2009 Solvency Funding Relief Measures

In the 2009 Ontario Budget, the government announced proposed measures that would provide temporary solvency funding relief to Ontario registered defined benefit pension plans affected by the financial market turmoil and take steps to ensure greater transparency while helping to protect the security of pension benefits. Regulation 909 (Regulation) made under the Pension Benefits Act (PBA) has now been amended to put these changes into effect.

Summary of Solvency Funding Relief Measures and Other Changes to Regulation 909

Temporary Solvency Funding Relief Measures - The temporary solvency funding relief measures are limited to eligible plans, and are effective with the first filed valuation report with a valuation date on or after September 30, 2008 (the solvency relief report):

- The administrator of an eligible plan may elect any or all of the following solvency funding relief options:
  - Defer new special payments (going concern and solvency) determined in the solvency relief report for up to one year;
  - Consolidate pre-existing solvency special payments into a new five-year schedule; and
  - With the consent of the members and former members, extend funding of any new solvency deficiency in the solvency relief report for up to five additional years. The consent requirements do not apply to jointly governed plans.

- If the administrator elects at least one of the above options, any gains in future solvency valuations may be used to reduce or eliminate any solvency special payments determined in the solvency relief report.

Revised Standards for Commuted Values - All plans may make use of the revised CIA commuted value standard for solvency valuations with a valuation date on or after December 12, 2008.

Contribution Holidays - For plan fiscal years ending between June 30, 2010 and December 31, 2012, contribution holidays will not be permitted unless an actuarial cost certificate that demonstrates sufficient funding excess is filed with the Superintendent. More information is available at Contribution Holidays Questions Answered.

Transfer Ratio and Commuted Values – Section 19(5) of the Regulation now applies to plans where the transfer ratio in the last filed report was less than 1.0.

Temporary Solvency Funding Relief Measures

2009 Solvency Funding Relief Measures

The temporary solvency funding relief measures are set out below. Full details are provided in the Ontario Regulation 239/09.

The administrator of an eligible plan may choose one or more of three funding options in the first filed valuation report with a valuation date on or after September 30, 2008 (the solvency relief report).

Option 1 - Defer, up to one year, the start of special payments required to liquidate any new going concern unfunded liability or new solvency deficiency determined in the solvency relief report. (Jointly Sponsored Pension Plans (JSPPs) are not permitted to elect Option 1.)

Option 2 - Consolidate special payments for pre-existing solvency deficiencies into a new five-year payment schedule that starts on the valuation date of the solvency relief report. (The "new pension plans" under Ontario Regulation 202/02 (Algoma) are not permitted to elect Option 2.)

Option 3 - With the consent of members and former members, extend the period for liquidating the new solvency deficiency from 5 years to a maximum of 10 years. The consent requirements do not apply to jointly governed plans (which have member representation on the Board or Committee administering the plan).

Gains in Future Solvency Valuations

If the administrator elects at least one of the above options, any gains in future solvency valuations may be used to reduce or eliminate any solvency special payments determined in the solvency relief report.

Eligible Plans

All pension plans that provide defined benefits (including hybrid plans) are eligible for solvency funding relief, **except for the following excluded plans.**

Excluded Plans

- A plan for which all contributions set out in previous valuation reports that are required to be made as of the valuation date of the solvency relief report have not been made.
- A Specified Ontario Multi-Employer Pension Plan as described in section 6.0.1 of the Regulation.
- A plan established after September 29, 2008, unless the plan is formed as a result of a merger of plans, at least one of which was established before September 30, 2008, or is

formed as a result of splitting a plan that was established before September 30, 2008.
- The "participating pension plans" under Ontario Regulation 99/06 (Stelco).
- A "qualifying plan" under section 5.1 of the Regulation.

How a Plan Administrator Makes an Election for Solvency Funding Relief

A plan administrator makes an election by filing it:

- in writing
- with the Superintendent,
- on or before the filing of the first valuation report with a valuation date between September 30, 2008 and September 29, 2011, inclusive.

The administrator may make only one election and, once made, it cannot be rescinded.

Once an election is made for any option the plan administrator must provide enhanced notice to the eligible members and the eligible former members of the plan within 60 days of the start of the payments required under the solvency relief report. Enhanced notice requirements are set out for each option.

Description of Solvency Funding Relief Options

The following section explains the three temporary solvency funding relief options. Complete details can be found in the Regulation.

Option 1 - Deferral of New Special Payments for up to One Year

Defer, up to one year, the start of special payments required to liquidate any new going concern unfunded liability or new solvency deficiency determined in the solvency relief report.

Option Availability

- Not available to excluded plans
- Not available to Jointly Sponsored Pension Plans

Funding Calculations

- The special payments identified in the solvency relief report which are required to liquidate any new going concern unfunded liability or solvency deficiency determined in the report may be deferred for up to one year (the deferral period) from the valuation date.

- For the purpose of determining the new solvency deficiency in the solvency relief report, the calculation of the solvency asset adjustment under section 1.2(1) (d) of the Regulation will include the present value of special payments in respect of any going concern unfunded liability scheduled for payment between the valuation date and 5 years after the end of the deferral period.

- Any gains in subsequent solvency valuations can be used to reduce or eliminate the amount of monthly solvency special payments determined in the solvency relief report.

- During the deferral period, actuarial gains may not be used to reduce normal costs nor may they be applied to pay the annual assessment to the Pension Benefits Guarantee Fund (PBGF).

Amendments

- No special requirements.

Member Consent

- No member consent is required.

Enhanced Notice Requirements

- The plan administrator must provide enhanced notice to the eligible members and the eligible former members of the plan within 60 days of the start of the special payments required under the solvency relief report.
- The notice must contain the information set out in the Regulation.
- The notice is provided one time only.

Option 2 - Consolidation of Existing Solvency Deficiencies into a New Five-Year Payment Schedule

Consolidate special payments for pre-existing solvency deficiencies into a new five-year payment schedule that starts on the valuation date of the solvency relief report.

Option Availability

- Not available to excluded plans.
- Not available to the “new pension plans” under Ontario Regulation 202/02 (Algoma).

Funding Calculations

- Plan administrators will be permitted to consolidate the present value of special payments relating to solvency deficiencies arising before the valuation date of the solvency relief report that remain to be paid (consolidated prior solvency deficiency), and liquidate this deficiency over the 5 years beginning on the valuation date of the solvency relief report.

- To the extent that the solvency special payments made between the valuation date and the filing date exceed those that would be required under the solvency relief report as a result of the consolidation, such excess can be used to reduce subsequent contributions made up to the date at which the next report is filed. The excess, however, cannot be used to reduce the PBGF assessment base as provided in section 37(12) of the Regulation.

- For the purpose of determining the new solvency deficiency in the solvency relief report, the calculation of the solvency asset adjustment under section 1.2(1)(d) of the Regulation will include the present value of all of the solvency special payments under the new five-year consolidated schedule.

- Any gains in subsequent solvency valuations can be used to reduce or eliminate the amount of monthly solvency special payments determined in the solvency relief report.

Amendments

- If the plan is amended to increase pension benefits or ancillary benefits, any resulting increase in the going concern unfunded liability shall be liquidated over 5 years beginning on the valuation date of the report in which the increase in the going concern unfunded liability was determined.
- This accelerated funding requirement remains in effect until the consolidated prior solvency deficiency has been fully liquidated.

Member Consent

- No member consent is required.

Enhanced Notice Requirements

- The plan administrator must provide enhanced notice to the eligible members and the eligible former members of the plan within 60 days of the start of the payments required under the solvency relief report.
- The notice must contain the information set out in the Regulation.
- The notice is provided one time only.

Option 3 – Extension of Up to 5 Additional Years to Liquidate New Solvency Deficiency

With the consent of eligible members and eligible former members, extend the period for liquidating the new solvency deficiency from 5 years to a maximum of 10 years.

Option Availability

- Not available to excluded plans.

Funding Calculations

- The five-year period to liquidate a new solvency deficiency determined in the solvency relief report may be extended to a period not to exceed 10 years (the extended liquidation period).

- For non-JSPPs that elected Option 1 and for JSPPs, the extended liquidation period will begin on a date not later than 12 months after the valuation date of the solvency relief report and may be extended to a period not to exceed 10 years after that date.

- For the purpose of determining the new solvency deficiency in the solvency relief report, the calculation of the solvency asset adjustment under section 1.2(1)(d) of the Regulation will include the present value of special payments in respect of any going concern unfunded liability scheduled for payment between the valuation date and the end of the extended liquidation period.

- Any gains in subsequent solvency valuations can be used to reduce or eliminate the amount of monthly solvency special payments determined in the solvency relief report.

Amendments

- If the plan is amended to increase pension benefits or ancillary benefits, any resulting increase in the going concern unfunded liability shall be liquidated over 5 years beginning on the valuation date of the report in which the increase in the going concern unfunded liability was determined.

- For a JSPP, the resulting increase in the going concern unfunded liability shall be liquidated over 5 years beginning not later than 12 months after the valuation date of the report in which the increase in the going concern unfunded liability was determined.

- This accelerated funding requirement continues to apply for plan amendments that have an effective date before the date on which the remainder of the extended liquidation period equals 5 years.

Member Consent

- There is no consent requirement for jointly governed plans.

- All eligible members, eligible former members and bargaining agents must be sent an information statement. Detailed information on the content is set out in the Regulation.

- For plans which are not jointly governed, the plan administrator that proposes to elect option 3 may not proceed if more than 1/3 of the eligible members and eligible former members oppose the election. Eligible members and eligible former members who die or transfer their entire entitlement from the plan between the date of the solvency relief report and the date the information forms are sent are not included in the election.

- If the eligible members are represented by a bargaining agent, the bargaining agent may cast a ballot on behalf of the eligible members it represents within 45 days. Eligible members who become eligible former members between the date of the solvency relief report and the date the information forms are sent would be represented by the collective bargaining agent for the purpose of determining consent.

- Notice of Objection Forms

    - Who Gets the Notice - eligible members who are not represented by a bargaining agent, eligible former members, and all bargaining agents at the time the information statement is sent
    - Content - set out in section 5.7 of the Regulation
    - Timing for Responding to Notice of Objection - no less than 45 days after the information statement is sent by the administrator

- Deemed Consent - if the number of objections confirms that not more than one-third of the eligible members and the eligible former members object, the extension of the five year period will proceed

Enhanced Notice Requirements

- The plan administrator must provide enhanced notice to the eligible members and the eligible former members of the plan within 60 days of the start of the payments required under the solvency relief report.
- The notice has more required information than Options 1 and 2, as set out in the Regulation.
- Until the end of the extended liquidation period, additional information must also be provided to all eligible members and eligible former members within six months after each plan fiscal year in which a valuation report is filed.
- For eligible members, this additional information may be included with their regular annual pension statement.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Solvency Funding Relief Questions Answered

Archived Content

The following content was archived on **February 22, 2019** and is provided for historical reference. Information is subject to change and may no longer be accurate.

This page is intended to provide information of interest to plan administrators, their agents, and plan members and former members on the amendments to Regulation 909 regarding the Solvency Funding Relief Measures and Other Changes announced in the 2009 Ontario Budget.

Questions posted relate to:

Filing Deadlines and Elections

Member/Former Member Questions

Plan Administrator Questions

Use of Actuarial Gains

Filing Deadlines and Elections

Q: The administrator of a plan wishes to file a report with a valuation date on or after September 30, 2008 and before November 1, 2008. Does the usual 9-month filing deadline apply?

A: No. If the valuation date is between September 30, 2008 and October 31, 2008, the filing deadline has been extended to 10 months after the valuation date.

Q: The administrator of a plan filed a report with a valuation date on or after September 30, 2008 prior to the government's filing of the solvency funding relief and other amendments to Regulation 909. The administrator wishes to file a report to reflect the amendments. Is there any action the administrator can take?

A: Yes, the plan can re-file its valuation report within the 9-month filing deadline. If the valuation date is between September 30, 2008 and October 31, 2008, the timeline has been extended to 10 months.

Q: If the first valuation is required as a result of a plan amendment, can a plan administrator make an election in respect of the temporary solvency relief options?

A: Yes. In order to proceed with an amendment and have a valuation report treated as a solvency relief report, the amendment should be included as part of a section 14 report.

Q: The administrator of a plan does not intend to make an election in respect of its first filed report with a valuation date on or after September 30, 2008. Can the administrator make an election in a subsequent valuation report?

A: No. An election can only be made with the first valuation report filed with a valuation date on or after September 30, 2008.

Use of Actuarial Gains

Q: The administrator of a plan has decided not to make a solvency funding relief election. Can the administrator use future solvency experience gains to reduce solvency special payments?

A: No, the gains may only be used to shorten the remaining amortization periods for existing solvency deficiencies.

Plan Administrator Questions

Q: The revised Standard of Practice for Pension Commuted Values published by the Canadian Institute of Actuaries took effect on April 1, 2009. Can the administrator of a plan use this new standard prior to that date?

A: Yes. The new standard can be used for the purpose of solvency valuations for valuation dates on or after December 12, 2008. On the other hand, the new commuted value standard cannot be used until April 1, 2009 for the purpose of determining commuted values for individual terminating members.

Q: Do the new rules for contribution holidays apply to all defined benefit plans, regardless of whether the administrator elects temporary solvency relief measures?

A: Yes. All plans that provide defined benefits are subject to the amended provisions of Regulation 909 in respect of contribution holidays. For plan fiscal years ending between June 30, 2010 and December 31, 2012, plans must make all contributions required to pay the normal cost unless an actuarial cost certificate with a valuation date at the beginning of a fiscal year is filed with the Superintendent within 90 days of the valuation date and demonstrates that the plan has sufficient funding excess to pay all or a portion of the normal cost for that year. More information is available at Contribution Holidays Questions Answered.

Q: What special payments can be consolidated in the solvency relief report?

A: Only the present value of remaining solvency special payments in respect of solvency deficiencies arising before the valuation date of the solvency relief report that remain to be paid are included in the consolidation. Pre-existing special payments in respect of going-concern unfunded liabilities and special payments required under section 75 of the *PBA* are not included.

Q: Can the administrator of a plan defer the funding of a prior consolidated solvency deficiency?

A: No.

Q: When do the accelerated funding rules for plan amendments end if an administrator elects both Option 2 and Option 3?

A: If both Option 2 and Option 3 are elected, the accelerated funding rules would no longer apply for plan amendments with an effective date after the later of the date the consolidated prior solvency deficiency is liquidated and the date on which the remainder of the extended liquidation period equals 5 years.

Q: What is a "jointly governed plan"?

A: "jointly governed plan" means a plan other than an excluded plan that is,

(a) a jointly sponsored pension plan,

(b) a multi-employer pension plan established pursuant to a collective agreement or a trust agreement,

(c) a plan whose administrator is a pension committee all of whose members are representatives of members of the plan, or

(d) a plan whose administrator is a pension committee described in section 8 (1) (b) of the Act if at least one-half of the members of the pension committee represent members of the plan or persons receiving pensions under the plan.

Member/Former Member Questions

Q: Who is an eligible member?

A: An eligible member is, with respect to a plan, a member whose pension benefit includes a defined benefit, other than,

(a) a member who no longer has an entitlement to any payments from the plan, and

(b) a member for whom a notice of death has been received by the administrator.

Q: Who is an eligible former member?

A: An eligible former member is, with respect to a plan, a former member whose pension or pension benefit includes a defined benefit, other than,

(a) a former member who no longer has an entitlement to any payments from the plan, and

(b) a former member for whom a notice of death has been received by the administrator.

Q: What is meant by "no longer has an entitlement to any payments from the plan"? When is it determined?

A: A former member who has received the full commuted value of a deferred pension under section 42 of the PBA prior to the day an information statement is sent and/or the day a notice of objection form is returned to the administrator is a person who "no longer has an entitlement to any payments from the plan".

Q: As a widow of a former member of a pension plan I am a beneficiary under the plan. Am I entitled to receive enhanced notice if the plan makes an election under the solvency relief amendments?

A: No, only eligible members and eligible former members are entitled to receive enhanced notice.

Q: I am a retired member of a pension plan and have been requested by the administrator of the plan to provide my consent for the administrator to elect Option 3 – the extension of the new solvency deficiency funding period from 5 years to not more than 10 years. Can the union exercise my vote?

A: No, the union can only vote on behalf of individuals who were eligible members on the date of the solvency relief report. Eligible former members(which includes retired members) must vote directly unless they become eligible former members between the date of the solvency relief report and the date the information forms are sent.

Q: How often must defined benefit pension plans file valuation reports?

A: The PBA requires that Ontario registered pension plans fund promised benefits in accordance with standards set out in Regulation 909. Defined benefit pension plans must file actuarial valuations every three years, or annually if a plan indicates solvency concerns in an actuarial valuation report. Where these valuations show a pension plan's assets to be less than its liabilities, payments must be made into the plan to eliminate the deficiency over a prescribed period of time.

Q: What is the purpose of valuation reports?

A: Actuarial valuations of defined benefit plans are conducted using two different sets of actuarial assumptions: "solvency valuations" use assumptions consistent with a plan being terminated, while "going-concern valuations" are based on the plan continuing in operation.

If a solvency valuation reveals a shortfall of plan assets to plan liabilities, Regulation 909 requires the plan sponsor to make special payments into the plan sufficient to eliminate the deficiency over five years. Where a deficiency exists on the basis of a going-concern valuation, Regulation 909 requires special payments to eliminate the going-concern deficiency over 15 years. In general, the payments that a plan sponsor must remit to a plan in a given year include the amount necessary to cover the ongoing current service costs associated with the plan, plus any "special payments" required in that year to pay down a funding deficiency over the relevant time period.

Other Changes to the Regulation - O. Reg. 239/09

Archived Content

The following content was archived on **February 22, 2019**, and is provided for historical reference. Information is subject to change and may no longer be accurate.

In addition to the temporary solvency relief measures contained in Regulation 239/09, the following changes have been made.

Retroactive Use of Revised Commuted Value Standard for Solvency Valuations

The revised Standard of Practice for Pension Commuted Values (Section 3800) published by the Canadian Institute of Actuaries, which took effect April 1, 2009, may be used for the purpose of a solvency valuation with a valuation date on or after December 12, 2008.

Contribution Holidays

For plan fiscal years ending between June 30, 2010 and December 31, 2012, contribution holidays are not permitted unless an actuarial cost certificate demonstrating that the plan has sufficient funding excess to pay all or a portion of the normal cost for the year is filed with the Superintendent within 90 days of the beginning of the fiscal year. More information is available at Contribution Holidays - Questions & Answers.

Based on the amounts determined in the actuarial cost certificate as at the beginning of the plan's fiscal year, the maximum amount of funding excess available to reduce contributions for the year will be the lesser of:

- the amount by which the going concern assets exceed the sum of the estimated going concern liabilities and the prior year credit balance; and
- the amount by which the solvency assets exceed the sum of the estimated solvency liabilities and the prior year credit balance.

The actuarial certificate must contain:

- An estimate of the normal cost for the fiscal year of the plan commencing on the valuation date of the certificate.

- An estimate of the total employee contributions to the plan to be made during the same period.
- The going concern assets, estimated going concern liabilities, solvency assets and estimated solvency liabilities, each determined as of the valuation date of the certificate.
- The prior year credit balance.
- The estimated transfer ratio, calculated using the solvency assets and estimated solvency liabilities determined in the certificate.

Transfer Ratio and the Payment of Commuted Values

Section 19(5) of Regulation 909 has been revoked and replaced. It now requires the prior approval of the Superintendent to transfer any part of the commuted value where the transfer ratio is less than one and the administrator knows or ought to know that, since the last valuation report, the transfer ratio has declined by 10 per cent or more.

Section 19(6) has been amended so that it is now subject to subsection 19(4) and the new subsection 19(5).

Solvency Relief Questions Answered