



Special Notice

November 9, 2009

A preview of provincial pension reform?

On October 27, 2009, the federal government proposed a large package of pension reforms. While the announced changes to the *Income Tax Act* (ITA) will apply to all defined benefit (DB) plans, most of the changes will be made to the *Pension Benefits Standards Act, 1985* (PBSA) and would only apply for federally regulated pension plans. This *Special Notice* highlights some of the more unique changes proposed to the PBSA. With the Ontario government due to announce part of its reform package in November and with ongoing pension reform discussions among federal and provincial government officials, we wonder if the federal reforms may be a preview of changes proposed in provincial jurisdictions.

Income Tax Act proposals

The main change to the *Income Tax Act* is a proposed increase in the maximum surplus limit for a registered defined benefit plan from 10% to 25% of the liabilities, effective 2010. This will only have an immediate impact for plans that are close to the current limit. Longer term, it will allow plans the option to maintain a higher surplus cushion to offset future deficiencies.

PBSA proposals

Distressed pension plans

A scheme will be put in place that will permit plan sponsors, members and retirees to negotiate funding arrangements when a plan sponsor cannot meet its funding obligations in the near term. In the past, these sorts of schemes—which are not otherwise permitted by legislation—have been approved by the government on a case-by-case basis. The proposed rules will, in limited circumstances, help companies stay afloat that might otherwise go bankrupt, allowing distressed companies to help save jobs and pensions.

Solvency margins

Contribution holidays will only be permitted if plan assets are greater than 105% of solvency liabilities. This proposal was recommended in the Ontario Expert Commission Report on Pensions (see Eckler [*Special Notice, November 21, 2008*](#)) and Quebec has a similar feature in its legislation.

Void amendments

A plan amendment that reduces the solvency ratio below 85% will require immediate full funding. The federal government has had this proposal in its docket for over 10 years. This will significantly change the way negotiations are handled with employees and unions, and the price tags associated with benefit improvements in under-funded plans.

Funding

In addition to allowing letters of credit on a permanent basis, which is already permitted in some provincial jurisdictions, the federal government has proposed the ability to smooth solvency results over three years when determining deficiency payments, and allow past deficiencies to be

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reconsolidated at each valuation. The devil will be in the details, and Eckler will analyze the revamped DB funding rules once the proposed rules are released by the government.

Electronic delivery and member statements

This new PBSA provision would permit all required pension plan disclosure information to be provided electronically, subject to participants' consent. This creates an opportunity to review disclosure processes to find efficiencies, particularly through web-based channels.

Additionally, there are more disclosures required on members' annual statements, and a new requirement to provide deferred vested and retired members with annual statements.

Multi-employer specific legislation

The federal government has agreed to create a framework in the legislation for plan structures like multi-employer plans, to reflect the true nature of these arrangements. The legislation will include many of the practices currently followed by multi-employer plans in other jurisdictions. This includes the authority of a Board of Trustees to reduce accrued benefits (subject to the Superintendent's approval), and require valuation reports to provide options to a Board of Trustees should an actuarial valuation show that a plan cannot meet its minimum funding requirements.

Other changes

The federal proposals also include a number of other changes to pension plans registered under the PBSA. These include:

- Monthly remittance of contributions,
- Permission to pay retirement benefits from DC plans, and
- Immediate vesting.

Eckler will inform you further when these proposals are finalized and update plan sponsors on any action required.

More to come

The Research Working Group on Retirement Income Adequacy, created by federal, provincial and territorial finance ministers in May 2009, is expected to release its report on the adequacy of retirement income in Canada on December 17-18, 2009. Hopefully, the report will provide a comprehensive basis for pension reform for the whole country. Eckler will keep you posted.

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