIN: I look forward to learning more about them as we go on. I wanted to turn to another aspect of ways in which some innovations are coming forward around pensions. I want to look a little bit at the idea of pooling. This is something that has come out in two different ways, so far as I'm aware. One is the initiative that the federal government . . .

MR. CHAIRMAN: Order, please. Mr. Epstein, your time has expired. Mr. Younger, you have 25 minutes this session.

MR. YOUNGER: I want to follow up on a couple of things that others have touched on. One of the things we talked about earlier was the change in option from a five-year return to solvency - or the option to go to 10 years for a return in solvency and how that was done. My colleague from Inverness brought up some important issues and important questions around how that was handled. That option was created in 2008 - is that correct?

MS. MACNEILL SMITH: That option was made at the end of 2009.

MR. YOUNGER: The end of 2009?

MS. MACNEILL SMITH: Yes.

MR. YOUNGER: Okay, before - really?

MS. MACNEILL SMITH: The market losses were in 2008.

MR. YOUNGER: No, I know they were. I thought I had remembered some of the municipalities dealing with that earlier in 2009 because didn't the letter to NewPage pensioners go out before that?

MS. MACNEILL SMITH: There was specific solvency relief provided to municipalities and universities prior to that.

MR. YOUNGER: Yes, that was earlier, but the letter that my colleague was speaking about that asked NewPage pensioners - what year did that go out?

MS. MACNEILL SMITH: That's a question specific to NewPage that I can't address.

MR. YOUNGER: But your office signed off at the end, right - on the 10 years?

MS. MACNEILL SMITH: No, there is no requirement for me to approve the 10-year extension. That approval comes from the members. If you look at the regulations, they do not require superintendent's approval for the extension up to 10 years.

MR. YOUNGER: Okay. I want to compare some of these private pensions and the public ones like the Teachers' Pension Plan and the Superannuation Plan and I'm not sure who is going to be the best person to ask the question to so I'll ask the question and then it might be a joint answer. There are a number of discount rates, projected return on investments, and estimates of assets in the Superannuation Plan and the Teachers' Pension Plan, and I'm just wondering if those - the numbers, the rates, the discounted rates and so forth - if those were put forward for one of the private plans, whether they would be approved if it was a private plan?

MR. WOLFF: I can certainly speak to the process by which the Public Service Superannuation Plan and the Teachers' Pension Plan set their discount rates. Unlike plans that come under the PBA, Pension Benefits Act, these two plans have their own legislation and they are required to set the discount rate annually, so essentially it a more conservative requirement. To set those rates, staff at the agency will conduct a very detailed analysis by asset class of forecasted returns for each of those asset classes, looking at 10 and 30 year forecast. They'll do that in consultation with external consultants and they will do that by sourcing data from a number of reputable providers.

Once that information is prepared, they will consult with the independent actuary for each of the plans and then they will review the recommendations in detail with the trustee of each of the plans. It's quite a detailed review discussion and the actuary is present for that discussion as well.

Then the trustee will approve the discount rate. In turn the actuary must accept the discount rate and if you refer to the actuarial evaluations produced each year for each of the plans, which again is more conservative than the Pension Benefits Act requires, you'll see that the actuaries opine on all of the assumptions given and so that would include the discount rate. Actuaries are held to an industry standard, a national industry standard, which is essentially set by the Canadian Institute of Actuaries with respect to all their opinions and the underlying assumptions that they accept. Finally, the actuarial evaluation report is further reviewed by the independent auditor of each of the plans. It is quite a robust process.

MR. YOUNGER: How do you ensure - I mean I'm sure it is like lawyers -if you ask a bunch of them, you get a bunch of different opinions. There has been a lot of concern, especially around the teachers' plan, that the assets may be over-valued and I have no idea if they are or not, that's not my expertise. How do you ensure - and I'm going to ask the same question about the private plan so start thinking about your answer - how do you ensure that the asset base, as reported, is not over-valuated or under-valuated, but I would think over-valuated is more serious?

MR. WOLFF: So with all due respect, we're really talking about two different issues.

MR. YOUNGER: That's fine.

MR. WOLFF: Your first question was around calculating the liabilities of the plan so that was my earlier response.

MR. YOUNGER: That's fine.

MR. WOLFF: With respect to the valuation of assets, the assets are valued essentially twice. They are valued by the investment manager and then they are valued by the plan's custodian. The custodian is an independent entity appointed by the trustee, responsible for safeguarding and valuing the assets of the plan. Their valuation process is completely independent of staff's process or the processes that may reside within external investment managers.

There's a very independent process by which fund assets are valued and then, in turn, an audit of the financial statements of the plan is conducted annually by an independent auditor. The majority of the work that that auditor will do will be to verify that the valuation of the assets is independent, reliable and robust.

MR. YOUNGER: Mr. Chairman, I'd like to ask the same question about the private plans and obviously they have to set - I know there are two separate questions there, one is about discount rates and one is about asset bases. Does the Office of the Superintendent have any requirements on reviewing either of those - for private plans?

MS. MACNEILL SMITH: Currently the requirement under the pension legislation is that assets be valued at market or solvency evaluations. There is smoothing permitted so that you can use the average of the market over the last five years to smooth out any fluctuations, to result in a more level contribution base.

There is no requirement for filing of financial statements under the existing legislation. However, the new Act will provide authority for regulations requiring filing of audited financial statements. So at that point the review would be done on those plans that file the statements.

MR. YOUNGER: We heard Mr. Wolff say that the requirements are somewhat more conservative, as it relates to some of these issues on the public sector pension plans. Would there be merit in having similar regulations apply to the private sector plans?

MS. MACNEILL SMITH: We have proposed, in the draft funding regulations that were consulted on in the early part of the year, we have proposed that plans that fall below a certain level of solvency would be required to do annual valuations, so that once they've reached this stress level, that the plan must be assessed annually and that corrections would be able to be made more quickly.

MR. YOUNGER: Why would you only do it for plans that fall below a certain solvency level? It would strike me that if you did it every year, all the time, you might avoid getting to that lower solvency level in the first place.

MS. MACNEILL SMITH: These are requirements for filing. Most large plans actually would do annual valuations, just because in some cases the liabilities and the assets associated with the pension plan, in comparison to the company, are growing quite large, as far as the asset base of the company. So in managing that liability, it's a matter of prudence that the employer would relook at any changes that occur on at least an annual basis, to make sure that they're on top of a situation and they would know in advance what the funding requirements are going to be.

If a plan is in a good financial situation, there's no requirement for the regulator to be reviewing the documents annually.

MR. YOUNGER: Do you think - maybe I'm missing part of this here but it strikes me when I think about some of the pension issues that we've had, in the private sector in particular, that the current regulatory environment overseeing pension plans and the private pension plans in the province isn't adequate to pensioners and near pensioners - what's your feeling on that?

MS. MACNEILL SMITH: Well, it certainly has proven to be insufficient in the cases of where there's a bankruptcy of a company and there aren't enough assets to fully fund the plan. We've had closures and windups of pensions plans where the company still exists and the company has fully funded the deficits in the plan. So it's not all bad news, but we do have situations where the news was very bad. So in looking at our funding requirements, we certainly do need to look at what can we do to protect members better without spurring employers to cease offering to fund benefits plans entirely.

MR. YOUNGER: Right, and I understand there's a balance.

MS. MACNEILL SMITH: Yes.

MR. YOUNGER: What role, and I want to understand your level - when I say "your" I mean the level of independence of your office from government and Executive Council in terms of making some of those decisions - are you treated as an independent body in terms of things like, for example, the rules around the switch to allow 10 years, would that have been a decision that would have to be approved by, obviously not the Legislature but by Executive Council, or is that something that you can do within the regulations currently?

MS. MACNEILL SMITH: It's government that establishes the regulations, and it's my role to ensure that those regulations are followed; I don't really have any ability under the Act or the regulations to make exceptions or to make additional requirements.

MR. YOUNGER: And the reason I'm just trying to understand - and it's not intended to be a criticism, it's more just understanding that if we have found that things are insufficient, I guess my question is whether you have the power currently to address those insufficiencies or whether those insufficiencies have to be addressed by either Executive Council through regulation or perhaps even through legislation?

MS. MACNEILL SMITH: It would require regulatory changes because I can only tell an employer, if they ask me, they must fund in accordance with the regulations. I can't create new requirements.

MR. YOUNGER: Okay. Thank you, that provides that clarity. Are there things - you mentioned that you meet with some of the other people, your counterparts in other provinces which makes a lot of sense - are there specific requirements in other provinces that we don't do here which you feel should be adopted here to address some of the issues?

MS. MACNEILL SMITH: I mean, the funding, what we should do with respect to funding requirements is really in a state of flux. Alberta and British Columbia have each introduced new Pension Benefits Acts and they're currently drafting their regulations. They're looking at what requirements should be imposed on employers in order to fund the benefits under their new regimes. Ontario has gone through many changes. They're looking at what rules should be put in place with respect to specified multi-employer plans. If they exempted from solvency funding because they can reduce benefits, then how should we strengthen the ongoing valuations?

The Canadian Association of Pension Supervisory Authorities have asked the Canadian Institute of Actuaries to determine, okay, what margins are appropriate for ongoing valuations, how can we redefine the assessment tools and the funding requirements to make sure that the members' benefits are protected? I've heard that

Quebec will probably be looking at reviewing the whole area of how pension plans are funded under their regime within the next two years. So it's not a static situation, it's constantly changing and improving.

MR. YOUNGER: One of the things that has been talked about at different times, to address two issues that I've heard you raise and I heard raised in the opening comments, is there are a number of employers, especially small ones, who simply don't have any sort of pension plan or RRSP plan or anything, I mean they're just too small to realistically do that, and you had raised the concern that if the regulations or the requirements become too onerous then a company may just choose not to offer a plan at all. I understand that risk as well. Have you examined whether it makes sense to look at things like voluntary pool plans, which obviously would have to be managed either by some private organization or a government entity, it would have to be managed independently in some respect, but that companies could choose to buy into, to provide pension benefits on a voluntary basis to their employers?

MS. MACNEILL SMITH: We certainly have been reviewing the pooled registered pension plan that was the Act that was passed by the federal government. They're still working on the regulations. We don't know what the effective date of that legislation will be, but the pooled registered pension plan they've envisioned would be offered across the country. The previous government in Quebec introduced a voluntary retirement savings pan early in the summer, with some differences between what the federal government proposed under their legislation, but then the government changed in Quebec and we do not know whether the new government is going to proceed with their voluntary pooled pension savings plans.

Certainly here in Nova Scotia we're looking at - the pooled registered pension plan is intended to address the pensioners of a certain segment of the working population. We have people who are in low-income occupations and, generally, it's not advisable for them actually to be saving for retirement because their standard of living will not change from working to when they're relying on government pensions like Old Age Security and CPP and GIS. To save when funds are very scarce, to save during your working career, and then be better off in retirement is really not good planning. The well-to-do may not be in pension plans, but they're well-to-do. They have other assets. They do not need to rely upon a pension plan to provide them with that income security in retirement. They have enough assets that they can live on those.

The gap or the problem is really with respect to middle-income earners, and the percentage of the middle-income earners who are not in a pension plan, who are not saving for retirement, they may have high consumer debt loads, so the pooled registered pension plan is really meant to capture that group and to provide a vehicle where their employers can provide the pension plan to them and they save for retirement through that method.

The proposed pooled registered pension plan Act, the federal one, can't immediately be adopted in Nova Scotia because the federal system - the Office of the Superintendent of Financial Institutions captures insurance, pensions and banks; it's all covered under the one regulatory body. There would be licensing requirements for institutions offering a pooled registered pension plan in Nova Scotia and we don't have that ability. We don't license anyone under pension regulation.

There are also concerns with respect to monitoring contributions to a pooled registered pension plan. It's an issue that CAPSA has raised with the federal government under their PRPP legislation. If it's going to require a large regulatory role in overseeing that the contributions are remitted as required, then how is that going to be paid for? Where are the resources going to come from? Most regulators don't have that free staff or time to dedicate to pooled registered pension plans. So there are a number of issues that need to be worked, but certainly it's a valid proposal.

MR. YOUNGER: So what work is being done by your office now to address that? I assume that legislation will be - or the regulations or the proclamation or whatever is required to happen federally will happen at some point. I agree with you that it is a lot of the middle-income earners, but I also think that it's a lot of the small-business owners and so forth who are simply putting everything into their business at the moment and have three or four employees. It won't be just their employees; it will be for them too, as something to - you know what, that's where I'm going to invest - but if they're not given that opportunity in the province because the system isn't set up, that will be problematic.

I know that until the regulations are out, you can't finalize anything, but is there work being done at the moment to prepare for that?

MS. MACNEILL SMITH: Yes.

MR. YOUNGER: Okay. What sort of work is being done to prepare for that?

MS. MACNEILL SMITH: Well, we've done our analysis of both the federal and Quebec proposals for the pooled pension plan. We've also identified concerns, and then I've indicated that they were nationally - regulators had concerns with respect to the pooled pension proposals. So we need to develop solutions to address those concerns, and that's being worked on now.

MR. YOUNGER: You mentioned that in Nova Scotia - I think I understood you correctly - you don't license the pension providers, as would be required under the federal Act.

MS. MACNEILL SMITH: Yes.

MR. YOUNGER: Why don't we license them here?

MS. MACNEILL SMITH: Because we don't supervise insurance companies. Pension regulators, it isn't their line of business. That's done under the Superintendent of Insurance. It's not that there aren't other bodies within government who would be appropriate, but it's a matter of determining what roles the other departments of government have to play in pooled registered pension plans.

MR. YOUNGER: So it's not that they can't be licensed, it's just that you're not sure who would take that responsibility.

MS. MACNEILL SMITH: It's a matter of determining who is going to do that, how they are going to do it, and how it would all come together.

MR. YOUNGER: One of the things I've noticed in the past few years is that sometimes things like this can take a long time. When it comes to pensions, especially when people increasingly seem to not have access to pensions and this might provide that portability as people change jobs as well, which also seems to be happening increasingly - I'm concerned that this could take a long time to have in place, if and when it comes. Do you have a sense of the timeline that that might take?

MS. MACNEILL SMITH: Well, no, right now there is no other jurisdiction in Canada that is offering pooled pension plans . . .

MR. YOUNGER: I understand that.

MS. MACNEILL SMITH: . . . so is Nova Scotia going to be first out of the gate? I don't know. Behind the federal government? I don't know.

MR. YOUNGER: I'm not all that concerned if we're first out of the gate. I'm just concerned about the legislation, the regulations coming down from Ottawa to allow for it, and two or three years later we're still sitting around wondering how we're going to do it.

MS. MACNEILL SMITH: I don't know why we would take two or three years.

MR. YOUNGER: And that's my question, because I'm wondering if you had a sense of how long it might take.

MS. MACNEILL SMITH: I can only work on the details and the questions, and it's certainly up to government to make the decision as to if or when such pooled plans are introduced.

MR. YOUNGER: Do you need to be moving toward the licensing of those individuals or putting the legislation in place to license those people now? Obviously, just like the Personal Health Information Act, that legislation was passed and hasn't been proclaimed, so there are many examples where you can pass the legislation and proclaim it when it's necessary.

MS. MACNEILL SMITH: But in order to establish the rules of various parties . . .

MR. CHAIRMAN: Order, please. Unfortunately, Mr. Younger's time has expired. Mr. MacMaster.

MR. MACMASTER: Mr. Chairman, thank you. My first question is more for clarification. I believe there was a time with the NewPage pension plan that NewPage was not only the sponsor of the plan, as the company, but was also the administrator. Was that the case?

MS. MACNEILL SMITH: I can't speak specifically to NewPage. I can only speak generally with respect to pension plans. The information relating to a particular plan is confidential.

MR. MACMASTER: But isn't the administrator of a defined benefit pension plan registered with other information pertaining to a defined benefit plan with the Superintendent's Office?

MS. MACNEILL SMITH: Yes, and in some cases the employer is an administrator. It's usually in smaller plans where the employer fulfills the role of administrator as well as employer. Generally larger plans, the more complicated they become, the more likely it is that an outside administrator or independent administrator is hired.

MR. MACMASTER: I'm just thinking that NewPage may have been the administrator at the time that they were conducting the - I guess we can't really call it a vote, but when the memo was sent to the employees about whether or not they were willing to accept a change in the solvency relief from five years to 10 years, is it possible that they were the administrator at that time?

MS. MACNEILL SMITH: As I have indicated before, larger plans generally hire outside administrators so it would be unlikely that a large plan would have the employer acting as the administrator.

MR. MACMASTER: I guess there is some fear that they were the administrator at the time, which, as I said before, if they had put out the memo and were also responsible for counting the votes, nobody really knows what happened there. A significant change was made to the plan with them in complete control of it and I think it benefited the company more than it did the employees. Certainly time has told us that is the case.

MS. MACNEILL SMITH: The only benefit to employees in providing an employer a longer period to fund the solvency deficiency is if the employees believe that the employers' money can be better utilized for updating equipment, carrying on the business, but the understanding is always that the extension of the solvency funding period increases the risk to the members.

MR. MACMASTER: I understand that. I guess it's just that the way the process took place; I don't think it served the interests of the members because I don't think they knew what they were being asked to decide upon. I think it was done in such a way that a lot of people just wouldn't bother responding.

I will move to another question. Why did NewPage get a separate Act to delay the windup or to be given the permission to have an extended windup? Why did that require a separate Act?

MS. MACNEILL SMITH: The current Pension Benefits Act requires that a windup report be prepared within six months of the effective date of the windup of the pension plan. In that report, the actuary has to make recommendations as far as purchasing annuities for the pensioners and distribution of the assets for the other members. So generally the windup process can take anywhere from six months to a year, year and a half. It's my understanding that the NewPage Port Hawkesbury Pension Plans Act was established at the request of the unions at NewPage.

MR. MACMASTER: I had put forward an amendment to the Pension Benefits Act to put this protection in place for anybody with a defined benefit pension so that if their pension was underfunded, they wouldn't have to have their pension wound up immediately and their investments put into annuities at a time of historically low interest rates. Why not extend the same benefit to anybody in Nova Scotia with a defined benefit pension plan? If it was suitable for the NewPage situation, why not include other defined benefit pension plans by giving them the same benefit?

MS. MACNEILL SMITH: The assumption in extending the period for a windup to occur is that over that extended period you are going to improve the asset values and there is a possibility that the liabilities will decrease if the long-term bond rates go up. There is no guarantee associated with that decision. In fact, the situation can worsen. So the requirement under the Pension Benefits Act is that the situation be settled as soon as possible.

Extending the period of the windup does not offer any guarantees of improvements of the situation and, in fact, there is the risk that the situation could get worse. It's the member's choice as to whether or not they wish to participate in an extended windup or elect immediate settlement for their benefits.

MR. MACMASTER: There is no question that there is risk in an extended windup that things could get even worse, but I think the value of what was proposed was that it would give them a chance to make things better, that their investments might recover with the markets. There is no question that things could get worse, but when you have people in a situation where their pensions - particularly people who are separated from their spouses, whose pensions are maybe cut in half and then they are further reduced, and then that's locked in forever. There is the risk they'll face that they won't have enough money to live on.

I don't know. I guess it's a difference of opinion, so I won't press it any further here, but I just think if the value was seen in it to do it for NewPage, we should be doing it for everybody with a defined benefit plan in the province.

My next question - and we were kind of on this before my time expired before. This has to do with the selection of the current plan administrator for the plan at NewPage. I believe you're going to provide some evidence to the committee of the tendering process. Can you go over the amounts of the bids that were offered for this contract?

MS. MACNEILL SMITH: I'm not quite sure what you mean by "go over the bids."

MR. MACMASTER: Perhaps this is best to be tabled to the committee, but when you table the evidence, can you show why the plan administrator who was chosen was chosen, if it was based on price or based on their other factors that you considered?

MS. MACNEILL SMITH: Yes, I can certainly provide the criteria used to assess the bids.

MR. MACMASTER: And you'll be able to provide the bids as well?

MS. MACNEILL SMITH: I don't know whether that information is protected or not. I'd have to check.

MR. MACMASTER: Did the bids include a summary of projected costs going forward for the plan administrator?

MS. MACNEILL SMITH: Yes.

MR. MACMASTER: Okay, I would also like to see that, if it's available. Mr. Chairman, I have a couple of other questions I'm going to submit to you in writing. I'm going to put those aside for submission. They can be responded to at a later date.

The next question I have is, do you think it was a double standard for the provincial government to top up our pension plan as it did in 2010 but then tell these NewPage pensioners that it would be wrong to top off their plan?

MR. RAFUSE: In regard to the changes made to the Superannuation Plan in 2010, I know you refer to it as a top-up, but really, if you look at the essence of that transaction, the government made a decision - in conjunction with some concessions on benefit changes for both retired and current plan members - to refinance that. That was to the benefit of the plan, but also to the benefit of the province and taxpayers because it did reduce cost over time.

So what happened there was that there was a projection done on the plan, and based on that projection the province could see that the state of that plan was causing a detrimental impact both on pension expense and on debt-servicing costs. So a decision was made to essentially swap liabilities. We took an amount to reduce the pension liabilities through those benefit changes, but also by putting assets in that plan and by changing it with a mature debt. That had a beneficial effect to the financial state of the province because we took a debt that was being financed at the discount rate at the time, which was about seven per cent, to our cost of borrowing, and our cost of borrowing was four per cent lower, so it was a good business decision from that perspective.

MR. MACMASTER: Thank you. I know at the time I did appreciate the decision around reducing the liability for the province, because I think you removed some of the indexation of the pensions, which reduced the liability for the province. The reason I raise this question is because there are a lot of people out there, and I think about these pensioners who - the province borrowed $0.5 billion to contribute into the plan and to raise its funded status, and I mean it's these people who are going to be, along with us, paying for that because the taxpayers are paying for that. I guess I just raise it because it's troublesome for government to be supporting one pension plan and not another.

I guess we can have a difference of opinion on that, but I know for people who are out there who don't have somebody able to come along to back their pension with a taxpayer dollar, for them, I know they're frustrated by it and we've received a lot of letters about it, and that's why I wanted to bring it up today.

MR. RAFUSE: I would just add to that, Mr. Chairman, from a taxpayer perspective, they are better off from this perspective because the costs associated without that change was a greater tax burden on the taxpayers of Nova Scotia. That actually reduced the tax burden, so from that perspective, they did benefit even though they weren't members of the plan.

MR. MACMASTER: And no question, you're right, but they're still going to be paying for that $0.5 billion that was borrowed because it will have to be paid off eventually.

MR. RAFUSE: And we did take that into consideration when we say the net benefit that's being accrued to the taxpayer, we did incorporate the incremental costs associated with that borrowing and that's offset by the debt servicing costs associated with having an unfunded pension plan. So from that perspective, the net effect is still better for taxpayers.

MR. MACMASTER: Sure, no question, but the terms of - I guess when you have one group of pensioners who are affected, as they have been in the NewPage situation, it's little consolation for them. Anyway, I'm going to move on from that.

I guess seeing what has happened with the NewPage situation, there seems to have been a philosophy, almost like a hands-off philosophy with that plan, and I know the superintendent has said that there were some things that were beyond her control because they weren't in regulations. Should the mandate of the superintendent's office change to include those kinds of regulations, to ensure the integrity of defined benefit pensions in Nova Scotia, going forward?

MS. MACNEILL SMITH: As I have indicated, if you have suggestions for improvements to the regulations and how processes can be improved, we would welcome those suggestions and we would look forward to reviewing them.

MR. MACMASTER: Thank you. I have some questions now for the Nova Scotia Pension Agency. I know it's not an easy time for pension funds. We've talked about it today. Interest rates are very low right now and it's hard to get returns by way of interest rates, which are usually safer. Are there other strategies that the Pension Agency is looking at to earn returns to meet liabilities?

MR. WOLFF: Yes, it's a very demanding investment environment. As I mentioned earlier, we're seeing record levels of volatility, so swings in the market returns, a high degree of correlation between asset classes that previously acted quite independently, and record low interest rates. So with respect to both the Public Service Superannuation Plan and the Teachers' Pension Plan, the trustees have been very aware of these challenges and beginning in the Spring of 2010, both trustees directed staff to evaluate the asset mix for both plans and in conjunction with that, staff did conduct an RFP and did bring to both of the trustees a recommendation for an external consultant to work alongside staff to analyze potential changes to the asset mix.

As a result of that work, in the late Fall of 2010 staff did bring to both trustees a recommended change to the asset mix, which the trustees did approve and, in summary, really, those actions seek to reduce the level of risk exposure for each of the plans by reducing exposure to equity markets. Both of the plans had a starting point essentially of 60 per cent of assets in the equity markets and reducing that exposure and diversifying it across global fixed income markets, inflation-linked assets, which are primarily real estate, global real estate, global infrastructure, commodities and then an entry into low-risk, low-volatility hedge funds.

With respect to both trustees, they've been very diligent, very proactive in terms of reducing the risk and really enhancing the diversification of the asset mix. With respect to the agency itself, coming out of the lessons of 2008, what we really took away was that to provide the best possible service to our two trustees, we needed to ensure that staff consistently acted in the most nimble fashion possible. That means we've consistently, year on year, improved the quality and the timeliness of information that is flowing to trustees. As well, we've reached outside of the agency to whom we consider to be industry leaders, whether they be investment managers or consultants, to support our activities.

MR. MACMASTER: What would the asset classes be now by percentage? You mentioned in broad terms but can you . . .

MR. WOLFF: Of course. For the Superannuation Plan the target asset mix is 30 per cent equities - that would be global equities, so that would be Canadian, U.S., European, Asian equities and emerging markets - 30 per cent global fixed income. One of the very complex projects that we completed in 2010-11 was to really diversify the fixed income portfolio, moving from a complete reliance on Canada to a very global portfolio across a number of different categories including government debt and high-quality corporate debt, inflation-linked assets, the starting point in 2010 was a modest-sized Canadian real estate portfolio.

That portfolio has grown, so 30 per cent inflation-linked assets and we've complemented it with an exposure to global infrastructure and a modest allocation to commodities. That's 30-30-30 and then the remaining 10 per cent is comprised of 8 per cent in low-risk, low-volatility hedge funds and the balance is 2 per cent cash as a target.

MR. MACMASTER: You use a lot of third party managers, are any of them from Canada?

MR. WOLFF: Yes, a number of them are from Canada. Both the Public Service Superannuation Plan and the Teachers' Pension Plan rely very heavily on external managers. Really, the motivation behind that is that the agency is a small team and one of our guiding principles is we like to be very aware of our strengths and weaknesses and of our own limitations and so we can't do everything, we certainly can't do everything well. As a result, most of the investment activities day-to-day are performed by some of the leading investment managers in Canada and around the world.

With respect to Canadian managers, they certainly manage the Canadian equity portfolio, and that's across several managers, as well as the Canadian fixed income portfolio, as well as Canadian real estate, as well as some of the infrastructure activities.

MR. MACMASTER: What about the hedge funds? You mentioned there's a modest exposure there, who are you using for the hedge fund?

MR. WOLFF: That's not public information that I can share with you. What I can tell you is that before making the decision to invest in hedge funds, both trustees obtained considerable education on the asset class so they could fully understand the potential risks and rewards of the asset class. Staff's recommendation was to retain a leading hedge fund advisor to help build the program and to identify the underlying hedge funds to invest in. We conducted an extensive RFP, which allowed us to bring forward a recommendation to both trustees, and then both trustees engaged a leading hedge fund adviser out of the U.S.

The program today then consists of more than 20 underlying investments in 20 different hedge funds for each of the plans, so it's highly diversified. Those hedge funds were selected based on criteria set by the trustee, driven by the advice of this expert consultant adviser.

MR. MACMASTER: Why isn't that information available to be made to the public?

MR. WOLFF: The names of the underlying hedge funds are non-public; that is what is not available to the public.

MR. MACMASTER: Is there some reason for that?

MR. WOLFF: Yes, it's very, very common when you invest in a hedge fund that you sign a very significant confidentiality agreement, and so the trustee and the agency are subject to those provisions.

MR. MACMASTER: Are there any Nova Scotian companies that you use in managing assets in the pension fund?

MR. WOLFF: Both of the trustees in the past have used locally based investment managers, and today there is one manager that is locally based.

MR. MACMASTER: But you probably can't reveal them for the same reasons.

MR. WOLFF: No, as a matter of policy, we don't share the names of any of our investment managers. That's done for confidentiality and, as well, as an administrator we don't want to be seen to be endorsing any one manager over another.

MR. MACMASTER: I just raise the question - it's good to at least see there's one Nova Scotia company that's working on the investment management of some of the funds; there is obviously benefit to our province for that. I know we do use a lot of third-party funds and most of them would be outside of the province, so why does the government keep running the fund in the province if all of the expertise is outside of the province?

MR. WOLFF: Not to be impolite, but I think that's a question for government.

MR. MACMASTER: Yes, I think you're right. Okay. I do have a question here and I don't know if perhaps - I'll throw it out to any of you who might have some insight on this one, but I think it's a question that is perhaps best addressed to Revenue Canada, but obviously any insight you have that might be helpful would be appreciated. I know we've talked a bit about the bridging benefit error at NewPage. There is an issue there where people's - the issue of income tax on the pension overpayments that were made to them, can that be addressed? Will Revenue Canada address something like that, recognizing an error was made, because it will have impacted their tax situation - is there anything you could offer on that today?

MR. CHAIRMAN: Order, please. Unfortunately your time has expired. You can add that to your list of written questions, if you like. Mr. Epstein.

MR. EPSTEIN: I think all questioners today have run into a little time difficulty and we've all ended up with not quite enough opportunity to ask all the questions we wanted to ask, so I'm going to start with where I was hoping to end up. I'm going to start with the windup and see if we can deal with that, so I'll get it on the record.

I wanted to put a series of six propositions to you and see if I get agreement. I'm going to tell you all six of the propositions, so nothing is hidden and then I'll go back through them and see if we actually have agreement on these or whether there is any extra commentary that you wanted to add.

The first proposition was simply that pensions are a complex topic and it requires a very specialized expertise to be involved and fully appreciate pensions. Second is that pensions are a hugely important topic, especially for the middle class, when we come to consider financial security.

A third proposition is that simply not enough employees actually have pensions, though Nova Scotia is slightly ahead of the Canadian average; my understanding is the numbers are 43 per cent of employees in Nova Scotia, compared to about a 39 per cent average in Canada.

Fourth is that even for those people, employees who do have pension plans, general market conditions have been causing some problems, sometimes serious problems, for various pension plans.

The fifth proposition is that Nova Scotia is essentially in the same boat as all other provinces. By that I mean we're in the same boat as to market pressures but we're also in the same boat, generally, as to the regulatory framework in place.

The sixth proposition is that the Nova Scotia Government has been engaging with the issues around pensions and although certainly some other changes might be made, some significant ones have been made, by which I have in mind the new Pension Benefits

Act, the structure of the Pension Agency, the changes to the superannuation plan, how we've dealt with universities, and some specific situations like NewPage.

So let's go back. Now that you see my six propositions, I'll ask first, globally, if there is general agreement, and I wonder if there is disagreement or some refinement that is necessary, whether I could have commentary. Maybe I'll start with Mr. Rafuse.

MR. RAFUSE: I would agree with you, particularly on the first proposition that pensions are very complicated, particularly around what it means to the province from a financial perspective. We have tried to explain, on numerous occasions, how to read Public Accounts and that can be confusing, overlay that with pension accounting, about which there is a finite group of individuals, even in my organization, who do understand that and I don't profess to be a pension accounting expert.

It is very complicated. It is very hard for individuals to understand the complexities around that. It is really around the fact that what you are trying to do is project so far into the future, circumstances which have so many variations and so much volatility around that, down from expected rates of returns to the expected benefits, to how long someone is going to live and how do you change all that to understand what your current liability is.

It's very complex. There are a lot of assumptions built into it. I can tell you that as complex as it is, and how robust the rules around that from an accounting perspective or how from a funding perspective it is, is that you are never going to get it spot on. There are always going to be changes because you can't predict the future, but you're trying to predict the future and record the costs associated with that now.

I'd also like to say that your other proposition about the government being proactive on that, particularly around the superannuation plan, I would heartily agree with that. Some very progressive changes have been made and will be made on that plan, which puts it in the forefront of public pension changes in Canada.

Likewise, I can't speak for the Pension Benefits Act but it sounds like changes are being made there, as well, that will modernize that requirement.

On one of your propositions, I would tend to say that maybe something is a little bit more unique in Nova Scotia than elsewhere and that's general market conditions or demographics. As a society, we are an older society, so the issues of pensions may be hitting us a little sooner than other demographic markets, where there is a younger core. That's what I would think might happen.

MR. EPSTEIN: Thank you very much. May I ask Ms. Smith if you have comments on this?

MS. MACNEILL SMITH: I guess I'd like to just emphasize your point about how hugely important pensions are and that there is such a strong need for the Nova Scotia society, overall, to make sure that people have adequate income in retirement. The pension plans are, as I say, hugely important in addressing that need when people can't work and they can't sustain themselves through employment, so they need pension plans to supplement their government benefits. I guess the whole reason for the pension regulatory system, if you remove all the other issues about vesting death benefits and all the other - what to me are important but not essential - the most essential part the government has to play is in ensuring that to the best extent possible that pension promise is delivered.

MR. EPSTEIN: All right, that's very helpful. Thank you. Mr. Wolff, did you want to weigh in on any of these points?

MR. WOLFF: Yes, thank you. I think I would just add to the superintendent's point. I don't sleep well most nights, and one of the things that does keep me up quite a bit is that I think many Nova Scotians would benefit from greater education about how their pension works and what they need to have a comfortable retirement - what they need to save, how they need to plan to have a comfortable retirement. My view, and I think it's generally shared across the industry, is that most people really are not saving enough money or are not being disciplined enough in terms of some of their financial decisions to prepare for a comfortable retirement.

MR. EPSTEIN: Good point about general financial literacy, thank you. When we were finishing with my first round I had signalled that I would like to move to the topic of the pooling of plans, and perhaps I'll turn to that general topic now.

There are two aspects of this that I would like to look at. One is the general question of the pooled retirement pension plans that the federal government is thinking about and has passed legislation concerning. We've already had a little discussion about this. Then I'd also like to look at the opportunities in the public sector pensions in Nova Scotia.

Let's turn first to the federal government scheme. Some questions asked earlier suggested that the federal government plan, although legislation has been adopted, is not yet in effect. Ms. Smith, I think you mentioned that. Is that the case, that although the framework is there it's not yet in effect?

MS. MACNEILL SMITH: Yes, that's correct. The regulations that are necessary for the implementation of the pooled registered pension plans Act have not been completed, so the federal Act has not yet been proclaimed.

MR. EPSTEIN: Do I understand correctly that the federal scheme is meant to apply only in federally-regulated workplaces? So it would apply, I guess, in airlines, telecommunications industries, and things like that, but not provincially-regulated industries?

MS. MACNEILL SMITH: That is correct. The federal legislation applies, as you say, to interprovincial transportation, communications, atomic energy, and the territories. The passage of the pooled registered pension plans Act will only impact those Nova Scotians who are in industries that are federally regulated.

MR. EPSTEIN: And the federal government, as I understand it, has encouraged all of the provinces to think about adopting parallel legislation en masse, so that provincially-regulated workplaces would be covered by a similar scheme. Is that a fact of what's going on?

MS. MACNEILL SMITH: Yes, that is correct. All of the jurisdictions are looking at whether or not to implement a pooled registered pension plan. The goal, of course, is to have Acts that are very similar across the country. Once you start having legislation that differs, then you lose the low-cost advantage that the institutions say they can offer you if the legislation is uniform, but we did see through the introduction of the voluntary retirement savings plan in Quebec that there were differences in that from the federal model. The governments across the country have to bear that in mind when they're looking at implementing pooled registered pension plans and how much variation they want to offer versus the federal model.

MR. EPSTEIN: I lost track of the status of the Quebec scheme. My recollection is that Quebec introduced legislation, perhaps in June, but that the legislation was not adopted because of the holding of an election. Am I wrong? Has the legislation gone through now?

MS. MACNEILL SMITH: No, you're correct. The previous government in Quebec had introduced the voluntary retirement savings plan legislation and then there was an election with a change in government, so that bill died.

MR. EPSTEIN: So, so far no province has actually adopted a pooled registered pension plan scheme similar to the federal government's. Is that right?

MS. MACNEILL SMITH: That is correct. It is my understanding that, like Nova Scotia, the other jurisdictions are concerned about some aspects of the federal proposal and are looking at finding solutions to address those problems before they introduce the legislation.

MR. EPSTEIN: I have some difficulty understanding what the virtues are of a pooled registered pension plan. Perhaps it's not necessary to use slightly prejudicial language, but I guess it's not clear to me what advantage this offers to either employers or employees. Can you explain what it is meant to do?

MS. MACNEILL SMITH: The primary concern with respect to defined contribution accounts, be it RRSPs or similar types of savings vehicles, is the high cost of those plans: fees, investment management fees, service fees. So the hope is that under a pooled retirement savings plan or pooled registered pension plan is that the issuers of that plan, or the underwriters of the plan, generally would be large insurance companies or trust companies. Because there is such a volume of assets in there, they can offer the plan at a much reduced cost. So you need the size of the pooled registered pension plan to be large enough such that the cost-saving advantage is there, and the investments themselves will be restricted as far as what can be offered.

The hope is that the pooled registered pension plan will be such that it will offer quality investments performing well over a longer period of time and at lower cost to the member. There is no requirement that employers contribute to a pooled registered pension plan. It can just consist of employee contributions only. In Quebec, their proposal was that any employer with five or more employees would be required to offer a pooled registered pension plan if they didn't already have a pension plan in place, but the federal model, there is no requirement of any employer to offer the federal model to their employees.

MR. EPSTEIN: Or, as you say, to contribute.

MS. MACNEILL SMITH: Yes.

MR. EPSTEIN: I have to say, it's a very striking aspect. I find it very difficult to understand why something would be called a pension plan when there is no employer cost sharing. Otherwise, it looks like a registered a retirement savings plan, which any individual could just open up on their own.

MS. MACNEILL SMITH: Yes, the commitment has to be there on the part of the individual to use this. The success of these plans will be determined by whether or not individuals recognize the need to save more for retirement and use this vehicle.

MR. EPSTEIN: I do take your point about the administrative costs of individual plans or very small employer plans. Can we move now to the question of public-sector pooling? This is something I wonder if we can have a bit of an explanation about. Could we start with an explanation of what the Nova Scotia Pension Agency is? Could I just hear how it's structured, what its mandate is, and what pension plans it actually covers?

MR. WOLFF: To date, the Nova Scotia Pension Agency is a special operating agency of the Department of Finance. We serve as administrator to the Teachers' Pension Plan, the Public Service Superannuation Plan, the Sysco plans, and the Members' Retiring Allowances Plan. The agency is transitioning to a statutory non-profit corporation with a target transition date of April 1, 2013, subject to approval by government. Under its new structure, the agency will be owned by the trustees of the superannuation plan and the Teachers' Pension Plan, with the intent that we will serve as administrator to those two plans as well as administrator to the Sysco and MLA plans under contract with government.

MR. EPSTEIN: Yes.

MR. WOLFF: So the genesis of this change really were the changes to the superannuation plan in 2010 and with the transition of that plan to joint governance and with the Teachers' Pension Plan transitioning to joint governance in 2005. The stakeholders really recognized the benefit of having the agency come out of government and be really under the direction of plan trustees and, in particular, with respect to all strategic, financial, and operating decisions.

MR. EPSTEIN: Is it anticipated that there will be any administrative savings in structuring the plans together and having the one pension agency responsible for the two big and two smaller plans that are involved?

MR. WOLFF: Essentially those savings exist through the structure of the agency as administrator to all of those plans today. So this change really enhances the governance of the entity but won't result in any cost savings, per se, but those savings exist and will continue.

MR. EPSTEIN: So the administrative savings were already in place, is what you're saying?

MR. WOLFF: That's right.

MR. EPSTEIN: I don't remember, when was the agency created?

MR. WOLFF: The agency was created in 2006.

MR. EPSTEIN: In 2006, okay, thank you. So what this leads me to, though, is to wonder to what extent there has been any examination of whether additional administrative savings are possible in the public sector for plans and in asking this, I'm prompted by some precedent recently in Ontario where the provincial government there is looking at taking some of their public-sector pension plans and for administrative and investment purposes are merging them together. I saw you nod so it looks like you're familiar with this proposal. So perhaps, I'm sure you know a lot more about it than I do, could you just explain what Ontario is thinking of doing and why?

MR. WOLFF: Yes. The suggestion really started with the Drummond report and then was examined in detail by the Morneau report, which was delivered just a few weeks ago. The concept is that by pooling the investments of public plans across Ontario, you can achieve cost savings because you have economies of scale, and also that you will have access to perhaps better investment opportunities because you have economies of scale. So in part that's what is achieved today by the structure of the agency serving as administrator for both trustees.

MR. EPSTEIN: What public-sector plans is Ontario considering the possibility of merging for investment and administrative purposes?

MR. WOLFF: Well, Ontario has many more plans than we do in Nova Scotia and there are many middle-size and smaller plans that each has their own organizations and their own infrastructure. So this recommendation really speaks to those plans. The counter proposal is to exempt, really, the mega plans within Ontario from this proposal, that those plans would continue to operate independently.

MR. EPSTEIN: Yes, I'm sorry. Basically they were looking, were they not, at what is often referred to as the MUSH sector - the municipalities, universities, schools, and hospitals? Although I guess in this case schools are not included.

MR. WOLFF: That's generally correct, yes.

MR. EPSTEIN: Okay, so the question is, what's our situation in Nova Scotia in that sector? If you look at the municipalities, the universities, the hospitals, and so on, has there been any examination about these plans? Fairly clearly, some of them have larger asset pools, but many of them are very small. I'm wondering to what extent there has been discussion or examination of this model.

MR. RAFUSE: I can answer that question right now. Besides the agency administering the two large public plans, there is one other large one. It was in the hospital organization that covers the health authorities and other - I'm going to call it associated health providers, long-term care facilities . . .

MR. EPSTEIN: The NSAHO.

MR. RAFUSE: HANS is how they refer to it now, so that is the other large one. The municipalities themselves tend to be separate and distinct in themselves, as do the universities, so that kind of begs the question. As a public policy decision, that kind of thinking hasn't been advanced too much to date, I wouldn't say.

MR. EPSTEIN: I spent some time as an elected official on the Halifax Regional Council and the Halifax City Council. When I was on HRM Council I chaired the pension committee, and we dealt with some of the issues that Mr. Wolff was talking about - choosing investment advisors and setting broad policy for them and so on.

It was very striking that HRM had its own plan and that there was no linkage for pension purposes amongst the municipalities around our province, which is still a very small province. Likewise, for the universities, some like Dalhousie, there is a large plan, and probably for St. Mary's, but for others there are smaller plans. All of them encounter administrative costs, which are obviously a draw on the assets of the plan. Is it the case that there has been no discussion amongst these entities as to the possibility of administrative pooling?

MR. RAFUSE: As far as whether or not those entities themselves have talked about that, I need to direct you back to them. The difficulties with those organizations, as opposed to the ones we're - those are what we refer to as entities which the province does not control. They're not part of our government reporting entity, so it's really difficult for us to say thou shalt have to do these types of things now.

Municipalities are independent organizations and they get to make those decisions. I think they can be pushed that way, the benefits of that can be described to them but not prescribed. Likewise, with the universities . . .

MR. EPSTEIN: You're saying they could do it voluntarily?

MR. RAFUSE: Yes.

MR. EPSTEIN: Or there could be legislation.

MR. RAFUSE: I'm not sure if we could do that, because they're not our entities, but maybe so. That's another question.

MR. EPSTEIN: Yes, it is, and it's a complicated question, and I'm not sure where it really should end up. It was more of an observation that we do have the same kind of overhead and administrative problems that are at large for all of these plans . . .

MR. CHAIRMAN: Order, please. Unfortunately, Mr. Epstein, your time has expired.

Mr. MacMaster, you had some questions? You were going to provide some written questions to the clerk?

MR. MACMASTER: I have provided them to the clerk.

MR. CHAIRMAN: Mr. Younger.

MR. YOUNGER: Thank you, Mr. Chairman. We have some questions related particularly to the municipal and university pension plans and solvency requirements that we didn't get to that we are also submitting to the clerk.

MR. CHAIRMAN: Okay, thank you. Any other requests from the NDP caucus?

I'd like to give our guests an opportunity to sum up and make some closing remarks. After that I have some information that the members have requested, besides the written ones.

MR. RAFUSE: I think we just say thank you for the opportunity to come to the committee to speak to this issue. We do recognize that it's very complex and very important to many Nova Scotians. If you have follow-up questions, we would be happy to try to address those as best we can or anything that comes in the future. We'll certainly do our best to address any concerns the committee may have on the issue of private regulated plans or public plans.

MR. CHAIRMAN: Thank you very much. I would like to thank you for coming today. Again, it was very informative and very complex and we look forward to the answers to our questions. Mr. MacMaster had asked for some information and so did Mr. Epstein. The clerk will send you a letter requesting that information specifically.

Our next meeting is going to be on December 5th - the Department of Education regarding the Hogg formula and a subcommittee following that between 11:00 and 11:30 a.m. A motion to adjourn is in order.

MR. EPSTEIN: So moved.

MR. CHAIRMAN: Mr. Epstein, thank you very much.

We stand adjourned.

[The committee adjourned at 11:55 a.m.]