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July 15, 2014

Mrs. Nicolette Jenez
Senior Director, Pensions
Financial Services Commission
39-43 Barbados Ave
Kingston 5
Jamaica

Dear Mrs. Jenez

Proposed Changes to Pension Legislation

I am pleased to provide the Financial Services Commission with the Caribbean Actuarial Association's (CAA) comments on the recently proposed changes to pension legislation in Jamaica. The CAA welcomed the opportunity to be part of the discourse on these changes and would appreciate the opportunity to continue to be part of any discussions that the FSC may have on the regulatory environment in Jamaica.

The CAA's mandate includes the encouragement and support of the development of actuarial science in the Caribbean and as part of this mandate promotes the maintenance of high standards within the actuarial profession in the Caribbean.

We believe that one of the aims of a well-run and efficient regulatory environment should be to ensure that best practices are adopted by all market participants. It is hoped that one of the objectives of the FSC is to encourage and foster the provision of pensions in Jamaica as the proportion of the working population with pension coverage at this time is low.

The CAA's comments on the legislation were prepared by its Pension Committee and were reviewed internally before distribution. The members of the Pension Committee are:

Simon Sutcliffe – Chair
Willard Brown
Tricia Chamley
Astor Duggan
Constance Hall
Judith Veira
Shelley Worrell

Executive Council:

Lisa Wade – President; Marcus Bosland – President Elect; Neil Dingwall – Immediate Past President; Janet Sharp – Vice President; Leah Major – Secretary; Bertha Liverpool - Treasurer; Catherine Allen, Ravi Rambarran – Council Members; Pedro Medford – Student Representative



We thank you again for the opportunity to comment and look forward to meeting with the FSC's to discuss the issues that we have raised regarding the proposed changes.

You may contact either me at lwade@eckler.ca or the Committee's Chair at Simon Sutcliffe at SSutcliffe@bwds.com if you wish to discuss this document.

Yours sincerely

Lisa Wade FFA, FSA
President
Caribbean Actuarial Association



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Financial Services Commission
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Jamaica

15 July 2014

Dear Mrs. Jenez

Comments on Proposed Legislation for Pension Arrangements

This response is submitted on behalf of the Caribbean Actuarial Association. Thank you for the opportunity to comment on the FSC's proposed changes to the legislation that applies to pension arrangements in Jamaica.

1. About the CAA

The Caribbean Actuarial Association or CAA is the body that represents actuaries working in the Caribbean region. Its main objective is to support and develop actuarial science within the Caribbean and assist actuaries with issues that are of specific concern to the region. The CAA is a full member of the International Actuarial Association.

2. Information Provided

We were provided with:

- A list of changes that the FSC would like to see made to the Pensions Act including where relevant, a brief explanation of the FSC's rationale for the change.
- A list of changes that the FSC would like to see made to the Regulations governing pension arrangements. This again included some comments on the reasons for the proposed changes.
- A draft of the new Regulations that would govern the funding and solvency requirements for pension plans.
- Proposed changes to a number of forms that would be required to be submitted to the FSC under the new regulations.



3. Comments

We welcome the FSC's efforts to modernise the regulation of pension plans in Jamaica. We agree that some changes are needed and note that the Government and the FSC now have an opportunity to firmly establish a legal framework that will lead to a well-managed and efficiently run pensions industry that is right for Jamaica in this phase of its development. In particular, whilst new legislation must be sufficient to help protect pension plan members, it should not deter employers from providing pension plan benefits for their employees. It is therefore important that the proposals are practical and provide value for money for the inevitable increase in administrative burden and costs that will result. It is with this principle in mind that we have reviewed the proposals.

In general we are supportive of the FSC's proposals but there are a number of areas of concern that we believe warrant further attention. These are summarised below.

- The FSC needs to consider the practical application of the proposals and how these will impact the administration costs incurred by pension plan and retirement schemes. Has the FSC estimated the extra costs that plans will likely incur and the extent to which plan members will benefit from the changes? If so, it would be helpful if this information could be shared with the pensions industry so that it could better understand how the cost of the additional regulation will provide value for money.
- There are certain aspects of the proposals where the FSC appears to impinge on the employer's right to set compensation for its employees, ie to remunerate them via pensions in return for their service. These mainly relate to the use of surplus and amendments to existing pension plans. For example, one area which requires further discussion is the employer's use of a pension plan's surplus to take a contribution holiday. As part of the actuarial valuation the actuary would have confirmed to the trustees that the plan's financial position could sustain a contribution holiday. Does the FSC believe that there are additional criteria the actuary should consider prior to providing such an opinion?
- We support that the promise of earned pension benefits should be protected by an appropriate funding test (our standard of practice APS1 – Pension Schemes – Actuarial Valuation Reports which is mandatory for CAA actuaries carrying out valuations of pension plans in Jamaica requires that such information be provided). However the new funding and solvency regulations while well intended, need further thought. In particular, we are concerned about the additional costs that may be incurred to comply with the new regulations and the focus placed on the results of a solvency valuation of a pension plan that is on-going.
- Discussions regarding the taxation of certain aspects of pension plans with Tax Administration Jamaica would be beneficial. We assume that the Government wants to encourage pension provision and the tax regime should facilitate this objective. With this in mind, should the maximum pension be applied to a defined contribution arrangements as well as a defined benefit plan and should it exclude any pension secured by a member's voluntary contributions? Should a member always have the right to receive a refund of his voluntary contributions with interest on retirement?



- Finally, good pension plan governance relies on the input of many stakeholders. Whilst pension fund trustees normally provide their services on a part-time basis, they are supported by professionals such as actuaries, auditors, investment managers, administrators etc. We believe that the FSC's primary function should be to provide oversight and support to those involved with pension plans so that they can continue to carry out their jobs efficiently and to the required professional standards. In order to do this, it is very important that the FSC has the required expertise to effectively assess the risks involved in running pension plans and to determine when it is appropriate to intervene.

Our more detailed comments on particular proposed changes are set out in the attached appendices.

We thank you for having the opportunity to comment on the proposed legislation and we look forward to participating in similar consultations in the future.

Yours faithfully

Simon Sutcliffe

Chair, CAA Pensions Committee

Proposed Pensions Legislation for Jamaica

Changes to the Act

| Section | Regulation | Comment |
|----------|----------------------|---|
| 3A | Member Definition | <p>The FSC should explain the rationale for including pensioners and deferred pensioners in the definition of Member, particularly those pensioners for whom an annuity has already been purchased. Where an annuity has been purchased and the plan has discharged its liability by obtaining the required sign-off from the pensioner, then that pensioner is not normally regarded as a participant of the plan. On this basis, he/she should not expect to participate in surplus distribution. However, we understand that some practitioners believe that such pensioners should still be able to benefit from pension increases. Perhaps the Act and Regulations could refer to an “insured pensioner” to make it clear what the intentions are, eg is this change to allow distribution of surplus to insured pensioners or to extend the voting rights to them (and deferred pensioners). If this is the case, how will this work in practice given that these persons are no longer members of the plan?</p> <p>Putting aside a general concern regarding a majority of members being required to amend the plan’s trust deed and rules (the appropriate protection of accrued rights is normally built into the plan’s trust deed and rules and there is a view that changing future benefit accrual is more of a compensation rather than regulatory issue), we are concerned whether deferred pensioners and pensioners should automatically be involved in this process as:</p> <ul style="list-style-type: none"> • They may be unaffected by the proposed changes; • There are practical issues involved with requiring deferred pensioners and pensioners who are not regularly in contact with the employer, to be able to vote on such matters. Ie, they are less likely to take an active interest and exercise their vote. Does the FSC have an opinion on an appropriate quorum for such matters? |
| 27 - 27A | Contribution Holiday | <p>We reject the proposal to require the FSC’s approval for a contribution holiday. The Plan’s funding position will vary according to actual experience and surpluses and deficits will emerge. As a result, the employer will have to vary its contribution rate (in accordance with the actuary’s advice) and where the plan has sufficient surplus, it should be expected that the employer could take a contribution holiday. Ie, emergence of surplus should be expected and should not automatically lead to expectations of pension benefit improvements (pension benefits are reward for service, not a pension plan’s funding position).</p> <p>We believe that it should be sufficient for the FSC to review the actuarial advice supporting the contribution holiday (eg when it reviews an actuarial valuation report) and if it has any queries regarding the advice and the holiday, it can then raise these with the actuary and the plan’s trustees and employer. Could the FSC therefore explain why it needs to pre-approve a contribution holiday?</p> |

Proposed Pensions Legislation for Jamaica

Changes to the Act

| Section | Regulation | Comment |
|---------|-----------------------|---|
| 31 | Terminal Illness | <p>Please clarify what is meant by the “actuarial value of the member’s interest in the fund”. This is because:</p> <ul style="list-style-type: none"> the proposal states that this value should include the employer’s contributions and “surplus”. We are not sure what this means in the context of a DB plan and also why “surplus” is included; should the actuarial value be calculated using actual or “typical” life expectancy; would the lump sum include the value of any spouse’s or dependant’s pension? <p>For a DB plan, the lump sum could be set equal to the retirement lump sum that would normally apply on ill-health retirement plus the guaranteed pension payable under the rules. Spouse’s and/or dependant’s pension benefits would then be paid in addition.</p> |
| 42 | Locking-in exceptions | We recommend that appropriate procedures be put in place to minimise the possibility of the hardship option being abused. |
| 43 | Contributions | Should this refer to contributions paid by or on behalf of members rather than just by members? |
| 78 | Priority Order | Paragraph (b) should refer to members at or over normal retirement age. Would all the participants not included in (b) be on the same level of priority? Has the FSC considered how it will over-ride the existing rights of any groups of participants afforded higher priority under their existing trust deed and rules? |
| 81 | Partial wind-up | The FSC should explain its rationale for its proposal that a partial winding-up is triggered if more than 30% of the plan’s members (and confirm whether this percentage allows for the revised definition of member) is terminated over a 36 month period. For example, is it concerned about the treatment of members of (usually smaller) plans who are terminated shortly before a plan is wound-up who therefore do not participate in any surplus distribution? However, there is a strong view that a partial winding-up should not be automatic in these circumstances and should only occur if a participating employer withdraws from a plan. This is because such a change in membership profile does not mean that the sponsoring employer(s) will want to stop supporting the plan and there is a concern that the proposal could reduce the efficiency of a plan’s operation. Eg as a result of unnecessary annuity purchases, surplus distributions, administration etc. We strongly recommend that the FSC reviews this proposal and note that the equivalent provision in the legislation for pension plans that applies in Ontario was removed in 2012. |
| 102 | Surplus distribution | We do not agree with the proposal for the FSC to approve a contribution holiday/distribution of surplus in an ongoing scheme. It is strongly felt that an employer (with the consent of the trustees and actuary) should be able to use surplus to improve a member’s benefit how it wishes. This is consistent with the pension benefit forming part of compensation and the employer having to account for the cost of any benefit improvement in accordance with accounting standards. |

Proposed Pensions Legislation for Jamaica

Changes to the Act

| Section | Regulation | Comment |
|---------|-------------------------|--|
| 123 | Safeguarding value | <p>Please explain what is meant by “the actuarial value of his compulsory contributions to the superannuation fund”. We assume that the FSC means the member’s regular contributions with interest. We agree that the value of the member’s benefits at leaving should be no less than his own accumulated contributions with interest. However, extending this guarantee to when benefits are actually paid complicates plan administration and may limit the options that a plan can offer to members on retirement. For example, the guarantee is more likely to apply if a member opts for a pension with no guaranteed payments (as opposed to one that pays out for a minimum period of 5 or 10 years).</p> |
| New | Pension Pay-out Product | <p>We expect that the intended target of this new product would be members of defined contribution (DC) plans rather than defined benefit (DB) plans. However, the proposals do not differentiate between the two types of arrangement so theoretically a member could use the value of his/her accrued DB pension to purchase a PPP? If this is the case, would there be a prescribed approach for determining the value?</p> <p>Whilst we welcome the flexibility of the PPP (particularly for DC plan members), we are concerned that members would need to take appropriate financial advice before selecting the PPP. Ie, some members may be attracted to opting for more cash up front, which could jeopardise their lifetime income. The FSC should also look at how it will regulate the PPP and the expenses charged by the providers.</p> |

Proposed Pensions Legislation for Jamaica

Changes to the Regulations

| Section | Regulation | Comment |
|---------|--------------------------------------|---|
| 3 | Independent trustee | We note that independent trustee is to be defined and would appreciate definitions of “connected with” and “associate of” to avoid misunderstandings. We assume that the FSC has considered the feasibility of each retirement scheme appointing a suitably qualified independent trustee. |
| 7 | Retention of unclaimed funds | We would appreciate the rationale behind the period of 30 years as we consider this to be far too long. Has the FSC considered the costs associated with holding the unclaimed funds with the Supreme Court? |
| 8 | Payment of benefit into court | We are aware that advertisements are normally placed to inform the public that a pension fund is being wound-up and to invite potential beneficiaries to come forward. The FSC should consider how the expenses relating to this process will be met. Given the long time period that is proposed it may not be reasonable to expect that pension plan should bear this cost. Consideration should be given to the beneficiaries who come forward after some time has elapsed, eg 1 year, bearing at least part of the cost |
| 9A | Trustee Policies | The FSC should explain what it means by “risk management” as this can potentially include a very wide range of issues. We believe that the existing requirements for the policies listed in section 7(1)(v) plus the proposed funding policy are sufficient for trustees to demonstrate that pension plan risks are being managed. Licensed service providers should already have demonstrated to the FSC their ability to manage pension related risks. |
| 9B | Administrator and Investment Manager | We expect licensed administrators and investment managers to already have the appropriate policies in place. Should these provisions be included in separate legislation relating to the regulation of administrators and investment managers rather than pension plans? The reference to new plans should be removed as it appears to be out of place. |
| 16 | Information folder | This should be included in the information that is provided annually to members not in the information folder that is only provided when a member joins the scheme. |
| 19 | Method of calculating interest | It would be helpful if the FSC could provide an example of the information that it would like included in the Information Folder. |
| 20 | Unit of an investment fund | We assume that this relates to unitised funds but clarification is needed. It may not be the case that the holder of the unit is automatically entitled to a proportionate share of the net assets of the scheme. |
| 22A | Investment returns | This is not the case if the investment fund guarantees a particular rate of return (although there is a risk that the guarantor could fail). |
| 23 | Notice of material change | Changes to a pension fund sometimes only affect certain categories of member, eg just active members or those who joined after a certain date etc. Informing participants of a change that does not affect them may cause confusion, eg for changes that only affect active members. For large pension plans the cost of communications with deferred pensioners and pensioners can be significant. We suggest that members be informed of the changes that affect their category of membership |
| 25 | Transfers at no cost | There is always a cost involved with a transfer. The proposal assumes that this cost will be borne by the scheme’s remaining members. |

Proposed Pensions Legislation for Jamaica

Changes to the Regulations

| Section | Regulation | Comment |
|---------|--|--|
| 27A | Amendments | We understand the proposal but also believe that it is the FSC's role to ensure that the amendment complies with procedures. |
| 31 | Administrator etc of new fund or scheme | The FSC needs to confirm when the administrator, investment manager and trustees of a new fund will be registered as there will be no prior compliance history for that fund. |
| 37C | Investment Regulations | Is it practical for permitted assets to be restricted to investment grade in the Caribbean (eg how would the Government of Jamaica's securities be treated)? Which credit rating agency would determine whether the security is investment grade? |
| 46 | Credited interest | Please explain the difference between 1(a) and 1(b). Please correct the reference to members' accounts in (2) as we assume that this means the interest to credit to member's regular contributions. Whilst we agree that the interest credited to voluntary contributions should reflect investment returns, we do not believe that this extends to regular contributions. These are contributions paid by the member in return for the defined benefits set out in the plan's rules. Such contributions will also eventually be locked in for most members. Please clarify what is meant by "periodically" in (3). |
| 47 | Credited interest date | To help with administration compliance, it may be more practical to credit interest up to the end of the month immediately preceding the date of payment. This is because there is inevitably some delay between the date of calculation and payment. We recommend that the other provisions in the Regulations relating to the effective date to which interest should be credited be reviewed as well. |
| 49 | Transfer value from prior employer's contributions | The fourth bullet point needs to allow for the transfer of these funds to another pension fund/scheme, ie they do not have to be used to provide a pension from the fund. |
| 50 | Benefit on termination of vested member | It appears that this proposal anticipates that the fund is defined contribution in nature. For a DB plan, the nature of the benefit is very different as the member's benefit is normally not directly dependent on the employer's contributions (eg a pension formula applies). The vested benefit that would notionally apply to the employer's contribution could be defined as the member's deferred pension benefit less the benefit attributable to the member's own contributions with interest. Note that it is quite possible this amount will be zero. We recommend that the FSC reviews the wording of its proposed change. |
| 59 | Augmentation | This potentially impinges on the employer's ability to compensate current and former employees through pension benefits. We believe that the FSC should clarify what it means by "class of persons" and why the augmentation is limited to either inflation or an approach advised by the plan's actuary. Since the employer sponsors the plan and pension forms part of compensation, we would expect the employer to be much more involved when it wants to be. |
| 64 | Contributions to dependant's pension | Why is this defined in terms of chargeable income? For lower paid persons, gross income may be more appropriate. This comment extends to other contribution limits in the proposals. |
| 74 | Financial hardship | The FSC should consider including prolonged unemployment. |

Proposed Pensions Legislation for Jamaica

Changes to the Regulations

| Section | Regulation | Comment |
|-----------------------|------------------|--|
| 77 - 78 | Accrued benefits | The term “Accrued benefits” needs to be defined. Whilst we agree that the member should have the right to transfer, it should be noted that the plan’s funding/solvency position may affect the transfer value, eg if the plan is underfunded the transfer value may be reduced so as not to jeopardise the financial security of the remaining members. |
| 92 | Annuity purchase | Whilst we understand the desire to provide members with the option to select their own annuity provider, the fund’s trustees (and possibly sponsoring employer) should be comfortable with the selection. Would for example, the FSC absolve the trustees from responsibility, and the pension plan from any financial obligation, if the member selects an insurer that subsequently goes bankrupt? Could the plan’s liability be limited to the member’s account balance at retirement if the member selects his/her own provider? Would the FSC require the trustees to select an insurer if the member fails to make a choice? Will the FSC be providing trustees information on insurers that are suitable? |
| 100 | FSC Endorsement | Does this mean that the trustees cannot tell members that the fund is registered with the FSC? |
| Definition (2 – 5) | Transfer values | <p>There are circumstances when the amount transferred for a group of members is not set equal to the sum of their individual transfer values. For example, a share of the plan’s fund may be transferred or for active members an amount that allows for future pay increases rather than withdrawal benefits. Is the FSC looking to set a minimum amount for such a block transfer? In light of the issues that need to be considered in these cases, a separate regulation may be needed.</p> <p>We are concerned that the time limits set out in sections 4.1, 4.2 and 5.1 are too short for a statutory maximum and suggest that they be doubled. We believe that the time limits set out in legislation should only affect those plans where there is a clear administrative/governance failure. This may not be the case if the transfer value is not provided within 14 days of notification (we assume this means receipt of the member’s instruction by the trustees), eg if there are data issues to resolve etc.</p> <p>Please explain what “broken down by source” means in section 4.1. Is this referring to the parts of the transfer value relating to the employee’s contributions and (if applicable) the employer’s contribution?</p> |
| Definition 6 | Commuted Values | Please clarify the specific circumstances under which such commuted values would be paid? This is because the approach used for calculating transfer values may not be appropriate for calculating benefits, eg when the lump sum when a member retires. We therefore recommend that this definition be re-considered. |

Proposed Pensions Legislation for Jamaica

New Funding and Solvency Regulations

| Section | Regulation | Comment |
|------------|----------------------|--|
| Definition | Actuarial liability | We recommend that this be redrafted to avoid using the word “liabilities”, eg the “amount required to make provision for the benefits”. For consistency with (a), remove the second reference to “pension” in (b). Also consider replacing “survivor” with “beneficiary” |
| | Actuarial valuation | The results of the actuarial valuation are presented in a written report. We suggest this definition be reworded as there a number of references to actuarial valuation in the Regulations where the context implies the actuarial valuation results or exercise rather than the report. |
| | Actuary | Refer to the definition in the Pensions Act |
| | Solvency valuation | For some pension plan wind-ups, assets rather than cash are transferred to the insurer to purchase annuity policies. Ie, assets will not always be realised. |
| 4.2 | Funding policy | The term “material change” is subjective and it may need to be defined to aid understanding. |
| 4.3 | | We believe that it is essential that the employer is required to consent to the statement of funding policy, ie consultation is insufficient. There is little point in a funding policy being prepared that the employer is not prepared to support. |
| 4.4 | | There is a view that an on-going pension plan should not be required to have a funding objective that satisfies both an on-going funding level of at least 100% and a solvency ratio of at least 100%. This view reflects the fact that these targets are calculated under completely different scenarios and could diverge significantly. For an on-going plan focus should be on the funding level unless the trustees have concerns regarding the sponsoring employer’s covenant. Furthermore, whilst we understand the desire for a target of 100%, is this always appropriate? For example, would it be acceptable for a pension plan with a strong employer covenant to have a lower funding target (particularly if the assumptions used in the valuation are relatively cautious)? |
| 4.6 | | Should this refer to solvency or funding position? What would happen if the trustees, actuary and/or employer disagree with the FSC’s directive? We believe the FSC should first invite the trustees, actuary and employer to discuss the funding policy with the FSC rather than the FSC directing an immediate change to the policy. |
| 5.2 – 5.4 | Valuation timing | We are concerned that the time frames for completion of the valuation (9 months from the valuation date) and for the confirmation of the recommendations (11 months from the valuation date) are too short. 12 months for the delivery of the report would be consistent with the CAA’s standards and also within the time frame that currently applies in the UK, which is a much more developed pensions market. We also believe that the employer must agree to pay the recommended contribution rate before the Trustees confirm the rate to the FSC. |
| 5.7(a) | Actuarial valuations | “Generally accepted actuarial methods and assumptions” could be interpreted very widely in a developing country such as Jamaica. We note that actuaries who are members of the CAA are required to adhere to the CAA’s practice standard APS 1 when preparing reports on actuarial valuations of pension plans. |
| 5.7(b) | | The reference to the statement of investment policy should be deleted |

Proposed Pensions Legislation for Jamaica

New Funding and Solvency Regulations

| Section | Regulation | Comment |
|---------|------------------|---|
| 5.8 | Valuation report | See above regarding the definition of actuarial valuation. This section specifically refers to what a report on the actuarial valuation must include. We believe that in (c) it would be better to refer to “in the actuary’s opinion” rather than “to the best of the actuary’s knowledge”. |
| 5.9(c) | | The reference to “current and expected market conditions” should be deleted. The actuary is not providing investment advice. |
| 5.9(e) | | We recommend that “incremental annual cost” be defined as this could vary according to the actuarial method used. |
| 5.9(i) | | Please clarify what is meant by “the basis on which the opinion was formed”. Does this mean the method and assumptions used to calculate the solvency ratio? |
| 5.9(j) | | A reconciliation of the plan’s funding position since the last valuation is required under 5.9(n) would normally include the impact of any changes in valuation basis. 5.9(j) duplicates this so we recommend that it is deleted. |
| 5.9(k) | | <p>The proposed funding level of 150% is far too high and we suggest that additional scenario testing only be required if the funding level falls to either 105% or 110%. This is because it is important to be able to justify the additional costs involved with running additional scenarios for plans that are well funded. Does the FSC believe that there is a material risk that the financial position of a well-funded plan (e.g. with a 150% funding level) could rapidly deteriorate? Is there significant supporting data for this in Jamaica?</p> <p>We also note that the FSC is focusing on a single valuation result that is reliant on the assumptions used. It should be aware that the assumptions, and therefore valuation result, that could be regarded as being reasonable may fall in a fairly wide range.</p> <p>The FSC will also need to clarify what it means by “adverse scenarios”.</p> |
| 5.9(m) | | <p>We recommend that the FSC only requires the key risks to be highlighted where the actuary considers it relevant or material. The actuary should be relied upon to provide his/her professional opinion of the risks faced by the plan and recommend the appropriate action to mitigate these.</p> <p>Our concern here relates to the additional costs associated with what the FSC may regard as an “analysis”. For many well-funded plans such an analysis would add little value. The FSC may have recognised this by using the word “key” but we would like clarification.</p> |
| 5.9(n) | | We note that small plans are excluded from a detailed analysis but are still concerned about the level of detail (and the cost involved) that the FSC may expect. |
| 5.12 | | Please explain what is meant by “promptly”. |
| 5.13 | | We are concerned about the potential additional costs involved with amending or re-doing the actuarial valuation. Please also confirm who would meet the additional costs – the FSC, the plan or the employer? As for 4.6 above, we recommend that the FSC first meets with the actuary, trustees and/or employer to discuss any concerns. If necessary, there should be a right to query/appeal the FSC’s direction without having to go through the formal (and lengthy) process envisaged by the Act. |
| 6.4 | Recovery Plan | As noted above we believe that the employer must agree to the funding policy and this extends to agreeing the recovery plan. |

Proposed Pensions Legislation for Jamaica

New Funding and Solvency Regulations

| Section | Regulation | Comment |
|------------|-------------------|--|
| 6.6 | | Please explain the rationale for using the weighted average remaining lifetime of the active members as defined and what the term “liability” means in this context. We raise this because the active membership may not represent the ability of the employer to sponsor the plan. For example, it is quite possible for an employer to fund a deficit in a plan that consists of just deferred pensioners and pensioners. Similarly, we do not see how weighting the lifetime by liabilities relates to the strength of an employer’s covenant to pay the required contributions. We recommend that this section be reconsidered. A fixed time period (10 years) to funding deficit could be used, together with the possibility for the trustees and the employer to apply to the FSC for this period to be extended if it is considered warranted. |
| 6.10 | | As for 5.13 above we believe that the FSC must fully justify its reasons first and that in the first instance it should at least ask to meet with the trustees, employer and actuary to discuss the recovery plan |
| 7 | Solvency recovery | We have noted above that the focus of an on-going pension plan should be on its on-going funding position rather than a notional solvency level. As such we believe that the majority of section 7.3 should be deleted. |
| 7.4 | | This section appears out of place – see section 6.4 |
| 7.6(a) | | The FSC should explain its rationale for a maximum period of 5 years. |
| 7.11– 7.14 | | As noted above, a solvency valuation, whilst of interest is not the main focus in the actuarial valuation of an on-going pension plan. It is nothing more than an assessment of whether the plan would have had enough assets to secure its liabilities if it had been wound up. The amount needed is inevitably an estimate (as insurers would not be asked for annuity quotations for each valuation) and the FSC should be aware that annuity prices can vary significantly between providers. With this in mind we are concerned that the FSC is placing too much emphasis on the hypothetical solvency position of a pension fund For example, is it right for the trustees to defer payment of benefits, and especially pensions in payment, on the basis of an estimated solvency valuation? This should only be done in extreme circumstances and even then we would expect the plan’s priority order to be followed. We therefore recommend that the FSC reconsiders section 7 in its entirety. |