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AT A GLANCE ...

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employee benefits specialists

Mounting losses may force pension managers to turn to government

The tightening grip of the worst economic recession in decades was felt again recently as some of the country's largest public pension plans reported staggering losses.

Leading the way in February was the Caisse de dépôt de Québec, which reported a 2008 loss of $40 billion, its worst performance since its creation in 1966. The loss represents an annual decline of 25 per cent, compared to the Canadian median of -18 per cent.

The Caisse manages the pension assets of 25 different Quebec-based pension and insurance funds, including the Quebec Pension Plan.

Like many investment managers, the Caisse misread the market in a number of key areas. The fund manager lost almost $9 billion in foreign exchange hedging, assuming that the Canadian dollar would remain at or near par with the American currency (the value of the Canadian dollar has dropped by more than 20 cents since September 2008.) As well, the fund manager had to write down almost $6 billion in non-bank asset based commercial paper (ABCP), a form of unsecured commercial paper issued at a discount to companies that could not otherwise directly borrow in bond markets and then "bundled" and sold as investment-grade securities on equity markets. Similar techniques were used to promote and underwrite sub-prime mortgages in the US.

The bad news from public pensions was not confined to Quebec. The Ontario Municipal Employees Retirement System, which provides pensions for that province's municipal workers, fire fighters, utility workers, police and related staff, reported an $8 billion loss in 2008, a decline of 15.3 per cent from a year earlier.

With losses like these, it appears clear that many public pension plans, most of which have defined benefits arrangements, will be reporting bad news throughout 2009. A quick recovery of these losses appears to be remote.

For lobby groups like the Canadian Taxpayers Federation, the losses by the public sector plans open the prospect of either increased budget deficits or large tax increases as governments attempt to back their pension funding obligations.

"These are scary numbers and it's going to create a crisis," says Canadian Taxpayers Federation Director Kevin Gaudet.

Adding to the problem, he says, is the fact that most Canadians have also experienced major losses in their investments and personal retirement savings, creating a "double jeopardy" situation where an already stressed base of taxpayers will be expected to help fund public sector pensions.

Problem not confined to public sector plans

While groups like the Canadian Taxpayers Federation may rally against government support of public sector pensions, the irony is that some of the beneficiaries of that support may be the members of prominent *private* sector plans such as the General Motors pension plan.

According to that auto manufacturer, it may no longer be able to secure the pensions of its 56,000 employees and retirees in Canada. GM has asked actuaries to valuate its

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Mounting losses may force pension managers to turn to government

pension and outline how much money will be required to sustain the plan.

"The total obligations represented by the General Motors' pensions as they are currently structured are no longer sustainable," the company says. *"We are working with the Canadian Auto Workers and the governments to explore options to address this challenge. It is becoming increasingly difficult to service General Motors' legacy costs due to an increasingly large retiree population, high health care costs, health care inflation and poor pension assets returns."*

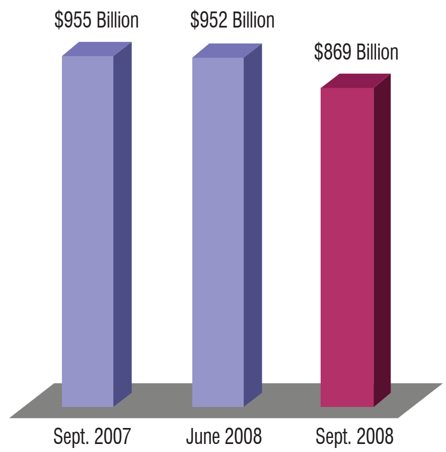
Facing a shortfall of $4 billion at the end of 2007, reports published in *The Globe and Mail* indicate that the company has asked the Ontario and federal governments for up to $7 billion of support, or $125,000 for each active worker and retiree.

While the federal Industry Minister Tony Clement says that the federal government *"won't bail out pension plans,"* there have been suggestions that the federal government could supply loan guarantees or similar support to the troubled auto maker rather than alienating 56,000 GM workers and their families in the vote-rich Golden Horseshoe region of the country's largest province.

Meanwhile, the provincial government has yet to reveal its bailout strategy for GM. However, should GM declare bankruptcy, the Ontario Pension Benefits Guarantee Fund could be obligated to pay up to $1,000 per month to each GM pensioner. In effect, private sector workers would become wards of the government.

The moral:

- despite the massive losses reported by the Caisse de dépôt de Québec and other public organizations, sharp declines in equity values have not been confined to public sector pension plans; and
- if the pension and its potential failure are big enough, governments may step in anyway, making the distinctions between the investment acumen of public versus private sector plan sponsors a moot point at best.



- **Value of Canadian employer-sponsored pension plans in September 2007: $955 billion.**
- **Value of Canadian employer-sponsored pension plans in June 2008: $952 billion.**
- **Value of Canadian employer-sponsored pension plans in September 2008: $869 billion.**
- **Percentage decline over one quarter: 8.7%.**

(Source: Statistics Canada) ❧

2009 dental fee guide increases

Following are the published increases for the various provincial fee guides for 2009. The rates for the Yukon, Nunavut and Northwest Territories will be published later in April. ❧

Province/Territory	**2009 overall cost increase**	**2009 effective date**
Alberta	3.5% - 7.0%	February 1
British Columbia	2.7%	February 1
Manitoba	3.84%	January 1
Northern Manitoba	4.22%	January 1
New Brunswick	3.0%	January 1
Newfoundland and Labrador	6.0%	January 1
Nova Scotia	2.93%	February 1
Ontario	2.0%	January 1
Prince Edward Island	1.92%	January 1
Quebec	2.6%	January 1
Saskatchewan	4.95%	January 1
NWT / Nunavut / Yukon	To be determined	April 2009

Pension discussion paper fuels heated arguments

A federal government discussion paper on private pensions has resulted in fireworks between some of the nation's leading employers and various labour and consumer organizations.

The discussion paper was designed to be the centrepiece of a series of national consultations between pension plan stakeholders in preparation for the tabling of a new series of regulations to cover the difficult areas of pension solvency, disclosure, employer contributions, surplus distribution, wind-up and termination procedures and more. However, meetings on it quickly descended into a debate between management and labour when seven major companies united to call on the federal government to ease its pension funding requirements.

In a brief to Finance Minister Jim Flaherty, the chief executive officers of Air Canada, the Canadian Pacific Railway, MTS Allstream, the Canadian National Railway, Bell Canada, Canada Post and Nav Canada urged the government to ease pension regulations so that they can focus their efforts on restoring the financial health of their organizations.

With the collapse of equity markets in the past six months, each of the companies may be required to make multi-million dollar contributions to their defined benefit pension plans in order to restore the solvency ratios of their plans to appropriate levels. While the federal government and most provincial governments recently extended the period for pension plans to recover their funding shortfalls from five to 10 years, the change was still not enough to relieve the companies' pension funding pressures, according to Air Canada Chief Executive Officer Monte Brewer.

"We're looking for a recalibration of how pension payments are made and how the deficit is decided," Mr. Brewer said in an interview published by *The Globe and Mail*. *"The pension rules are so strict that they're putting more risk onto the plans. We have to carry this burden."*

The growing pension funding requirements is *"sapping the energy of Canadian CEOs at a time when we should be growing our companies and making them healthier,"* the Air Canada executive asserted.

With major new pension funding obligations and shrinking revenues resulting from the recession, companies like Air Canada and others with defined benefit pension plans are facing a critical choice: meet their pension funding obligations or invest more in their companies so that they can compete against firms that don't have the large "legacy costs" associated with older, more generous pension plans.

"The best protection for any pension plan is a healthy company," Mr. Brewer said. *"It's the number one issue facing employees and our pensioners."* As well, he says, freeing money for companies to spend on capital projects instead of pensions will *"help generate economic stimulus."*

His position is opposed by labour organizations such as Air Canada Pilots Association (ACPA) as well as consumer groups like the Canadian Association of Retired Persons (CARP).

"It's a transfer of risk to the plan members, be it current employees or retirees," says ACPA Chairman, Captain Paul Strachan. *"We don't think this is responsible."*

The prominent Toronto law firm of Koskie Minsky supported Captain Strachan's assertion, citing the freezing of worldwide credit markets as a potential reason for the various corporations' drive to ease the federal government's pension funding rules.

"The proposals by the companies threaten to produce a tectonic shift in risk from shareholders to employees and retirees," Koskie Minsky lawyer Simon Archer said. *"These companies cannot obtain credit in current markets, and so they are instead asking the government to act to transfer financial risks to employees and retirees."*

CARP Vice-President of Advocacy Susan Eng was more blunt: *"The employers claim that they're out to protect pensions, but they're not. The reality is that companies have pension obligations."*

While the scope and size of the equity market collapse has prompted governments across the country to review their pension legislation as well as the minimum funding requirements of pension plans under their jurisdiction, regulators must take steps to ensure that their reviews don't end up complicating an already complex regulatory regime, warned Canadian Council of Chief Executives President Thomas d'Aquino.

"The provinces of Alberta, British Columbia and Ontario are in the process of reviewing their respective pension systems and the issue is affecting employers in all jurisdictions," he wrote in a letter to Finance Minister Jim Flaherty. *"These overlapping reviews create both a risk of inconsistencies between jurisdictions and a historic opportunity to co-ordinate badly needed reforms."*

The federal government's consultations on its discussion paper end in mid-April 2009. ❧

Reported pension solvency deficits

Air Canada	**$3.2 billion**
Canadian Pacific	**$1.6 billion**
Canadian National Railway	**$881 million**

Metro Ontario Pharmacies join Coughlin PPN

March was a busy month for Coughlin's Preferred Provider Network (PPN) of pharmacies as Metro Ontario Pharmacies Ltd. joined Coughlin & Associates Ltd.'s PPN.

The Metro drug store chain operates in-store pharmacies in prominent grocery stores, including Food Basics, Metro and A&P.

A total of 78 pharmacies are associated with the Metro organization, serving most of southern Ontario from Windsor through to Ottawa, as well as the northern Ontario cities of Thunder Bay, Sault Ste Marie and Sudbury.

Members of Coughlin's preferred provider network of pharmacies agree to limit their prescription fees to the Ontario Drug Benefit plan maximum, which is currently $7 per prescription. They also limit the mark-up on certain medications to 10 per cent.

The addition of Metro Ontario Pharmacies Ltd. brings the total number of Coughlin PPN pharmacies to approximately 240 across Ontario. ❧

The following is a list of the Metro pharmacy locations.

Name	Address	City	Phone
Food Basics	280 Harwood Avenue South	Ajax	905-428-9292
Food Basics	555 Essa Road	Barrie	(705) 719-2311
A&P	110 North Front Street	Belleville	613-962-0545
Food Basics	470 Dundas Street East	Belleville	613-967-4785
A&P	243 King Street East	Bowmanville	905-623-4447
A&P	10088 Mclaughlin Road	Brampton	905-846-9212
A&P	20 Great Lakes Drive	Brampton	905-789-6464
A&P	25 Peel Centre Drive	Brampton	905-793-0600
A&P	371 St. Paul Avenue East	Brantford	(519) 758-0300
Metro	3365 Fairview Street	BuRlington	905-634-2391
Metro	2010 Appleby Line	Burlington	905-331-0060
A&P	980 Franklin Blvd.	Cambridge	(519) 620-4466
Food Basics	95 Water Street North	Cambridge	(519) 622-6868
A&P	640 First Street Extension	Collingwood	(705) 446-2002
Metro	119 Osler Drive	Dundas	905-628-5288
A&P	367 Mountainview Road South	Georgetown	905-702-1131
Metro	500 Edinburgh Road South	Guelph	(519) 763-3552
Food Basics	222 Silvercreek Parkway North	Guelph	(519) 766-4666
Metro	751 Upper James Street South	Hamilton	905-575-7755
Food Basics	2500 Barton Street East	Hamilton	905-578-5454
Food Basics	1300 Bath Road	Kingston	613-549-6161
Food Basics	370 Highland Road West	Kitchener	(519) 578-4343
Food Basics	1405 Ottawa Street North	Kitchener	(519) 894-8282
Food Basics	655 Fairway Road South	Kitchener	(519) 896-3100
A&P	1030 Adelaide Street North	London	(519) 672-9205
A&P	395 Wellington Road	London	(519) 680-2375
A&P	1244 Commissioners Road West	London	(519) 641-4646
Food Basics	1200 Commissioners Road East	London	(519) 668-1717
Food Basics	1299 Oxford Street East	London	(519) 659-8700
Food Basics	509 Commissioners Road	London	(519) 471-3699
Food Basics	7700 Markham Road	Markham	905-201-6405
A&P	1050 Kennedy Circle	Milton	905-878-3111
Metro	910 Southdown Road	Mississauga	905-823-4900
Metro	1240 Eglinton Avenue West	Mississauga	905-814-5066
Metro	2225 Erin Mills Parkway	Mississauga	905-829-8929
Metro	1155 Dundas Street West	Mississauga	905-897-3535
Metro	3221 Derry Road West	Mississauga	905-785-8300
Food Basics	4557 Hurontario Street	Mississauga	905-507-3784
Food Basics	2550 Hurontario Street	Mississauga	905-272-2828
A&P	35 Alkenbrack Street	Napanee	613-354-2882
Metro	16640 Yonge Street, Unit #1	Newmarket	905-853-7100
Metro	1111 Davis Drive	Newmarket	905-954-1515
A&P	3770 Montrose Road	Niagara Falls	905-356-1100

Name	Address	City	Phone
A&P	390 Lakeshore Drive	North Bay	(705) 840-2999
Metro	478 Dundas Street West	Oakville	905-257-5400
Metro	1011 Upper Middle Road East	Oakville	905-849-4440
A&P	70 Front Street North	Orillia	(705) 323-9334
Food Basics	1465 Merivale Road	Ottawa	613-723-8887
Metro	1070 Major Mackenzie Dr. East, #A	Richmond Hill	905-884-3400
A&P	1375 London Road	Sarnia	(519) 542-1551
Food Basics	191 Indian Road South	Sarnia	(519) 337-1500
A&P	248 Northern Avenue East	Sault Ste Marie	(705) 945-1006
A&P	150 Churchill Street	Sault Ste Marie	(705) 254-7070
Metro	15 Ellesmere Road	Scarborough	416-447-3434
Food Basics	2131 Lawrence Avenue East	Scarborough	416-755-8383
Food Basics	5085 Sheppard Avenue East	Scarborough	416-293-0741
Food Basics	2900 Ellesmere Road	Scarborough	416-281-0505
Food Basics	1571 Sandhurst Circle	Scarborough	416-609-2300
Food Basics	275 Geneva Street	St. Catharines	905-935-3404
A&P	5612 Main Street	Stouffville	905-642-8600
Food Basics	925 Ontario Street	Stratford	(519) 271-4555
A&P	1933 Regent Street South	Sudbury	(705) 523-9994
Food Basics	800 Steeles Avenue West	Thornhill	905-760-8383
A&P	640 River Street	Thunder Bay	(807) 344-1040
Metro	3221 Eglinton Avenue East	Toronto	416-261-4808
Metro	16 William Kitchen Boulevard	Toronto	416-321-0500
Metro	3003 Danforth Avenue	Toronto	416-686-8484
Metro	20 Church Ave. North York	Toronto	416-229-6200
Metro	80 Front Street East	Toronto	416-203-9292
Metro	100 Lynn Williams Street	Toronto	416-588-1300
Metro	2155 St. Clair Avenue West	Toronto	416-762-7300
A&P	53 Quinte Street	Trenton	613-394-2525
A&P	70 Thickson Road South	Whitby	905-668-5334
A&P	4111 Thickson Road North	Whitby	905-655-1553
Food Basics	2452 Sheppard Avenue East	Willowdale	416-493-5552
Food Basics	880 Goyeau Road	Windsor	(519) 256-7006
Metro	9600 Islington Avenue	Woodbridge	905-893-3131
Metro	9200 Weston Road, Building A	Woodbridge	905-417-9300

Supreme Court backs different rules for Ontario and federal pensions

The Supreme Court of Canada has backed an earlier federal Court of Appeal decision affirming that federally regulated pensions do not have to distribute pension surpluses to members on full or partial wind-up.

The case, known as the *Marine Atlantic* decision, means that employees of federally regulated companies are not covered by the earlier *Monsanto* ruling, which allowed members of Ontario-based pension plans to receive a portion of a pension plan's surplus on wind-up.

In its ruling, the Supreme Court agreed with the lower courts that the definitions of the terms *"wind-up"* and *"termination"* differed between the Ontario Pensions and Benefits Act (OPBA) and the federal Pension Benefits Standards Act (PBSA).

The Ontario law treats the two terms as occurring simultaneously. The federal PBSA treats plan terminations and wind-ups as two distinct actions that occur at different time periods. Under the PBSA, a plan could be terminated but its assets not distributed until years later as part of formal wind-up of the plan. Plus, any rights members or beneficiaries have are based on the time of plan termination, not wind-up. (For more information, see the September 2008 edition of the *Coughlin Courier.*)

According to the federal Department of Finance, seven per cent of all private pension plans in Canada fall under the jurisdiction of the federal PBSA. The plans account for 12 per cent of all pension assets in the country. ❧

Facebook, other postings can be used in DI reviews

Postings by disabled employees in popular social networking sites like *Facebook* can be used by insurers and others to assess or validate disability claims, the Ontario Superior Court says.

The ruling involves a man who was injured in a car accident who alleged that the injuries he received had limited his personal lifestyle and reduced his enjoyment of life. However, when examined by the defendant's psychiatrist, he admitted that he had many *"friends"* on *Facebook.* The information was then used as evidence to contest his disability claim.

The court's ruling effectively makes postings on social networking websites *documents* that can be presented and reviewed during civil court procedures, including cases involving short or long-term disability adjudication or litigation. As well, since an individual's postings are likely to be considered public documents by the courts, it is likely they are not protected by the personal privacy guarantees of the Personal Information Protection and Electronic Documents Act (PIPEDA).

"…Documents posted on a party's Facebook profile may be relevant to allegations made in the pleadings and are producible," the court said. ❧

Medical information: How much does an employer need?

When it comes to disability and medical claims adjudication, plan sponsors frequently request to know more about the medical situation behind an employee's claim.

How much personal medical information is a plan sponsor entitled to receive? Virtually none, according to the Alberta Human Rights and Citizenship Commission.

According to an interpretation bulletin published by the government's human rights agency, employees have a complete right to privacy regarding any medical diagnosis. However, it says, employers do have a right to inquire about:

- the anticipated length of a disability and prognosis for recovery;
- whether the absence is permanent or temporary; and
- any work restrictions or special requirements related to the illness that may be required to accommodate the employee's return to the workplace.

The Commission went on to stress that related medical information can only be revealed to staff who need to know it for a specific purpose. For example, if an employee is required to take or inject medications frequently throughout the day, his/her supervisor can be informed via a doctor's note so that the supervisor can accommodate the employee.

As well, the Commission says, employers should only use designated individuals, such as occupational health professionals, to make inquiries about an employee's condition from a doctor and to relay the information about the projected length of illness or return to work requirements to an employee's supervisor.

The findings by the Alberta Commission mirror those of other provincial human rights and privacy commissions across the country as well as the requirements of the Personal Information Protection and Electronic Documents Act (PIPEDA), the federal privacy law. ❧

Recession will likely mean increased benefit claims

As plan sponsors across the country trim their workforces to cope with the growing recession, they should be prepared for an *increase* in health, dental and disability claims, benefits experts warn.

While logic might suggest that a smaller workforce should result in fewer claims, historical data suggest the reverse is true. As reports of layoffs, plant closures and rising unemployment mount, benefit plan members tend to adopt a *"use it before you lose it"* philosophy and actively seek out vision care, dental, paramedical and other related services ahead of anticipated layoffs.

According to reports published in *The Globe and Mail* newspaper, major optical chains, dentists and selected paramedical professionals such as chiropractors and massage therapists, have already reported strong increases in activity compared to the same time last year. As well, more people are choosing covered preventative, diagnostic and restorative medical or dental services rather than elective or cosmetic services, which are not normally covered by benefits programs, the newspaper reports.

Short and long-term disability claims also tend to increase sharply during recessions, particularly those related to stress and psychiatric illnesses.

As unemployment increases and more distressing economic news is reported, benefit plan administrators should prepare for increased plan utilization and budget strain. ❧

Absentee rates higher among the overweight, StatsCan says

Overweight workers are more likely to miss work, a Statistics Canada study says.

According to the report by the government agency, overweight men age 18 to 34 are four times more likely to be absent from work than their counterparts of normal weight. As well, obese women age 35 to 64 were *"significantly more likely"* to take a sick or disability day than other women.

The study also said that obesity often contributes significantly to *"presenteeism"* (reduced activity while on the job) particularly among women age 35 to 64 and men age 55 to 64.

Obesity rates in Canada increased to 15.7 per cent of the population in 2005, compared to 12.5 per cent in the mid 1990s. In the United States, obesity rates have been reported to be as high as 25 per cent. ❧

Supreme Court denies widow's pension

The Supreme Court of Canada has denied a Saskatchewan woman's appeal to continue to receive a widow's pension after she remarried.

In a 7-0 decision, the court refuted a woman's claim to collect 24 years' worth of pension payments, plus interest and damages, from the Saskatchewan Workers' Compensation Board.

The woman was originally awarded a pension from the Board in 1975 following the death of her husband in a work-related accident. Under the rules in effect at that time, pension payments could cease when a widowed person remarried. The Workers' Compensation Board halted the payments in 1984 when the woman remarried. However, six months after her marriage, the Charter of Rights provision guaranteeing gender equality came into law, which prompted the province to re-write its pension laws to allow pension payments to continue after remarriage.

While the new Saskatchewan law did not provide any retroactivity provisions, in 1999 the province offered lump sum settlements of $80,000 to each of the 300 widows affected by the introduction of the Charter of Rights provisions. The woman refused the settlement and initiated legal action in 2000.

In her case, the woman maintained that her constitutional right to equality was violated when the Workers' Compensation Board refused to reinstate the $10,000 annual widows' pension. The lower courts denied her claim, stating that the six-year statute of limitations on Charter of Rights' equality provisions had run out well before she began her legal action.

In its ruling, the Supreme Court confirmed that the woman was too late to file a Charter of Rights challenge. ❧

Fast facts

- Would you believe that you could be hospitalized by bad handwriting? According to the Health Council of Canada, up to nine per cent of hospital admissions result from medication errors, many of which result from illegible handwriting on prescriptions. *"Illegible handwritten prescriptions result in three to nine per cent of hospital admissions,"* says Council Vice-Chair Dr. Ian Bowmer.

- Effective January 1, 2009, the Ontario Hospital Insurance Plan (OHIP) will cover the costs of prostate specific antigen (PSA), provided the tests are for *diagnostic or monitoring* purposes. Under the OHIP rules, *"diagnostic"* means an individual has been diagnosed with or is receiving treatment for prostate cancer. *"Monitoring"* means an individual is being monitored following cancer treatment. The provincial plan still will not cover the PSA tests conducted for screening purposes.

- Percentage of Canadians age 15 and older who say they consume alcohol: 80 per cent. Number estimated to be alcohol dependent: 600,000. (*From: *A Quiet Crisis. The Business Case for Managing Employee Mental Health. Human Solutions™ Report 2008.*)

- Percentage of Canadians age 15 and older who say they have used illicit drugs during their lifetime: 45 per cent. Number estimated to be drug dependent: 200,000. (*From: *A Quiet Crisis. The Business Case for Managing Employee Mental Health. Human Solutions™ Report 2008.*)

- The State of New Jersey says that it will audit those listed as dependants in its group health insurance plan. More than 224,000 state and local employees, teachers and other workers will be asked to confirm the names of their dependants and prove they are eligible for coverage through birth or marriage certificates, tax files or other records. According to the State Health Benefits Commission, approximately 10,000 to 15,000 people may no longer qualify for dependant coverage due to changes in their marital status or their attainment of age maximums. The state predicts the record clean-up could result in savings of up to $185 million. ❧

A *further* PPN update

- **First Care Pharmacy** has joined the Coughlin & Associates Ltd. Preferred Provider Network (PPN). It is located at 4 Lorry Greenberg Drive in Ottawa. Its phone number is: 613-248-8000.

- **Merrickville Drug Mart**, located at 112 Wellington Street East in Merrickville, has also joined the Coughlin PPN. It can be reached at 613-269-4737. ❧

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