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Re: FSRA's Proposed Approach to Strengthening Protection of Vulnerable Consumers

The CAAT Pension Plan would like to thank the Financial Services Regulatory Authority of Ontario (FSRA) for the opportunity to comment on the proposed approach regarding strengthening the protection of vulnerable consumers ("Approach"). The CAAT Plan appreciates FSRA's efforts to protect vulnerable populations under its regulated sectors. With that said, the CAAT Plan disagrees with FSRA's approach to create a one-size-fits all methodology as it fails to recognize the existing statutory requirements, duties and standards of care which already hold pension plans to a higher legal and regulatory standard when compared to other regulated sectors. Furthermore, pension plan beneficiaries are not consumers in the normal sense of the word as plan membership is part of an employee's broader compensation package and participation is a condition of their employment.

With this context in mind, we encourage FSRA to reconsider its approach and move away from outlining a set of expectations or defining specific requirements for entities across all of its regulated sectors. Instead FSRA should recognize the uniqueness of the pension sector and direct its efforts to educating plan members about their pensions.

The CAAT Plan respectfully submits the following feedback in response to the consultation:

1. Pension plans are unique when compared to FSRA's other regulated sectors and carry with them a greater standard of care:

In their simplest form, pension plans are workplace benefit programs that operate with the goal of providing lifetime income in retirement to beneficiaries through the pooling of assets and risk. As pension plans like CAAT do not have a profit-seeking motivation, our interests are directly aligned with our beneficiaries and by providing a lifetime income in retirement, pension plans provide a social benefit that reduces reliance on social programs, actively reducing vulnerability. This is not the case for other financial products and services offered by for-profit entities which may expose consumers to enhanced vulnerability. The Proposed Approach fails to make this distinction.

Additionally, pension plans are regulated differently compared to FSRA's other regulated sectors. Pension plan administrators owe a fiduciary duty to their beneficiaries. These duties are recognized in common law and under the Ontario *Pension Benefits Act* (PBA). This legal and statutory approach is designed to minimize the vulnerability of beneficiaries through the application of fiduciary duties, which require plan administrators to act in the best interest of all plan beneficiaries and contribute to a higher standard of care.

Fiduciary duty also helps protect against conflicts of interest and management practices that are negative to the interests of beneficiaries. It supports due diligence in product, vendor and investment decisions. It also puts a duty on plan administrators to provide clear, accessible and accurate information so that plan participants can make informed financial decisions. Thus, pension plans already operate in a regulated and legal structure that puts duty of care on plan administrators to reduce vulnerability among its plan beneficiaries.

2. Pension Plans are created in the workplace and beneficiaries are not consumers, in the normal sense of the word:

Pension plans are often created through a workplace arrangement between the employer and employee representatives. They are part of an employee's broader compensation package and created to reflect the needs of the workforce to provide a benefit to hardworking employees. In many instances, pension plan participation is a condition of employment. In a consumer arrangement, a consumer makes a decision to purchase a product. The producer is there to supply a product, but also has a motive of making a profit, thus exposing the consumer to some risk. That arrangement does not exist in pension plans. For example, Jointly Sponsored Pension Plans (JSPPs) have a shared governance model where both employer and employee representatives contribute to the decision making of the plan. In a consumer arrangement, the consumer only purchases the product and has no input into how an organization should run or produce its products. As a result, pension plan beneficiaries are not consumers in the normal sense of the word, and pension plans should not be lumped into the same approach as for-profit entities.

3. Pension plan members are confident in their pension plans:

FSRA's *2022 Consumer Research Study* ("Research Study") offers a valuable perspective on how the pension sector compares against other regulated sectors in terms of participant trust. This Research Study includes data that shows that compared to other sectors, respondents have a high level of trust in pension plans. Only 12% of respondents in the pension sector do not trust pension plans very much or at all. That is the lowest of all sectors surveyed, with other sectors having significantly greater trust concerns with their consumers.

Furthermore, the following results from the "Research Study" indicate a high level of trust in pension plans:

- Only 8% of pension plan members think that their contributions are not secure or well-managed.
- The pension sector is not even mentioned as one of the industries in which consumers have been offered products on "unreasonable terms".
- The pension sector contains the lowest number of vulnerable consumers at 14% with the provincial average being 20%.

As a trusted sector, FSRA should be mindful of this in creating its approach for pension plans. Any added obligations on plan administrators or sponsors could disincentivize employers from offering workplace pension plans, which in the end help to provide a social and financial good to society.

4. Alternative approaches exist elsewhere:

In its consultation paper, FSRA cited the influence of the United Kingdom Financial Conduct Authority (UK FCA) Guidance on Fair Treatment of Vulnerable Consumers in developing its recommended Approach. FSRA's guidance also utilizes the definition of vulnerable consumers utilized by the UK FCA. However, in noting the influence of the UK FCA, it is important to note that the FCA only focuses on organizations or firms in the retail financial services sector. Conversely, UK pension plans fall under the mandate of the Pensions Regulator which has applied a much more limited concept of vulnerable consumers to the pension sectors in areas such as strictly in reference to cash payouts. If FSRA is utilizing the UK approach to addressing vulnerable consumers, one must question why it is utilizing a one-size-fits-all model, when the UK regime establishes a different model for its pension plans. Thus, it is advisable that in Ontario, the application of a vulnerable consumer lens to pensions should be similarly narrow and be reflective of the different legislative regime in which Ontario pension plans operate and the differences in pension plan structures within that regime.

5. FSRA's focus should be on member education

The CAAT Plan is supportive of FSRA's commitment to pension education efforts. We at CAAT have undertaken various initiatives to increase engagement, instill confidence and build trust in our members. Existing regulations mandate that pension plans keep beneficiaries informed about their benefit entitlements and rights under the pension plan. CAAT offers extensive employer education to ensure that employers have the resources and knowledge enabling them to effectively communicate to their employees. We aim to strengthen pension education through our social media channels, providing member and employer education sessions and through ongoing revamping of resources and communication provided to members. Annual statements are also provided to ALL members including retirees which goes above and beyond the requirements in the PBA.

Furthermore, the CAAT Plan prepares and distributes surveys to both members and employers annually to gauge their understanding of the Plan. This helps us gather feedback from Plan members about their experiences, satisfaction levels, concerns, and suggestions for improvement. Through these surveys, CAAT can identify issues or challenges Plan members face, such as difficulties with accessing information, understanding benefits, or concerns about their benefit options. This also allows us to improve communication strategies, ensuring that members are well-informed about their benefits and any changes to the Plan.

In that regard, to address vulnerability which may exist in the pension sector, FSRA should continue to prioritize pension education and awareness. Educated plan members are less likely to make uninformed decisions that could adversely affect their retirement income. FSRA is encouraged to strengthen its education efforts, utilize pension plan best practices in this area and leverage digital platforms to make educational content more accessible and engaging. Additionally, FSRA should leverage existing retirement research and relevant

resources from other regulated bodies (including such topics as wills, estates, family law and power of attorney information).

Conclusion

The CAAT Pension Plan appreciates the opportunity to provide input on FSRA's proposed Approach to vulnerable consumers. In sum, the CAAT Pension Plan is concerned with FSRA's one-size-fits-all approach to addressing the issue. Pension plan beneficiaries are not consumers in the normal sense of the word, and pension plan administrators are held to a higher legal and regulatory standard compared to FSRA's other regulated sectors. FSRA should recognize the uniqueness of pension plans, the benefits it offers and how it contributes to the broader goal of helping members better plan for their future. As such, FSRA should prioritize education and awareness rather than adding requirements to pension plan administrators.

Yours Truly,



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About the CAAT Pension Plan

Established in 1967, the CAAT Pension Plan is an independent, jointly governed plan that offers two designs of a defined benefit pension. CAAT's award-winning DBplus design is leading an extraordinary pace of growth for the Plan. Originally created to support the Ontario college system, the CAAT Plan now has more than 94,000 active and retired members from more than 372 participating employers in 20 industries across the for-profit, non-profit, and broader public sectors, all across Canada. We currently manage more than \$18.2B in assets and have a 10-year average net return of 9.7% as of January 1, 2023. The CAAT Plan is respected for its pension and investment management expertise and focus on stability and benefit security. At January 1, 2023, the Plan was 124% funded on a going-concern basis.

Learn more at: www.caatpension.ca