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BY MESSENGER
BY EMAIL

July 6, 2016

The Honourable William Francis Morneau
Minister of Finance
Department of Finance
90 Elgin Street
Ottawa, Ontario
K1A 0G5

Re: Revised Draft *Capital Markets Stability Act* (Canada)

Dear Minister:

PURPOSE

The purpose of this letter is to provide you with the comments of the Public Sector Pension Investment Board (referred to below as "**PSP Investments**", "**us**" or "**we**") in connection with the publication of the revised draft *Capital Markets Stability Act* (Canada) on May 5, 2016 (the "**Draft CMSA**").

PSP INVESTMENTS

PSP Investments is a Canadian Crown corporation which was incorporated under the *Public Sector Pension Investment Board Act* (Canada) in 1999. It is established to invest, since April 1, 2000, the amounts transferred by the Government of Canada (the "**Government**") for the pension plans of the Public Service, the Canadian Forces and the Royal Canadian Mounted Police, and, since March 1, 2007, for the Reserve Force Pension Plan (collectively, the "**Pension Plans**"). In carrying out its mandate, PSP Investments manages the funds transferred to it in the best interests of the contributors and beneficiaries under the Pension Plans and seeks to maximize investment returns without undue risk of loss, having regard to the funding, policies and requirements of the Pension Plans and their ability to meet their financial obligations. As at September 30, 2015, PSP Investments had net assets under management of approximately \$112 billion.

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GENERAL COMMENTS

a) Exclusion of Capital Market Intermediaries, including PSP Investments

We support the efforts of the Government to harmonize securities regulation and to create a framework for a cooperative capital markets regulatory system under the oversight of a single regulatory authority and recognize that appropriate oversight and management of systemic risk is important to the stability of Canada's financial markets.

We welcome the amendment made in the Draft CMSA whereby the previous provisions regulating "Capital Market Intermediaries", including pension fund managers such as PSP Investments, have been deleted. As such, PSP Investments will no longer be subject to the Draft CMSA in its quality as market participant. However, products in which PSP Investments trades, or practices that PSP Investments employs, may fall within the scope of the Draft CMSA, when regulations are enacted, as discussed in further detail below.

We are pleased with the exclusion as we believe that there is no evidence showing that pension plans or pension fund managers are potential sources of systemic risk. On the contrary, they are typically seen as buffers against systemic risk.

Mr. Lawrence Schembri, Deputy Governor of the Bank of Canada in a speech to the Pension Investment Association of Canada in Quebec City on May 15, 2014, stated the following in relation to pension funds and systemic risk:

"Pension funds can more easily bear market and liquidity risk... because they can diversify these risks over time. Their long investment horizons are different from those of most other market participants, who are more focused on short-term returns. Thus pension funds have the capacity to smooth and absorb short-term volatility and act as a net provider of liquidity and collateral to the system, especially in times of stress...Pension funds do not rely primarily on borrowing to fund their investments, and are not vulnerable to excessive leverage or significant liquidity and maturity mismatches...Hence, they are, in general, not a source of systemic risk to the financial system."

b) Sections 20 to 23

Sections 20 to 23¹ provide broad regulation-making authorities that could have a significant impact on financial markets and the practices of their participants, including pension fund managers such as PSP Investments. In the interests of transparency and predictability, we believe that the regulations under the Draft CMSA should

¹ Unless otherwise noted, all references in this letter to sections or paragraphs are references to the provisions of the Draft CMSA.

circumscribe the scope and the broad powers which are provided in sections 20 to 23 and provide more details as to how they will be applied in practice.

c) Publication of Draft Regulations

As noted above, we expect that the regulations will be designed to complete the high-level principles set out in the Draft CMSA. Ideally, market participants would have the opportunity to review and comment on the draft regulations in tandem with the draft statute for a more fulsome perspective of the scope of the legislation. However, we understand that the Capital Markets Regulatory Authority's current intention is to publish the draft regulations separately after the statute's adoption.

Since the draft regulations were not published in tandem with the draft statute, we submit that the regulation-making process under the Draft CMSA in Sections 75 and following should be amended to include timeframes similar to those of the Canadian Securities Administrators (the "CSA"). We are particularly concerned about the short comment period provided in Section 75(6) regarding changes to proposed regulations. This period should be at least 60 days instead of 30 days. For example, under the British Columbia Rule Making Procedure Regulation, the comment period is at least 60 days if the alteration changes the proposed rule in a material way and reflects a change in the need for or changes the anticipated effect of the proposed rule.

In addition, under certain circumstances, the Capital Markets Regulatory Authority should publish a Consultation Paper as the CSA Derivatives Committee did when it sought input from the financial industry and the public regarding the regulation of OTC derivatives.

CONCLUSION

We appreciate this opportunity to comment on the Draft CMSA. Please do not hesitate to contact the undersigned if you wish to discuss any aspect of this letter in further detail.

Yours truly,

PSP Investments



Frédéric Despars
Senior Vice President and Chief Legal Officer

cc. Mr. Wayne Foster, Director, Capital Markets Division, Department of Finance