TARGET BENEFIT PLANS IN CANADA

*Jana Steele**

With the federal government now proposing to amend the *Pension Benefits Standards Act, 1985*[1] ("PBSA") to accommodate target benefit plans ("TBPs"), we can expect to see more plan sponsors consider TBPs as an alternative to traditional defined contribution and defined benefit pension plan models.[2] The federal government is the most recent pension jurisdiction to propose comprehensive target benefit legislation. However, while we have seen some jurisdictions embrace comprehensive target benefit regimes, there is still much more to be accomplished to facilitate target benefits as a design option for Canadian plan sponsors. In my view, steps should continue to be taken to implement the necessary changes across the country to make TBPs available as a design option for plan sponsors.

In this paper, I first discuss the key attributes of target benefit plans. I next provide an overview of the state of TBPs across Canada, and compare some of the key features of the TBP regimes in New Brunswick, Alberta, and British Columbia (the three Canadian jurisdictions that currently have comprehensive target benefit plan regimes) and the proposed federal regime. Finally, I conclude by discussing what still needs to be done in order to facilitate the smooth implementation of TBPs across Canada.

What Are Target Benefit Plans?

Target benefit pension plans contain elements of both defined benefit ("DB")[3] and defined contribution ("DC") pension

---

* Jana Steele, Osler, Hoskin & Harcourt LLP, Toronto. The author would like to thank Josh Fineblit, student at law, for his assistance with this paper.

1. R.S.C. 1985, c. 32 (2nd Supp.).
2. Bill C-27, *An Act to amend the Pension Benefits Standards Act, 1985*, 1st Sess., 42nd Parl., 2016 (first reading October 2016) (Bill C-27).
3. In a DB plan, the plan formula will provide for a specified monthly pension benefit after retirement that is payable for life (there are different possible formulae, including career average, highest average earnings, best average earnings). Sufficient funds have to be paid into the plan to pay for the promised benefits. In a non-contributory plan, employees do not contribute and all funding responsibility rests on the employer. In a contributory plan,

plans.[4] Similar to DC plans, TBPs have fixed contribution rates, which provides cost certainty to employers. And similar to DB plans, TBPs provide a targeted future pension benefit based on a pension formula, which allows members to predict with some accuracy their expected income during retirement. However, unlike a defined benefit plan, benefits under a target benefit plan are "targeted" rather than guaranteed.[5] Benefits under a TBP can be adjusted (both up and down) in order to balance the plan's funding. This ability to adjust benefits is the lever that can be used to keep the employer contributions stable. However, critics of target benefit plans express concern about the ability to adjust benefits and also communication issues surrounding benefit adjustments.

A key element that distinguishes TBPs from DC plans is the pooling of longevity risk. In a DC plan, each member must determine how much he or she needs to save for his or her retirement. If a member lives longer than he or she anticipated, there is a risk that the member may outlive his or her retirement savings. If the member dies sooner than anticipated, the member may have effectively saved too much for retirement and not spent and enjoyed while alive, although these funds will of course pass onto the member's beneficiaries or estate. By contrast, in a TBP or DB plan, the longevity risk is pooled among members — some plan members will live longer than anticipated and some will pass away earlier, but monthly

---

employees will typically pay a fixed percentage of their salary, and the balance of the funding responsibility will rest on the employer. Employer contributions to DB plans will vary depending on the normal cost of the plan, and the funded position of the plan. Where, for example, a DB plan has a solvency deficiency or an unfunded liability on a going concern basis, the employer will have to make special payments to the plan to liquidate the funding deficiency.

4. In a DC plan, the employer contributions to the plan are fixed, but future benefits are not. Instead, benefits vary based on investment performance (and fees) during the lifetime of the individual's DC account. Generally, individuals select the investments for their member account from a menu of investment choices provided by the plan sponsor/provider. A DC pension plan is similar to a group RRSP and essentially provides a tax-sheltered retirement savings vehicle. Because relatively few DC plan members choose to annuitize, there is the risk of a person outliving his or her savings. In a DC pension plan, the members bear the risks.

5. Note that a DB plan is guaranteed only to the extent that the plan sponsor is willing and able to pay the benefits. There have been many examples over the last several years of companies with underfunded pension plans that have become insolvent or bankrupt, resulting in cuts to pensions.

payments will continue for the lifetime of each member. The members pool or share the risk.

Another key element of TBPs is the pooling of investment risk. In a typical DC plan, investment decisions are left to plan members, who may have little or no investment knowledge or experience. DC members generally invest the funds in their individual accounts in one or more of the investment options offered in the plan. The individual member bears all the investment risk in this case. If, for example, the market crashes 20% immediately prior to retirement, and the individual is heavily weighted in equities, he or she will have significantly less funds saved for retirement. In a target benefit plan, as with DB plans, investments are pooled in a common fund and professionally managed, reducing the investment risk to individual plan members. These risk pooling features have caused some commentators to refer to TBPs as "collective DC" plans,[6] and they are one reason why TBPs may be a more attractive option for employees than DC plans.

Current Status of Target Benefit Plans in Canada

Target benefits are not new in Canada. Most Canadian pension standards legislation has, for some time, permitted targeted benefits for multi-employer pension plans ("MEPPs"). Accordingly, there have been numerous multi-employer plans that effectively provide target benefits in existence for many years.[7] Until recently, however, single-employer plans were not permitted to provide target benefits under pension standards legislation.[8] This is beginning to change.

The trailblazer in this regard was New Brunswick, which

6. See, for example, Canadian Institute of Actuaries, "Report of the Task Force on Target Benefit Plans" (Ottawa, June 2015), at p. 7, online: <http://www.cia-ica.ca/docs/default-source/2015/215043e.pdf>.
7. A multi-employer plan is one in which two or more unrelated employers participate. They are established pursuant to either a collective agreement or a trust agreement, and typically administered by a board of trustees, at least half of whom are representatives of the employees. Unlike most single employer DB plans, some multi-employer plans are allowed to reduce accrued benefits in order to satisfy funding requirements. Therefore, although the applicable pension standards legislation may consider them to be DB plans, many multi-employer pension plans are, in substance, target benefit.
8. Under pension standards legislation generally, an amendment is void if it purports to reduce a benefit that has accrued. Such void amendment provisions effectively prohibit target benefit plans. MEPPs are generally

introduced a comprehensive framework for a type of TBP known as a shared risk plan ("SRP") in 2012. SRPs are available to single or multi-employer plans, public or private sector plans, and in a unionized or non-unionized environment. Since 2012, several plans in New Brunswick, both in the public and private sector, have converted from defined benefit to shared risk under the new regime.[9]

In 2014, Alberta became the second jurisdiction to implement a comprehensive TBP regime. Shortly after, British Columbia followed suit as part of an effort by the two provinces to harmonize their respective pension laws. The TBP regimes in Alberta and B.C. have similar rules for administration and risk management, but differ in that B.C.'s legislation allows for the conversion of accrued benefits in certain circumstances, whereas Alberta's does not.[10] Further, whereas Alberta allows target benefits for single-employer plans, B.C. currently limits its target benefit regime to multi-employer plans. This is because B.C. has taken the position that changes to the *Income Tax Act*[11] (Canada) (the "ITA") are needed before it can expand target benefit rules to cover single-employer plans.

To date, New Brunswick, Alberta and B.C. are the only jurisdictions to have implemented comprehensive legislation for TBPs.

Québec has introduced a TBP regime that applies only to the pulp and paper sector in limited circumstances.[12] Ontario and Nova Scotia have also passed legislation to permit target benefit plans in limited circumstances (*e.g.*, collectively bargained or multi-employer plans), however such legislation has not yet come into force and nor have any regulations been published.[13]

exempt from this void amendment provision. See, for example, s. 14 of the *Pension Benefits Act* (Ontario), R.S.O. 1990, c. P.8.

9. Note that for certain of the public sector plans, specific legislation was introduced to convert the plan design; other plans were converted under the New Brunswick *Pension Benefits Act* shared risk regime (S.N.B. 1987, c. P-5.1).
10. As explained below, B.C.'s legislation only permits the conversion of accrued benefits in negotiated cost, collectively bargained plans and only with the consent of the union representing plan members.
11. R.S.C. 1985, c. 1 (5th Supp.).
12. Bill 12, *An Act to provide for the establishment of target-benefit pension plans in certain pulp and paper sector enterprises*, 1st Sess., 40th Leg., Quebec, 2012 (assented to December 7, 2012), S.Q. 2012, c. 32.
    Regulation respecting target-benefit pension plans in certain pulp and paper sector enterprises, C.Q.L.R., c. R-15.1, r. 6.1.0.
13. Bill 120, *An Act to amend the Pension Benefits Act and the Pension Benefits*

In the 2016 Fall Economic Statement, the Ontario government indicated that the government "remains committed to implementing a framework for target benefit MEPPs based on the SOMEPP regulations, as well as considering how a framework could be applied outside a unionized environment". The government further indicated that "it will also consider how a new target benefit MEPP framework would align with any changes to the solvency funding framework for DB plans before finalizing a new approach".[14] Hopefully, Ontario will consider target benefits outside of MEPPs and collectively bargained plans.

Saskatchewan regulators take the position that no amendments are required to the applicable pension standards legislation to accommodate TBPs. The existing legislation allows a plan sponsor to limit the contribution levels to the amount negotiated under a collective agreement. If funds are insufficient to provide the benefits, benefits can be reduced if approved by the regulator.[15] In 2015, professional firefighters and police in Saskatoon agreed to switch their pension plans to TBPs.[16]

The status of TBPs in the other provinces is less certain, as regulatory frameworks for target benefit plans have not yet been created.

Federally, in 2014, the Minister of Finance announced the launch of extensive consultations on a potential federal framework for TBPs. The government at the time sought input from industry stakeholders and experts as part of these consultations. As noted above, the current federal government has recently tabled proposed amendments to the federal PBSA to accommodate target benefit plans. This is a welcome development. The federal government should be encouraged to proceed with the approval of the TBP legislation and the filing of the TBP regulations as soon as possible so that this plan design may be available to federally regulated employers.

Amendment Act, 2nd Sess., 39th Leg., Ontario, 2010, ss. 12(1) and 49(4) (assented to December 8, 2010), S.O. 2010, c. 24.

Pension Benefits Act, S.N.S. 2011, c. 41, s. 57 (Royal assent on December 15, 2011 but the target benefit provisions in the former Bill 96 have not been proclaimed in force).

14. Fall Economic Statement 2016 (Province of Ontario), at p. 69.
15. *Pension Benefits Act*, S.S. 1992, c. P-6.001, s. 40.
16. Saskatchewan, Financial and Consumer Affairs Authority, News Release, "Saskatoon Police and Fire Pension Plans Regulations" (Regina, January 5, 2016), online: <http://www.fcaa.gov.sk.ca/Default.aspx?DN=6d9e64b2-ffa1-497d-8a35-6a96a8837068>.

Comparison of Key Components of the Target Benefit regime in British Columbia, Alberta, New Brunswick and the proposed Federal Regime

In this section of the paper, certain aspects of the target benefit regime in British Columbia, Alberta and New Brunswick and the proposed federal regime are examined. These jurisdictions are similar in that they each provide or will provide for a comprehensive target benefit regime, as a plan design alternative to defined benefit and defined contribution plans. The key TBP elements are present in each regime — that is, contributions are fixed (or may be varied within a narrow range), the pension plans will contain a defined benefit type formula, and benefits may be adjusted if necessary. Further, each regime contains a requirement for a TBP to have a funding policy. There are, however, notable differences among the regimes, which are discussed below.

Conversion of Accrued Benefits

As mentioned above, New Brunswick was the trailblazer with its comprehensive SRP regime in 2012. One element of the New Brunswick regime that has been controversial is the ability to convert accrued benefits. Under the SRP regime, where a defined benefit plan is converted to an SRP, the accrued DB benefits at the time of conversion become base benefits under the SRP as at conversion. This means that the converted benefits become subject to the SRP regime and could be reduced in certain circumstances.

There have been three lawsuits launched in New Brunswick, all of which are related to the conversion of the *Public Service Superannuation Act*[17] ("PSSA") to a shared risk plan.[18] Note

17. R.S.N.B. 1973, c. P-26.
18. *Clifford Kennedy v. New Brunswick*, FC-212-15: This proceeding was commenced on June 30, 2014 by the Pension Coalition of New Brunswick, a group of retirees. The basis of the suit was the conversion of the pension plan under the PSSA to a shared risk plan, which the plaintiffs argue is a violation of their ss. 7 and 15(1) rights under the *Canadian Charter of Rights and Freedoms*.

    Professional Institute of the Public Service of Canada v. New Brunswick, FC-349-15: In February 2016, the Professional Institute of the Public Service of Canada (PIPSC) filed a lawsuit alleging that the conversion of the PSSA into a shared risk plan violates s. 2(d) of the *Charter*. In June 2106, CUPE filed a motion to intervene in the lawsuit, which motion was supported by PIPSC.

    Guy Levesque v. New Brunswick, FC-351-15: On December 30, 2015 the lawsuit that the lawsuits all relate to the conversion of that plan, which was the subject of specific legislation. The lawsuits do not relate to the SRP regime in the New Brunswick *Pension Benefits Act*. Further, none of these lawsuits has yet progressed to a discussion of the merits of the case.

In B.C., conversion of accrued DB benefits to target benefits is only permitted in negotiated cost, collectively bargained plans and only with the consent of the union representing plan members.[19] In Alberta, a proposed amendment that would have permitted the conversion of accrued benefits was defeated.[20] The Alberta rules do, however, permit a conversion from a DB plan to a TBP for future service and new hires.[21]

Under the proposed federal TBP regime, where the employer provides the option, there is an ability for members and former members to surrender their accrued benefits under a defined benefit plan or defined contribution plan in exchange for benefits under the new target benefit plan.[22] Such a surrender and exchange must be done on an informed consent basis. The proposed legislation provides that in order to obtain consent for the surrender and exchange of benefits, an employer is required to provide a written explanation of the provisions of the TBP and any other information that may be prescribed to every member, former member or other person to whom the proposal is made, as well as to their spouses or common-law partners. The written explanation and information is required to be "prepared in a manner that is understandable by a person who does not have technical or specialized knowledge of pensions".[23] This is arguably a high standard to meet, as pension plans, and TBPs, can be relatively complex to persons who do not have technical or specialized knowledge of pensions. Employers will have to carefully craft these communications in plain language with sufficient detail to try to meet this standard.

---

was initiated against the Crown and other defendants, including certain unions and the trustees of the Public Service Shared Risk Plan. The plaintiff is seeking damages for lost cost of living adjustments. The action does not raise *Charter* claims.

19. *Pension Benefits Standards Act*, S.B.C. 2012, c. 30, para. 20(2)(d).
20. *Bill 10, Employment Pension (Private Sector) Plans Amendment Act, 2014* would have permitted the conversion of accrued benefits. This Bill, however, was not passed.
21. *Employment Pension Plans Regulation,* Alta. Reg. 154/2014, s. 102(3).
22. Bill C-27, s. 7 (proposed new s. 9.7 to PBSA).
23. *Ibid.*, s. 7 (proposed new s. 9.7(6) to PBSA).

Administration

The administrator of a pension plan is responsible for the oversight, management and administration of the plan in accordance with the plan documents and applicable law, as well as the investment of the pension fund in accordance with the plan's policies and applicable law. At law, the administrator is a fiduciary vis-à-vis the plan beneficiaries. The plan administrator will have certain duties under the applicable pension standards legislation as well as fiduciary duties at common law. Pension standards legislation sets out who may assume the role of plan administrator, which may vary depending on the plan design.

In New Brunswick, SRPs must be administered by a trustee, board of trustees or a non-profit corporation.[24] The rules do not specify a particular composition for the board of trustees, or how trustees are appointed. The legislation does, however, specify that where a person is appointed to a board of trustees, he or she is required to act independently of the party that appointed him or her.[25] Presumably, this section has been included to clarify that where a person is appointed to a board of trustees, he or she is not a representative of the appointing party, but instead is to carry out his/her duties as a fiduciary on the board, acting in the best interests of the plan beneficiaries. Many SRPs in New Brunswick have jointly sponsored boards with trustees appointed by the unions, employer, and in some cases retiree or other employee groups. The governance of such boards of trustees will generally be set out in the applicable declaration of trust, and potentially other policies.

Unlike New Brunswick, Alberta and B.C. did not introduce special rules regarding who may act as an administrator of a TBP. Instead, the general rules, which are similar in both provinces, apply. An administrator of a single employer plan, other than a jointly-sponsored plan, must be the employer or a board of trustees or similar body acceptable to the Superintendent.[26] An administrator of a non-collectively bargained multi-employer plan other than a jointly-sponsored plan must be either the participating employer that is identified in the participation agreement as the plan administrator or a

24. *Pension Benefits Act* (New Brunswick), *supra*, footnote 9, s. 100.5.
25. *Ibid*., s. 100.5(4).
26. *Employment Pension Plans Regulation* (Alberta), *supra*, footnote 21, s. 28(a); *Pension Benefits Standards Regulation,* B.C. Reg. 71/2015 s. 27(a).

board of trustees or similar body acceptable to the Superintendent and established under the supporting plan documents to administer the plan. If the plan is a collectively bargained multi-employer plan, the administrator must be a board of trustees or similar body acceptable to the Superintendent, and the number of plan member appointees to the board must not be less than the number of employer appointees. Finally, if the plan is a jointly-sponsored plan, the administrator is a board of trustees or other similar body acceptable to the Superintendent and established under the plan documents to administer the plan.[27]

The proposed federal legislation contemplates that target benefit plans for federally regulated employers will have to be administered by a board of trustees or other similar body.[28] The board must include at least one individual selected by plan members, and at least one individual selected by former members, retirees and survivors, if the plan meets a certain size threshold. The process for the selection of the individuals to the board of trustees will be set out in the regulations. The legislation does not require any particular composition or that there be equal employer and employee representation on the board of trustees or similar body. For example, it appears that a board of trustees could be comprised of one employee appointee, one former member/retiree appointee and five employer appointees.

In my view, there is an argument to be made for greater use of joint governance — in particular for plans designs like target benefit pension plans, where members bear some of the risk. Joint governance can help bring different perspectives to plan administration and governance, including member and potentially retiree perspectives. However, recognizing that it can be a more expensive administration model to maintain, joint governance should not be mandatory for all pension plans. For example, smaller pension plans may be better suited to other models of administration. I am also of the view that there is a strong case to be made for qualified independent trustees on any pension boards of trustees. Independent trustees, who have

27. *Employment Pension Plans Regulation* (Alberta), *supra*, footnote 21, ss. 5 and 28; *Pension Benefits Standards Regulation* (B.C.), *supra*, footnote 26, ss. 5 and 27.
28. Bill C-27, s. 2(1) (proposing amendments to s. 7(1) of the PBSA) and s. 3 (proposed new s. 7.12).

pension expertise, can assist boards of trustees in fulfilling their fiduciary obligations.

Risk Management and Governance

As the members potentially assume more risk in a target benefit plan than a defined benefit plan, risk management is an important component of a target benefit regime. All TBP regimes require a funding policy, which sets out the roadmap for the funding and benefits of the plan going forward. That is, the funding policy will specify contribution levels, the steps that must be taken if the applicable funding level is not attained and the steps that may be taken where the plan has excess funds. Generally these steps are set out as priorities and if there are multiple sponsoring parties, these priorities may be highly negotiated when the plan is set up.

The regimes in each of Alberta and British Columbia, as well as the proposed federal regime, also require TBPs to have a governance policy.

In New Brunswick, shared risk plans are subject to certain stress testing requirements upon inception, as well as annually. The purpose of stress testing is to ensure that base benefit reductions are unlikely, and that funding issues are addressed in a timely manner.

Specifically, the New Brunswick *Shared Risk Plans Regulation*,[29] provides that a funding policy must be developed in accordance with two risk management goals. The "primary" risk management goal is to have testing illustrate at least a 97.5% probability that the past base benefits at the end of each year will not be reduced over a 20-year period. This goal must be met when the SRP is established, when a permanent benefit change is made, or when a benefit improvement is made. The "secondary" risk management goal is to have testing illustrate that the amount of ancillary benefits that are expected to be provided will, on average over a 20-year period, exceed 75% of the ancillary benefits specified in the plan text. This goal must be met in order to convert a pension plan to shared risk or to make a permanent benefit change.[30]

Under the Alberta and B.C. frameworks, TBPs are required to be funded on a "going concern plus" basis. The "plus" refers to the requirement to incorporate a provision for adverse

29. *Shared Risk Plans Regulation*, N.B. Reg. 2012-75.
30. *Ibid.*, s. 7.

deviation ("PfAD") that reflects the investment risk. Contributions to TBPs must be sufficient to fund the normal cost of the target benefits, plus the PfAD.

The PfAD under the Alberta and B.C. rules is determined by two components: (i) a certain percentage based on the percentage of the fund that is invested in equities; and (ii) the amount, if any, by which the assumed discount rate exceeds the benchmark discount rate. For example, suppose the plan's equity allocation is 20%, and the assumed discount rate exceeds the benchmark discount rate by 0.01%. First, based on a table in the regulations, the equity allocation of 20% requires that 10% be added to the PfAD. Second, 0.15% is added to the PfAD for every 0.01% that the assumed discount rate exceeds the benchmark discount rate. Therefore, in this example, the PfAD would be equal to 10.15%.[31]

The regulations for both Alberta and British Columbia also require that stress testing be performed, in respect of elements that the actuary believes may pose a material risk to the TBP's ability to meet funding requirements. Such testing must be done in a manner satisfactory to the applicable provincial regulator.[32]

The proposed federal TBP regime contemplates that the plan's funding policy will contain certain objectives of the plan with respect to pension benefit stability.[33] Notably, the proposed legislation provides that these objectives, once established, cannot be amended.[34] This means that employers must work closely with their actuarial advisors up front to ensure that these objectives will suit their needs for the long term. The proposed federal legislation further provides that the administrator of a TBP will have to ensure that actuarial modelling with regard to the objectives related to pension benefit stability must be conducted prior to the establishment of the plan and at such other intervals and times as are set out in the regulations.[35]

What Do We Still Need?

Although three provinces have already adopted TBP regimes and the federal government is signalling that it is moving

31. *Employment Pension Plans Regulation* (Alberta), *supra*, footnote 21, s. 2; *Pension Benefits Standards Regulation* (B.C.), *supra*, footnote 26, s. 2.
32. *Employment Pension Plans Regulation* (Alberta), *supra*, footnote 30, s. 64. *Pension Benefits Standards Regulation* (B.C.), *supra*, footnote 30, s. 60.
33. Bill C-27, s. 7 (proposed new s. 9.4(1)).
34. Bill C-27, s. 10(1) (proposing amendments to s. 10.1 of the PBSA).
35. Bill C-27, s. 7 (proposed new s. 9.5(1)).

forward with its regime, there are several obstacles that continue to impede more widespread TBP adoption. In order to facilitate more widespread adoption of TBPs, other provinces need to implement comprehensive TBP rules in their pension standards legislation. Further, the current tax and accounting rules should be addressed.

Tax Impediments

The current rules under the federal *Income Tax Act* and accompanying regulations do not adequately accommodate single-employer TBPs, and therefore may act as a barrier to the adoption of these plans in more provinces. Currently, pension plans must fit within the existing federal tax rules applicable to DB plans, money purchase (DC) plans or SMEPs (specified multi-employer plans).[36] The ITA is not designed to accommodate single-employer TBPs. Essentially, if a pension plan is not a SMEP or DC plan, it will be treated as a DB plan for tax purposes.

Applying the DB tax rules to TBPs creates several problems. For example, the current tax rules provide that DB plan benefits must be paid in equal periodic amounts, subject to certain exceptions. These rules arguably need to be amended to allow for benefit adjustments based on performance, which may be part of the TBP design.

As the federal government has recently tabled draft TBP legislation that, if passed, would apply to single employer plans, as well as multi-employer plans, hopefully the federal government is also considering changes to the tax rules.

Further discussion of the tax-related impediments to TBPs is beyond the scope of this paper.[37]

36. SMEPs are multi-employer plans that satisfy certain conditions under the tax rules. In order to qualify as a SMEP, the employers must participate in the plan under a collective agreement and there must be either: (i) at least 15 employers contributing to the plan; or (ii) at least 10% of the plan members are employed by more than one participating employer. Another pre-condition to SMEP status is that contributions must be made under a negotiated contribution formula and such contributions cannot vary by reference to the plan's financial experience.
37. For more information on this issue, please see our C.D. Howe Paper: Barry Gros, Karen Hall, Ian McSweeney and Jana Steele, "The Taxation of Single-Employer Target Benefit Plans – Where We Are and Where We Ought To Be" (Toronto, C.D. Howe Institute, 2015), online: <https://www.cdhowe.org/sites/default/files/attachments/research_papers/mixed/e-brief_205.pdf>.

Accounting Impediments

Similar to the tax rules, current accounting rules are designed to accommodate DC and DB plans, but do not specifically address TBPs. The accounting rules are such that if a pension plan does not meet the DC requirements, the default accounting treatment is DB. Generally, a TBP may not be entitled to DC accounting if there is some possibility that employer contributions will vary in accordance with a funding policy. Thus, for TBPs with no contribution volatility, DC accounting treatment may be available. However many TBPs include the possibility of varying contributions (even within a narrow range, as is contemplated in the New Brunswick regime) when funding is insufficient, and therefore may default to DB accounting treatment. In particular, joint defined benefit plan accounting is often applied, to reflect the sharing of the costs and risks typically present in TBPs.[38] Arguably, the accounting standards should be reviewed to clarify application to emerging plan designs such as target benefit.

Conclusions

TBPs are a useful plan design option for those who want the cost-certainty of a DC plan, but also wish to retain many of the attractive features of DB plans, including risk pooling. While it is my view that TBPs should be a design option for plan sponsors, I am also of the view that there is no "one size fits all" pension model. What will be an appropriate pension design for one workforce may not be viable for another. Many factors come into the equation, including risk tolerance, cost and HR issues, such as retention and attraction. Although TBPs may not be appropriate for all employers or workforces, they are certainly an attractive option for some. Accordingly, in my view, TBPs should be available across the country as a design option in addition to DB and DC.

Thus far, three Canadian jurisdictions have implemented comprehensive legal frameworks for TBPs, and the federal government has released draft legislation signalling an intent to move forward with TBPs. Other jurisdictions, such as Ontario, may also be moving forward with target benefit legislation. In order to facilitate TBPs as a design option across the country,

38. Special thanks to Uros Karadzic from EY in Toronto for his assistance with this section.

ideally the remaining provinces will introduce comprehensive target benefit regimes in their respective pension standards legislation.

Further, as discussed in this paper, changes to tax and accounting rules are required before widespread adoption of TBPs is likely to be achieved. In this regard, I would encourage the accounting community to review and revise the accounting standards to accommodate emerging plan designs such as target benefit. I would also encourage the federal government to amend the tax regime to provide more flexibility to address target benefit plans and other innovative plan designs.