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AT A GLANCE ...

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Retirement shock coming: 51 per cent think they'll have benefits

More than half of employees with benefits coverage believe their employee benefits will continue after retirement, the 2012 edition of the Sanofi Canada Health Care Survey says.

According to the latest Sanofi findings, 51 per cent of employees expect to have access to their benefits after they retire. In reality, less than one-quarter of benefit plans in Canada offer retirement benefit coverage.

Ironically, expectations are highest among workers age 55 and older, those on the cusp of retirement, with 69 per cent of survey respondents indicating they expect to retire with such coverage.

"Right now, employees are not factoring health care costs into their retirement planning," says Medavie Blue Cross Sales and Business Relations Director and Sanofi Health Care Survey Advisory Board member Pierre Marion. *"Many will be in for a surprise when they realize that extended benefits may not be available."*

The highest number of those assuming they'll receive retirement benefits occurred among surveyed government workers, with 72 per cent indicating they had that expectation. In contrast, 37 per cent of private sector employees felt they would receive benefits after they retire.

Regionally, Atlantic Canadians are the most optimistic, with 60 per cent of survey respondents indicating they expect to receive retirement benefits.

For plan members, particularly those age 55 and older, the Sanofi survey results could suggest that surprise and disappointment are heading their way as their retirement dreams face the hard realities of post-retirement health care costs.

"Right now, when employees think about how much they need when they retire, they don't factor in health," says Sanofi Survey Advisory Board member Mark Goldenberg. *"People may think they have enough to meet day-to-day expenses, totally forgetting they could have health costs beyond those covered by public programs… Many are in for a surprise when they realize that benefits won't be available."*

With the wave of baby boomer retirements just beginning, plan sponsors should move quickly to educate plan members on what happens to their benefits after retirement, the Sanofi advisory board suggests. ❧

Court ruling upholds mandatory retirement

The Federal Court of Appeal has upheld the principle of mandatory retirement.

In a July 17, 2012 ruling, the federal court overturned earlier rulings by lower courts and the Canadian Human Rights Tribunal that allowed workers employed by federally regulated institutions to work past established retirement ages.

The case involved two Air Canada pilots who filed actions with the Canadian Human Rights Tribunal protesting the airline's policy requiring pilots to retire at age 60. (See the December 2010 and January 2011 issues of the *Coughlin Courier* for background.) The pilots' actions challenged a 1990 Supreme Court of Canada ruling stating that mandatory retirement did not violate the Charter of Rights when it *"permits the negotiation of mutually beneficial arrangements which might not otherwise be possible."*

While all provinces and territories have recently repealed mandatory retirement, the Canadian Human Rights Act still allowed some federally regulated employers to terminate employees who reached the *"normal age of retirement"* for workers in similar positions. As a result, thousands of federally regulated employees, such as Air Canada pilots, could be forced to retire when they reach a specific age.

However, the practicalities of today's labour market may override concerns expressed by some human rights activists, labour organizations and senior citizen groups that the age of forced retirements may return. With a wave of retirements expected to begin as the leading edge of the baby boom generation reaches age 65, shortages of skilled labour may be the bigger problem. As a result, the relevancy of the 1990 Supreme Court ruling will likely be questioned.

The Federal Court of Appeal acknowledged that fact in its latest ruling.

"…It may be that conditions have changed to the point where the Supreme Court is prepared to revisit this issue," it noted. *"If it is, then obviously nothing in this decision would prevent it from doing so".*

In addition, the section of the Human Rights Act that upheld mandatory retirement was repealed in the federal government omnibus budget bill. However, the relevant sections of that legislation do not become effective until December 15, 2012.

The pilots plan to appeal the decision to the Supreme Court of Canada. ❧

Premiers lobby against extended drug patent protection

Canada's premiers and territorial leaders have united to urge the federal government to discount any proposals by the European Economic Union (EU) that would drive up drug costs in this country to satisfy the terms of a potential Canada-EU free trade agreement.

According to British Columbia Premier Christy Clark, the country's premiers have begun a letter writing campaign to ensure that the patent protection for brand name drugs would not be extended with the passing of a Canada-EU free trade deal.

The EU has a longer patent protection period for brand name drugs than Canada. Many of the world's largest pharmaceutical manufacturers are headquartered in Europe. On the other hand, Canada is home to many generic drug manufacturers. According to reports, as part of its terms for a free trade agreement with Canada, the EU has demanded that the patent protection period for brand name drugs in Canada be extended by five years.

The extension would undermine savings realized by the provinces in their recent efforts to regulate generic drug prices. According to economist Don Drummond, extending the patent protection period for brand name drugs would cost an additional $1.2 billion per year in Ontario alone. The Manitoba Department of Health estimates that the move would drive up drug costs in that province by a minimum of $80 million per year.

"The premiers are all concerned about the impact that this could have on the costs of pharmaceutical drugs," Premier Clark says. *"All the premiers have sent letters to the federal government expressing our concern about this specific issue."*

If a patent extension is included in a free trade agreement, plan sponsors could face higher drug costs as related and less expensive generic drugs would not be as available for use. ❧

Premium-free retiree benefits not a right, BC court rules

Public sector workers in British Columbia have lost a bid to continue to receive free medical and extended health benefits after retirement.

The ruling by the British Columbia Court of Appeal settles a nine-year-old debate between the 27,000 members of the British Columbia Public Service Pension Plan (BCPSPP) and the province on whether the pension plan members had a contractual right to receive premium-free benefits indefinitely.

The case dates to January 1, 2003, when the provincial government changed the terms of its retiree benefit plan to require plan members to pay for extended health care benefits. The 2003 revisions also included increasing plan deductibles and limited the age that extended health care benefits would be available to retired members.

At the heart of the litigation were the various documents published by the province to describe the retiree benefits program. According to the retirees' representatives, brochures, pamphlets, booklets, letters to retirees and other communications from the province promised premium-free benefits upon retirement. These materials acted to induce people to join the provincial public service and remain with that employer until retirement, they argued. As a result, a "unilateral contract" was created where employees continued to work in return for a promise of premium-free benefits at retirement.

In its review, the court held that even if such statements were made about the benefits arrangements, they did not constitute a "promise" since the various brochures and communications were provided to members well after they were hired by the province, usually just prior to a member's retirement. In this sense, the communications materials provided to plan members amounted to representations or descriptions of the benefits rather than a contractual promise.

According to the BC court, a *promise* contains an undertaking to do or not do something. The brochures and booklets, it said, contained only *descriptions* of the benefits available at the time and did not contain a promise to provide premium-free benefits indefinitely.

Also backing the government's position was the legislative history behind the retiree benefit plan. The original Public Service Medical Plan Act of 1955 mandated that premiums could be deducted from employee wages and pension payments and would be partly subsidized by the province. That premium regime continued until 1978, when the premium structure became fully subsidized by the government. In 2003, the province amended legislation to introduce the latest premium arrangement.

As a result, there was legislative and administrative precedent to back the argument that the premium structure supporting the retiree benefits plan was not fixed indefinitely.

For plan sponsors and administrators, the BC Appeals Court ruling reinforces two key points:

- that brochures and other communications material are merely *representations* or *descriptions* of benefits that may exist at a certain time; they cannot take the place of formal legal contracts where specific benefits are *promised* under a set of specific terms and conditions; and
- premium structures of benefit plans can be changed, provided appropriate contractual or legislative provisions have been included in the plan's governing documents. ❧

Long-term care a "ticking time bomb"

Long-term care is a "ticking time bomb" that may end up dominating the health care policy in Canada in the near future, according to the Canadian Life and Health Insurance Association (CLHIA).

Just as pension funding has pushed its way to the front of the line in social policy issues, lack of long-term care facilities and the cost associated with long-term care for the elderly will likely become a political flashpoint as Canada's population ages and more people need long-term care.

"We see this very much as a ticking time bomb," says CLHIA President Frank Swedlove. "*There's going to be a significant shortfall* [of long-term care] *in the next 35 years as baby boomers move through their retirement years."*

According to estimates compiled by the insurance organization, it will cost almost $1.2 trillion to provide long-term care to aging baby boomers. The problem: current government programs and financing cover approximately half of that cost.

While lack of foresight on the part of governments and health care authorities may account for the general lack of preparedness in meeting the demand for long-term care and other health needs of an aging population, denial on the part of baby boomers is also playing a major role in preventing long-term care from becoming part of the nation's health care agenda.

According to Jason Round, head of financial planning support for the Royal Bank of Canada, recent polls of baby boomers indicate that 40 per cent of boomers don't expect their lifestyle to be affected by health restraints after retirement.

"The reality is, it's likely to be significantly worse than that," he warns.

The warnings of potential problems in long-term care are already evident. For example, according to Statistics Canada, while the average Canadian can now expect to live 81.4 years, the average *disability-free life expectancy* is 68.6 years. In other words, the average person can expect to live 12.8 years of his/her life with some kind of disability.

And the number of elderly people with illnesses or disabilities requiring permanent or long-term care is likely to increase. For example, according to the Alzheimer Society of Canada, an estimated 1.1 million Canadians will have dementia by 2035.

"The chances are between 20 and 25 per cent that you will need long-term care," says Institute for Research on Public Policy researcher and author Michel Grignon. *"With private savings, that means that 75 per cent of individuals will have saved for nothing while the remainder might still find themselves unable to cover all the costs of their care."*

Of greater concern, of those that concede they may have long-term health care needs in their senior years, most think those needs will be met by the government.

"The difficulty is there's a perception by Canadians that their long-term care needs are going to be covered by government; that's just not the case," CLHIA President Frank Swedlove says. *"Long-term care is not included under the Canada Health Act. While there are government programs to assist people, they vary by province and are typically income based. Canadians need to understand that they will be largely responsible for the cost of their long-term care needs."*

And long-term care facilities don't come cheaply. For example, a bed in a facility providing basic level care costs from $1,600 to $2,200 per month in Toronto, according to that city's Community Care Access Centre. Mid-range to premium facilities often charge from $3,000 to $4,500 per month or more.

"It's not uncommon for people in Canada to spend $40,000 to $50,000 a year in care costs," says Tina Di Vito of the BMO

Retirement Institute. *"If you're looking at staying in a particular kind of facility for long-term care, the cost can be quite substantial."*

At the moment, long-term care dilemma appears to have three possible solutions. They include the following:

1. The development of a universal public health care system, similar to the country's existing retirement income programs such as the Canada Pension Plan, Old Age Security and Guarantee Income Supplement. However, such an arrangement would have serious taxation implications for the whole country and would likely take years of federal-provincial negotiations before it could be launched. Early estimates by the Institute for Research on Public Policy suggest that personal and corporate taxes would have to increase by 6.4 per cent for governments to fully support a long-term care program.
2. The development of a national saving scheme, similar to tax-free savings accounts, registered retirement savings plans or registered education savings plans, to encourage people to put aside money to help cover the costs of their long-term care. While feasible, the number of people willing to set aside funds to save for a major and negative event, such as long-term care for a lingering illness like dementia, could be problematic.
3. The purchase of an individual long-term care insurance policy. While long-term care insurance is not a common insurance product, it can help cover the cost of health care services that are not covered by traditional health insurance plans or government health care programs.

   Long-term care insurance generally covers the costs of private services to help individuals perform the basic activities of daily living such as dressing, bathing, eating, toileting, continence, getting in and out of a bed or chair, and walking. Some policies also provide funds to help pay for nursing home care, hospice care, adult daycare and similar services. While premiums for such coverage can be high compared to life or disability insurance products, individual long-term care insurance can provide prudent individuals with an important financial safety net that will have a high probability of being used in the future.

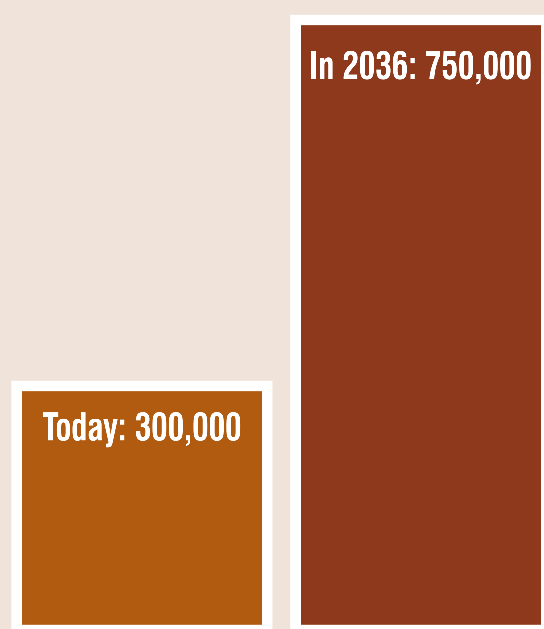
   For more information on individual long-term care insurance, contact Coughlin Individual Financial Services Consultant Jackie Moulton at jmoulton@coughlin.ca.

While long-term care may not be a high profile issue today, it appears safe to predict that it will become part of the national agenda in the years to come. ❧

The numbers behind long-term care*

The quality of life expectancy gap

Seniors living in health care institutions



(* *Source: Canadian Life and Health Insurance Association and Institute for Research on Public Policy as published by* The Globe & Mail.) ❧

Flaherty rejects further pension solvency relief

Finance Minister Jim Flaherty has rejected appeals by six large corporations to ease pension funding requirements to give them more time to fund their pension deficits.

The finance minister's rejection of a call by CN Rail, CP Rail, Bell Canada, Canada Post, MTS Allstream and NAV Canada (also known as the G6 companies) to extend the amortization period to pay back their pension funds' deficits to 10 years from five years follows three previous pension funding relief efforts by the federal government from 2006 to 2010.

"We're not looking at any changes," Mr. Flaherty said on August 7. *"At the end of the day, these are pension funds that need to be worked out between employers and their employees. It's a private matter. There's a legislative vehicle in place if they want to follow the distressed pension plan model."*

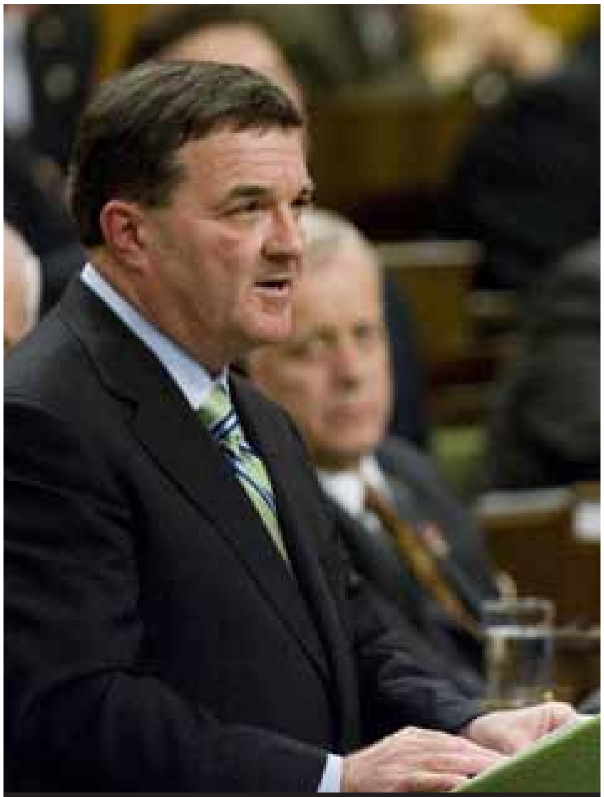


Photo: federal Finance Minister Jim Flaherty.

In 2010, the federal government outlined a series of reforms to update rules governing federally regulated defined benefit pension plans. The reforms included extending the solvency calculation period for pensions to a three-year period from one year, moderating the impact of major market changes on plan solvency ratios. It also tightened pension holiday requirements and investment management rules. (See the January 2010 and June 2010 editions of the *Coughlin Courier* for background.) However, the federal government did grant Air Canada an extension on meeting its pension solvency requirements, giving that company a two-year contribution deferral and allowing it to seek additional funding sources. (See the July 2009 edition of the *Coughlin Courier* for background.)

Mr. Flaherty's negative response to the G6 request for relief was strongly condemned by some pension consultants and actuaries, who cited that pension deficit payback extensions had been granted in United States and some European countries. The United Kingdom is considering similar measures.

However, supporters of the finance minister's position counter that Canada's more stringent regulatory regime has allowed the country to avoid the major fiscal crises that have plagued both the United States and Europe since 2008.

With long bond market yields at record lows, pension plans everywhere are faced with severe constraints as their traditional funding vehicle, long-term government bonds and conservatively managed corporate bonds, often offer net yields of less than one per cent. In effect, the pensions' traditional source of cash flow is drying up.

Unless interest rates increase in the near future, the pension solvency situation will continue to deteriorate, pension experts argue. According to Air Canada Chief Financial Officer Michael Rousseau, a return of interest rates to the 1.5 to 2.0 per cent level would wipe out $3 billion of that airline's pension deficit.

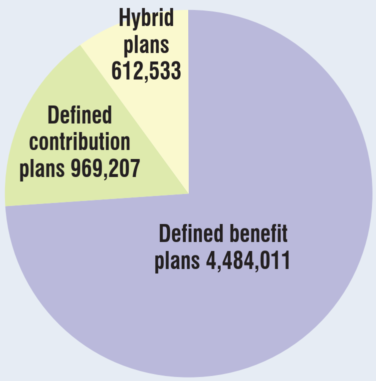
However, the chances of that occurring soon are remote. With Europe in recession and the United States facing an unusually weak recovery, central banks are likely to continue to stimulate the economy through low interest rate policies.

As well, political considerations also play a role in funding relief decisions, says Jacques Lafrance, president of the Canadian Institute of Actuaries.

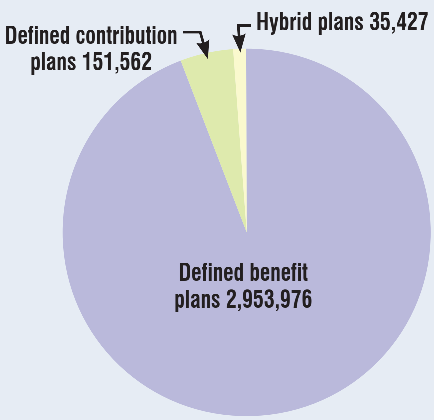
"At the end of the day, it's a political decision," he notes. *"If you're a politician and you do allow more funding relief, you increase the risk of a company going bankrupt and you will have retirees at your door complaining that they will have pension cuts."*

With key measures such as the Mercer pension solvency index mired at the 77 per cent level as of June 30 (a decrease of five percentage points from March 31), it is clear that, despite the pressures from some of the country's leading plan sponsors, the pension solvency issue will not be resolved any time soon. ❧

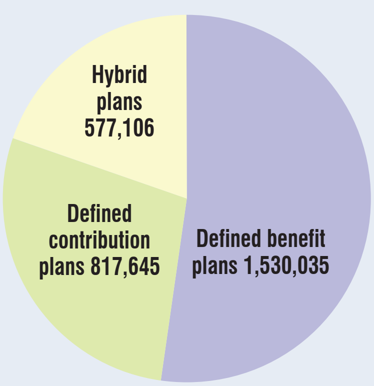
2010 pension membership facts*



Membership total, all sectors
6,065,751



Membership total, public sector
3,140,965



Membership total, private sector
2,924,786

*(*Source: Statistics Canada: Registered pension plan membership, by sector and type of plan as of January 1, 2011. Published May 25, 2012*)

Insurers drop permanent insurance and other products

Individual permanent insurance products are being discontinued by insurance companies across Canada as they attempt to grapple with a new market environment featuring historically low interest rates and a stagnant equity market.

To date, RBC Insurance, Standard Life, Transamerica and Assumption Life have all announced the discontinuation of selected insurance products including once-popular universal life, term-to-100 and critical illness products.

Permanent insurance products offer to pay a guaranteed amount on death or illness of a policyowner. Meeting a contractual commitment to pay a large amount in insurance proceeds at an unknown future date requires insurers to set aside large cash reserves. Funding such obligations through fixed income investments has become increasingly difficult as interest rates remain stalled at historically low levels. As well, since the 2008 market crash, equity markets have become increasingly volatile, adding considerable uncertainty to insurers' long-term investment strategies. In addition, the life insurance industry is facing increasing pressure by regulators to increase their reserves to shield policyholders from any future equity market shocks.

With traditional funding mechanisms becoming unreliable, life insurance companies have been paring guaranteed benefit products and increasing premium rates to meet their fiduciary obligations.

Discontinued individual insurance products include the following:

RBC Insurance

Term 100;

RBC Universal Life;

Long-term Care Insurance Plan;

Critical Illness Recovery Plan Term 100;

Critical Illness Recovery Plan Term 75 paid up at 65;

Critical Illness Recovery Plan Term – Return of Premium on Surrender.

Standard Life

Ideal Income Series segregated funds;

All individual universal life insurance, term insurance, whole life insurance and critical insurance products.

Assumption Life

Odyssey Universal Life;

Whole Life;

Whole Life Junior;

T-10 term life insurance;

Guaranteed Economic Life.

Transamerica

Five for Life segregated funds;

imaxxGIF and TIP funds.

While no new sales of these products may occur, existing policies will continue to be serviced by their respective insurer.

For more information on individual life insurance, contact Coughlin Individual Financial Services Consultant Jackie Moulton at jmoulton@coughlin.ca. For information on segregated funds and related investment savings products, contact Coughlin Individual Financial Services Consultant Richard Seguin at rseguin@coughlin.ca ❧

Fast facts

- A Leger Marketing poll conducted for the Bank of Montreal says that 27 per cent of Canadians age 18 to 34 have not started saving for retirement. However, 25 per cent of the 1,000 young adults surveyed said they expected to retire early. *"A clear dichotomy exists between what young people think about retirement and what they are actually doing to prepare for it,"* the BMO Retirement Institute says.
- The value of employer-sponsored pension funds totalled more than $1.1 trillion at the end of December 2011, Statistics Canada reports, a 4.6 per cent increase from the previous year.
- Effective July 1, 2012, the Old Age Security (OAS) benefit increased by 0.9 per cent to $544.98 per month.
- The Katz Group, owner of Rexall Pharmacies, has acquired ClaimSecure, the on-line health and dental claims processor and benefits management firm. ClaimSecure processes more than 10 million health and dental benefit transactions annually.
- Effective July 1, 2012, the Régie de l'assurance maladie du Québec (RAMQ) increased its out-of-pocket maximum to $992 from $963. The co-payment rate remains unchanged at 32 per cent. In addition, beginning January 1, 2013, RAMQ will increase its coverage for smoking cessation products to $725 annually.
- The 80-20 rule also applies to drug costs, according to the Green Shield Canada Drug Study. A report published by the insurer says that the top 20 per cent of high-cost drug claimants account for 75 per cent of costs. Further, just five per cent of drug plan members account for 43 per cent of all drug plan costs. Hypertension, high cholesterol, depression and stomach disorders were the dominant illnesses being treated among that group.
- The average Canadian now earns $896.63 per week (or, $46,624.76 per year), according to Statistics Canada, a 3.1 per cent increase from a year ago.
- Each smoker costs an employer $3,396 in lost productivity, absenteeism, insurance and related costs, according to the Conference Board of Canada. The percentage of smokers in the general population has declined to 17 per cent in 2010, compared to 25 per cent in 1999.
- A 10-city survey of 2,500 Americans suggests that, unlike the average Canadian, the average American would be willing to give up an employee benefit in return for more time off work. According to the survey, conducted by Inspirato, half of those surveyed would sacrifice benefits for extra vacation. Other things open to be sacrificed include: a private office (cited by 25 per cent of respondents); a bonus (17 per cent); and promotions (11 per cent.) Employees surveyed lived in the cities of Atlanta, Boston, Chicago, Dallas, Houston, Los Angeles, New York, Philadelphia, San Francisco and Washington, DC.
- British pensioners living in Canada are petitioning the British government to index the pensions of Britons living abroad. Under current regulations, recipients of British government pensions living in 120 countries, including Canada, are not indexed for inflation. However, thanks to special treaty arrangements, such pensions are indexed for British subjects living in the United States, Spain and other countries. To date, 21,000 signatures have been collected. It is estimated that there are 155,000 British pensioners in Canada.
- The state of Arizona has appealed to the United States Supreme Court to uphold its ban on providing health insurance benefits to same sex partners of state employees. The state maintains that it should be allowed to deny health benefits because it *"furthers the state's interest in promoting marriage."* Lower court rulings held that the state could not provide benefits in a manner that adversely discriminates against particular groups.
- The shortage of high and medium-skill workers is expected to top the 85 million level worldwide by 2020, according to a report the McKinsey Global Institute. A radical approach to accelerate education and training among less skilled workers is required to fill the skills gap, the Institute says. The total global workforce is expected to reach the 3.5 billion level by 2030.
- Canada isn't the only country facing a growing pension funding shortfall. China's Centre for International Social Security Studies reports that that country's unfunded pension liabilities amount to an equivalent of $348 billion US. The number of retired people in China is expected to triple to 323 million, or 23 per cent of the population, by 2050.
- When it comes to economic freedom, Canada ranks sixth out of 141 countries, according to the Fraser Institute. In a measure of 42 different characteristics, including size of government, legal structure, property rights, access to sound money, freedom to trade internationally and regulation of credit, labour and business, Canada beats most countries, including the United States and Britain. The top 10 countries in the world were: Hong Kong; Singapore; New Zealand; Switzerland; Australia; Canada; Chile; Britain; Mauritius; and the United States.
- The eight Organization for Economic Development and Co-operation (OECD) members with the highest tax revenues per gross domestic product: Denmark, 48.2 per cent; Sweden, 46.4 per cent; Italy, 43.5 per cent; Belgium, 43.2 per cent; Finland, 43.1 per cent; Austria, 42.8 per cent; France, 41.9 per cent; Norway, 41.0 per cent. Canada ranked 20th out of the 35 OECD members at 31.1 per cent.

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