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Asset Transfers Between Pension Plans

On November 27, 2013, several Orders in Council were issued (OIC 1698/2013, OIC 1699/2013 and OIC 1700/2013) proclaiming certain portions of the Pension Benefits Act (PBA) that relate to assets transfers between pension plans on corporate restructuring, pension plan mergers and for certain prescribed pension plans to be in effect from January 1, 2014.

On November 29, 2013, the government filed O. Reg. 306/13, O. Reg. 308/13 and O. Reg. 310/13 made under the PBA, which will also come into force on January 1, 2014. These regulations set out the detailed requirements for asset transfers between pension plans that are authorized under the changes to the PBA. O. Reg. 310/13 details the majority of the requirements that apply in transfers under section 80 and 81 of the PBA.

The amendments and regulations set out a new framework for the approval of asset transfers under the PBA. This framework continues the current requirement for the consent of the Superintendent to asset transfers. However, the legislation and regulations now mandate both procedures and standards that must be complied with before the Superintendent can consent to the transfer. Transfer applications which do not comply with the new requirements cannot be approved.

The new legislation sets out specific criteria for the calculation of the amount to be transferred, funding, and notice requirements applicable to asset transfers between pension plans. Asset transfer applications filed on and after January 1, 2014, must adhere to this new legislation.

Some of the key features of the new framework for asset transfers between pension plans are:

Effective Date

The new regulations establish an "effective date" for the purpose of asset transfers and require applications for consent to be filed within nine months of the effective date. A newly proclaimed section 105 of the PBA will allow the Superintendent to extend the time for filing an application.

Notices to Members

The regulations require that no later than six months of the effective date of the asset transfer, notices must be given to members, former members, retired members and other persons entitled to benefits under the plan. The content of the notices is set out in the regulations.

Equivalent commuted values

The commuted value of a transferring member's pension benefits accrued under the original plan must be maintained in the successor plan, although the member's pension benefits may be different under the successor plan. In addition, transfers are not permitted if the successor plan would allow accrued pension benefits to be reduced in circumstances that were not allowed in the original plan.

Surplus


The prescribed formula for calculating the amount of assets to be transferred requires that a proportionate amount of surplus, if any, be transferred from the original plan to the successor plan.

Pension benefits for former and retired members

Pension benefits of former members, retired members and other beneficiaries, who are transferred from the original plan to the successor plan cannot be reduced and must be replicated under the successor plan.

Consolidation of benefits

Section 80.1 and O. Reg. 308/13 provide a framework for combining the pension benefits of members of certain prescribed public sector pension plans where the members subsequently become members of another pension plan as a result of a transfer of employment before January 1, 2014.

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