Pension e-Bulletin - May 2009 - Volume 18 - Issue 2

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Changes to Regulation 909 - June 2009

O. Regulation 239/09 was filed on June 19, 2009 and contained a number of changes to the rules on locked-in accounts, solvency funding and related issues. For ease of reference, information on these changes is organized as follows:

Solvency Funding Relief Measures

- 2009 Solvency Funding Relief Measures - General
- Temporary Solvency Funding Relief Measures - Summary
- Other Changes to the Regulation - O. Reg. 239/09
- Solvency Funding Relief Questions Answered

Locked-In Accounts

- Changes to the Rules For Ontario Locked-In Accounts - O. Reg. 239/09
- Locked-In Account Changes - Questions and Answers

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.

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.

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.

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

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.

Asset Smoothing for Solvency Valuations and Contribution Holidays - Questions and Answers

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.

Asset Smoothing for Solvency Valuations

Q1. Ontario regulations permit the use of an asset smoothing method for the purpose of a solvency valuation. Does FSCO have a formal policy that imposes a limitation on the application of such method?

A1. FSCO does not have a formal policy limiting the application of an averaging method that stabilizes short term fluctuations in market value of plan assets (asset smoothing method). However, in reviewing any asset smoothing method used in a solvency valuation, FSCO staff will consider the following principles:

- The method should be consistent with the current actuarial practice in Canada, i.e.,the guidelines on asset smoothing methods as set out in the Educational Note issued by the Canadian Institute of Actuaries;
- The method should have the effect of stabilizing the short-term fluctuations in the market value of the plan assets;
- The method should be appropriate for the circumstances of the plan;
- Once an asset smoothing method is adopted for a valuation, it must be applied consistently in future valuations unless otherwise justified by the circumstances of the plan (e.g.,where the plan is merged with another plan); and
- The report should describe the method in sufficient detail so as to enable another actuary to follow the development of the smoothed asset value.

FSCO does not intend to impose a limit on the deviation between the smoothed asset value and the market value. However, the actuary who prepares a report should apply his or her professional judgment as to whether it is appropriate to impose a limit in light of the circumstances of the plan. - 12/08

Contribution Holidays - Application of Subsections 7(3.1) and (3.2) of Regulation 909

Based on the regulations released in June of 2009, contribution holidays for plan fiscal years ending after June 29, 2010 and before January 1, 2013 are not permitted unless an actuarial cost certificate is filed with the Superintendent within the first 90 days of the fiscal year and that cost certificate demonstrates that the plan has sufficient funding excess that can be applied to reduce all or a portion of the contributions for normal cost for the year. These provisions do not apply to designated plans. Below are a series of questions and answers about these requirements.

Timing

Q2. Will there be any ability for plan administrators to request an extension of the deadline for filing the actuarial cost certificate if it proves impossible to complete the work by that date? Our concern is that a plan with a significant surplus (potentially excess surplus from ITA perspective) may be forced to make contributions throughout a fiscal year because of a late filing of the cost certificate (despite the fact that there are sufficient assets in the plan to support a contribution holiday).

A2. Where an actuarial gain under subsection 7(3.2) of the Regulation exists, but the administrator is unable to file the actuarial cost certificate by the deadline, FSCO would consider granting a request for an extension of the time to file the certificate, provided the time period requested for the extension and the circumstances that give rise to the need for an extension are reasonable in the circumstances. (See Policy on Extension of Deadlines for Filings for more information about applying for the extension of a procedural time limit). If the actuarial cost certificate is not filed on time and if an extension of the time for filing the cost certificate is not granted, a contribution holiday cannot be taken. However, there are provisions in the PBA and Regulation relating to refunds of over-contributions that may be of assistance in such a case. - 06/10

Q3. In a situation where the new cost certificate cannot support ongoing contribution holidays, my assumption is that the requirement to remit current service cost contributions would be retroactive to the beginning of the fiscal year. When would this retroactive contribution have to be made?

A3. It is correct that current service contributions would be required retroactively if an actuarial cost certificate is not filed pursuant to subsections 7(3.1) and (3.2) of Regulation 909 or if filed, indicates that normal cost contributions must resume prior to the date the actuarial cost certificate is filed. Under subsection 4(4) of the Regulation, normal cost contributions are payable within 30 days after the month for which the contributions are payable. For purposes of the retroactive contributions that are required due to expiry of the contribution holiday period, FSCO will accept the payment of the normal cost contributions by the later of the time limit specified in subsection 4(4) of the Regulation or 120 days after the beginning of the plan fiscal year. - 06/10

Market value vs. market-related value (smoothing)

Q4. Based on our understanding of the regulations adopted in June of 2009, the determination, under section 7(3.1) and 7(3.2), whether the plan has sufficient funding excess to reduce all or a portion of the contributions for normal cost for the year would be done on a market-value basis and would not reflect the impact of any smoothing that may be used in the actuarial valuations (on either the going concern or the solvency basis). Can you please confirm that this is the case?

A4. For the purposes of clause (a) of subsection 7(3.2), the going concern assets and estimated going concern liabilities should be determined on the same basis used in the last filed valuation report. For the purposes of clause (b) of subsection 7(3.2), both solvency assets and estimated solvency liabilities must be determined on a market-value basis. - 06/10

Preparation of the cost certificate

Q5: The cost certificate is required to include an estimate of the going concern and solvency liabilities as well as the normal cost for the fiscal year commencing on the valuation date of the certificate. In calculating these amounts, would FSCO accept an approach where the amounts of those liabilities and normal cost are rolled forward from the results of the most recently filed valuation (with adjustments for any changes in actuarial assumptions and known significant changes in pension plan demographics over the intervening period)?

A5. In preparing the cost certificate, the actuary should perform the calculations in accordance with accepted actuarial practice, any applicable professional standards and FSCO’s published policies. FSCO will not be providing any specific guidance on the methodology for preparing estimates of the going concern or solvency liabilities and the normal cost. - 06/10

Q6. FSCO's Policy on Actuarial Filing for Plan Amendments contains a requirement for a 5% loading to going concern and solvency liabilities to allow for estimation errors. Would a similar requirement be imposed for the cost certificates that are required to be filed under the new regulations?

A6. While FSCO's Policy applies to actuarial filings at the time of plan amendments, we believe that the guidance contained in the policy with respect to cost certificates is equally applicable to other situations where an estimate of the liabilities is required. Therefore, FSCO strongly suggests that the 5% loading to the going concern and solvency liabilities to allow for estimation errors should be applied in preparing these estimates. - 06/10

Filing of a full valuation report at the same date as the effective date of the cost certificate

Q7. How would the new rules be applied in a situation where a full valuation is filed with the same effective date as the cost certificate and where the full valuation used smoothing (on either the going concern or the solvency basis)? For example, consider a situation where a triennial valuation needs to be filed as at December 31, 2009 for a plan with a December 31st year-end. In this situation, the cost certificate would be due by April 1, 2010 and the full valuation report would be due by September 30, 2010. Let us say that on the market value basis, the plan now has a slight deficit and that on a smoothed basis the plan has sufficient surplus to cover the current service cost for the next couple of years. We are not entirely clear on what happens under the regulations adopted in June of 2009. Specifically, the requirements to file a cost certificate (on a market basis) within 90 days from the beginning of each fiscal year in order to continue current service contribution holidays would suggest that contributions towards current service cost have to be resumed effective January 1, 2010 irrespective of what results are shown in the actuarial valuation report.

A7. In the situation you described where a full valuation is filed with the same effective date as the actuarial cost certificate previously filed, our view is as follows:

- For the first fiscal year covered by a filed valuation report, contributions must be made in accordance with the funding requirements set out in that report, regardless of whether an actuarial cost certificate was previously filed.
- For subsequent fiscal years, contribution holidays must be supported by an actuarial cost certificate prepared and filed in accordance with subsections 7(3.1) and (3.2) of the Regulation. - 06/10

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

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.

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Changes To The Rules For Ontario Locked-In Accounts - O. Reg. 239/09

On June 19, 2009, O. Reg. 239/09 under the Pension Benefits Act was filed. The Regulation makes numerous important changes to the rules governing locked-in accounts. Locked-in accounts include Locked-In Retirement Accounts (LIRAs), Old Life Income Funds (Old LIFs), New Life Income Funds (New LIFs) and Locked-In Retirement Income Funds (LRIFs). The following points summarize the key changes to the rules, indicate when these changes come into effect, and provide answers to some of the questions that are likely to arise as a result of these changes.

What are the key changes to the rules?

- From **January 1, 2011 to April 30, 2012**, owners of **Old LIFs and LRIFs** will have a one-time opportunity to withdraw in cash or transfer to an RRSP or RRIF up to 50% of the total market value of the assets of the fund.
- From **January 1, 2010 to December 31, 2010**, owners of **New LIFs** will have a one-time opportunity to withdraw in cash or transfer to an RRSP or RRIF an additional 25% of the total market value of the assets of the fund that were transferred into their New LIF account on or before December 31, 2009.
- After **December 31, 2009**, anyone who purchases a New LIF will have a one-time opportunity to withdraw in cash or transfer to an RRSP or RRIF up to 50% of the total market value of the assets of the fund.
- **On or before September 30, 2010**, financial institutions are required to give notice of these and other related changes to owners of Old LIFs and LRIFs.
- **On or before January 1, 2010**, financial institutions are required to give notice of these and other related changes to owners of New LIFs.
- **As of January 1, 2011**, all of the rules that govern locked-in retirement accounts (LIRAs) are consolidated into Schedule 3 under the Regulation.

What changes come into effect on January 1, 2010?

- New LIF owners can withdraw or transfer an additional 25% of the assets that were transferred into their account on or before December 31, 2009.
- Anyone who purchases a New LIF can withdraw or transfer up to 50% of the assets.

What changes come into effect January 1, 2011?

- Owners of Old LIFs or LRIFs can apply to withdraw or transfer 50% of the assets in their account.

- Owners of New LIFs will no longer be able to withdraw or transfer an additional 25% of the assets that were transferred into their account on or before December 31, 2009.
- The rules for determining the maximum annual income payment from an Old LIF or an LRIF will become standardized with the rules under a New LIF: the greater of the investment earnings of the fund in the previous year, or the amount that would be paid using the LIF formula in the regulations.
- Owners of Old LIFs and LRIFs will no longer be able to transfer assets from those accounts to a locked-in retirement account (LIRA).
- The new Schedule 3 which sets out the LIRA rules comes into effect.

For more information, see New Rules for Ontario Locked-in Accounts that come into effect on January 1, 2011.

What changes come into effect May 1, 2012?

- Owners of Old LIFs or LRIFs will no longer be able to withdraw or transfer 50% of the assets in their account.

More Locked-In Account Changes - Questions and Answers

Previous Locked-In Account Changes

New Rules for Ontario Locked-in Accounts Come Into Effect on January 1, 2011

On January 1, 2011, several new rules for Ontario locked-in accounts will come into effect. These rules were passed in June 2009 under Ontario Regulation 239/09 and will affect old life income funds (Old LIFs), locked-in retirement income funds (LRIFs) and new life income funds (New LIFs). In addition, the rules that apply to locked-in retirement accounts (LIRAs) will be consolidated into one new schedule.

New Rules for LIRAs

The rules for LIRAs will be consolidated in Schedule 3 under Ontario Regulation 909. A number of provisions that are currently found in this regulation will be found in Schedule 3.

New Rules for Old LIFs, New LIFs and LRIFs

- The rules for Old LIFs (which are in Schedule 1) and LRIFs (which are in Schedule 2) will be harmonized with the rules for New LIFs (which are in Schedule 1.1.). All three schedules will remain in effect, but the provisions of each will be essentially the same.
- The rules for determining the maximum annual income payment from Old LIFs, New LIFs and LRIFs will be identical. The maximum income payment for all three funds will be the greater of the amount calculated under the LIF formula, or the fund's investment earnings from the previous year.
- After December 31, 2010, owners of New LIFs will no longer be able to apply to withdraw an additional 25 per cent of the money that was transferred into their New LIFs prior to January 1, 2010. As a result, FSCO pension Form 5.1.1 cannot be used as of January 1, 2011.
- After December 31, 2010, the option to withdraw or transfer up to 50 per cent of the money that was transferred into a New LIF will only apply to transfers from a LIRA or a registered pension plan. This withdrawal or transfer option will no longer apply to money that is transferred from an Old LIF or LRIF, unless the transfer was made in accordance with the terms of an order under the Family Law Act or a domestic contract as defined in Part IV of that Act.
- Between January 1, 2011 and April 30, 2012, owners of Old LIFs and LRIFs will be able to make a one-time application to withdraw or transfer up to 50 per cent of the total market value of these funds into a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Income Fund (RRIF). Applications must be made to the financial institution that holds the money. Use the new FSCO pension form, Form 5.3, which will be available in December 2010. This withdrawal or transfer option will no longer apply after April 30, 2012.

Information that Must Be Provided by Financial Institutions

Financial institutions must provide the following information to every client who owns an Old LIF and/or LRIF **on or before September 30, 2010:**

- After December 31, 2010, no money can be transferred from an Old LIF or LRIF to a LIRA.
- After December 31, 2010, if money is transferred from an Old LIF or LRIF to a New LIF, the owner can no longer apply to withdraw or transfer a percentage of money that was

transferred into the fund. The only exception is if the transfer was made in accordance with the terms of an order under the Family Law Act or a domestic contract as defined in Part IV of that Act.
- Between January 1, 2011 and April 30, 2012, owners of Old LIFs or LRIFs can make a one-time application to withdraw or transfer up to 50 per cent of the total market value of their Old LIFs or LRIFs. The amount of the withdrawal or transfer must be based on the most recent statement that was provided to the owner of the Old LIF or LRIF. The statement must be dated within one year of the date that the owner signs the application.
- As of January 1, 2011, owners of Old LIFs or LRIFs can make a maximum of one withdrawal or transfer, and the application must be made on or before April 30, 2012.
- As of January 1, 2011, the amount of income that can be paid out of an Old LIF or LRIF cannot be greater than 1) the fund's investment earnings, including any unrealized capital gains or losses, for the previous fiscal year, and 2) the amount that is calculated using the formula in Schedule 1 (for Old LIFs) or Schedule 2 (for LRIFs) under Ontario Regulation 909.

Financial institutions should also be aware that they are required to include in their annual statements to their clients the amount of any withdrawals that were taken out of the fund in the previous year.

Frequently Asked Questions

Q: If I transfer money into a New LIF after January 1, 2011, will I be able to withdraw or transfer up to 50 per cent of the amount that was transferred into the fund?

A: It depends on where the money came from. The withdrawal or transfer option is not open to you if the money was transferred from an Old LIF, LRIF or another New LIF. If the money was transferred from a LIRA or a registered pension plan, you may apply to withdraw or transfer up to 50 per cent of the money that was transferred into the New LIF.

Q: If I transfer money from an Old LIF or LRIF to a New LIF after January 1, 2011, will I still be paid an annual amount?

A: Yes. During the year, you must be paid at least a minimum amount as income from the Old LIF or LRIF. When transferring money from an Old LIF or LRIF to a New LIF, you should ensure that you have been paid at least the minimum income amount from the Old LIF or LRIF before the transfer, or leave sufficient assets in the Old LIF or LRIF to be paid at least the minimum income amount from it that year. The income amount payable to you from the Old LIF or LRIF is not affected by the fact that you can no longer apply to withdraw or transfer up to 50% of the money that was transferred into the New LIF.

Q: Between January 1, 2011 and April 30, 2012, owners of Old LIFs or LRIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How is this amount determined?

A: The total market value of the assets in the fund is based on the amount that is stated in the owner's most recent statement that was issued by the financial institution at the time of the application. The statement must be dated within one year of the date that the application is made.

FAQs on Old Life Income Funds (LIFs)

Q1. I own an Old LIF. How will the changes to the rules for locked-in accounts affect me?

A1. As a result of the changes to the rules that govern locked-in accounts:

- As of January 1, 2009, you cannot transfer any money into your Old LIF from any other sources.
- You can keep your Old LIF past age 80 and are no longer required to purchase a life annuity with the funds from your Old LIF.
- You can keep your Old LIF, but effective January 1, 2011 the rules for Old LIFs will be harmonized with those that govern New LIFs.
- As of January 1, 2011, the maximum amount of income paid each year from your Old LIF will be the greater of the amount you would have received under the formula in Schedule 1 under Regulation 909, or the investment earnings from the previous year.
- From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in your Old LIF to a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Income Fund (RRIF) using Form 5.3. - 12/2010

Q2. Can I still buy an annuity with the funds from my Old LIF?

A2. Yes, you can buy an annuity with the funds from your Old LIF at any age. - 07/2007

Q3. How do I calculate the maximum amount I can be paid from my Old LIF each year?

A3. For 2010, the maximum income payment is still based on the LIF formula in the regulations (LIF formula). This LIF formula takes into account the amount in your account as of January 1st multiplied by a percentage that changes each year based on your age. The percentage for each age can be found in a table that FSCO publishes in December of each year. Starting in 2011, your maximum income payment will be the greater of the amount earned under the LIF formula, or your Old LIF’s investment earnings from the previous year. -05/2010

Q4. What are my options if I want to transfer money out of my Old LIF?

A4. You can transfer money from an Old LIF to a New LIF, or to an insurance company to purchase a life annuity. Effective January 1, 2011 you can withdraw or transfer up to 50% of the money in an Old LIF - January 1, 2011 to April 30, 2012. - 12/2010

Q5. I want to use the money in my Old LIF to purchase a New LIF. How will my income payments from the Old LIF and New LIF be affected when I make the purchase?

A5. Transferring money from your Old LIF to a New LIF does not affect the maximum amount of income that could be paid from the Old LIF during the year of transfer. To ensure that you receive the maximum income payment possible for that year, you should arrange to receive **all** payments that you are entitled to get from the Old LIF, **before** you make the transfer.

After you purchase the New LIF with the funds from your Old LIF, the amount of income you can be paid from your New LIF for the rest of the year is set to zero. - 05/2010

Q6. Can I transfer any money into my Old LIF?

A6. No. You can no longer transfer money into an Old LIF, even if it comes from another Old LIF. - 05/2010

Q7. Can I withdraw or transfer any money from my Old LIF in addition to my annual income payment?

A7. From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to apply to withdraw or transfer up to 50 per cent of the money in your Old LIF to an RRSP or RRIF using Form 5.3. - 12/2010

Q8. What happens if I own an Old LIF when I die?

A8. If you own an Old LIF when you die, your surviving spouse is entitled to the full amount of money that is in your Old LIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF if the transfer is permitted by the federal Income Tax Act.

If you do not have a surviving spouse on the date of your death, or if your spouse has waived his/her entitlement to the death benefit payment, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your Old LIF. - 05/2010

Q9. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A9. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, **on or after the day you become 55 years old**. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q10. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A10. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q11. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A11. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- **FAQs on Rules for Ontario Locked-In Accounts**

Want to view a link in a new window?
Right-click the link and select "open in new window"

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Locked-In Accounts

When members of a pension plan terminate employment or plan membership, they have a number of options available to them for the treatment of their pension benefits and their commuted value.

Where the former member elects the direct transfer of the commuted value of the pension benefits into locked-in accounts, the *Pension Benefits Act* gives the individual greater control over their retirement monies. Since the money in locked-in accounts comes from pension plans, the legislation contains restrictions that are intended to preserve the money in these locked-in accounts for retirement and provide a lifetime stream of retirement income for former members and their spouse, if any. These restrictions are generally referred to as the locking-in rules.

The following links provide access to detailed information on the various types of locked-in accounts:

- **L200-201 - Locked-In Retirement Accounts (LIRAs)**
- **L200-303 - Schedule 1.1 Life Income Funds (New LIFS) Size: 101 kb**
- **L200-305 - Schedule 1 Life Income Funds (Old LIFS) Size: 100 kb**
- **L200-414 - 2015 Life Income Fund (LIF) and Locked-In Retirement Income Fund (LRIF) Maximum Annual Income Payment Amount Table**
- **L200-501 - Locked-In Retirement Income Funds (LRIFs) Size: 494 kb**
- **Questions and Answers on Rules For Ontario Locked-In Accounts - O. Reg. 416/07**
- **Changes to the Rules for Ontario Locked-In Accounts - O. Reg. 239/09**
- **September 5, 2007:Letter to Financial Institutions offering Locked-In Accounts and their Associations**
- **Pension Unlocking: Non-Hardship**

Note:

- The money in locked-in accounts is generally available only as retirement income. However, individuals who qualify under specific circumstances of financial hardship may apply for special access to the money in these accounts.

FAQs on Rules for Ontario Locked-In Accounts

Last Updated: December 31, 2010

On July 27, 2007, significant changes to the rules that govern locked-in accounts in Ontario were enacted under Ontario Regulation 416/07, which is made under the Pension Benefits Act (PBA). This was followed by additional changes under Ontario Regulation 239/09 in June 2009, which has further altered the rules for Ontario locked-in accounts.

The following frequently asked questions (FAQs) provide answers to some of the questions that have arisen as a result of these changes, and consolidate and update all previous FAQs that were posted since July 2007. The notation after each answer provides the date that each FAQ was posted. In the future, each new or amended FAQ will have its own notation.

Locked-in Accounts Include:

- Old Life Income Funds (refer to LIFs that are governed by Schedule 1 of R.R.O. 1990, Regulation 909);
- Locked-In Retirement Income Funds;
- New Life Income Funds (refer to LIFs that are governed by Schedule 1.1 of R.R.O. 1990, Regulation 909); and
- Locked-In Retirement Accounts.

FAQs are Grouped Under the Following Sections:

Summary of the Most Significant Changes

The list below summarizes the most significant changes to the locked-in rules that have come into effect since July 2007.

- On January 1, 2008, the New LIF was introduced. Owners of New LIFs are able to receive more flexible payments from the fund and have a time-limited opportunity to withdraw or transfer to an unlocked account a percentage of the funds that were transferred into the New LIF.
- As of January 1, 2008, money in a locked-in account may be transferred directly to an unlocked account upon the death of its owner, or if the owner is over the age of 55 and only has a small amount of money in his or her account.
- As of January 1, 2008, owners of locked-in accounts who are non-residents of Canada —as determined by the Canada Revenue Agency for the purpose of the federal Income Tax Act — may apply to unlock and withdraw the money in their accounts two years after they have departed from Canada.
- After December 31, 2008, Old LIFs and LRIFs are no longer available for purchase.
- Effective January 1, 2011, the rules for Old LIFs and LRIFs will be harmonized with the rules for New LIFs.
- Effective January 1, 2011, the rules that govern LIRAs will be consolidated into the new Schedule 3 under R.R.O. 1990, Regulation 909.
- Effective January 1, 2011 owners of Ontario Schedule 1 LIFs or LRIFs may withdraw or transfer up to 50% of the money - January 1, 2011 to April 30, 2012.
- Financial institutions are required to provide notice to their existing clients of all changes to the rules that govern locked-in accounts.

Note: These FAQs use “LIF formula” to refer to the maximum amount that can be paid from a LIF or an LRIF in accordance with Schedule 1 or 1.1 (LIF) or Schedule 2 (LRIF).

How to Contact FSCO

If you have a question or require assistance, you can reach the Financial Services Commission of Ontario’s contact centre by telephone at 1-800-668-0128 (call toll-free) or (416) 250-7250 (in Toronto), or by email at contactcentre@fsco.gov.on.ca.

FAQs on Old Life Income Funds (LIFs)

Q1. I own an Old LIF. How will the changes to the rules for locked-in accounts affect me?

A1. As a result of the changes to the rules that govern locked-in accounts:

- As of January 1, 2009, you cannot transfer any money into your Old LIF from any other sources.
- You can keep your Old LIF past age 80 and are no longer required to purchase a life annuity with the funds from your Old LIF.
- You can keep your Old LIF, but effective January 1, 2011 the rules for Old LIFs will be harmonized with those that govern New LIFs.
- As of January 1, 2011, the maximum amount of income paid each year from your Old LIF will be the greater of the amount you would have received under the formula in Schedule 1 under Regulation 909, or the investment earnings from the previous year.
- From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in your Old LIF to a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Income Fund (RRIF) using Form 5.3. - 12/2010

Q2. Can I still buy an annuity with the funds from my Old LIF?

A2. Yes, you can buy an annuity with the funds from your Old LIF at any age. - 07/2007

Q3. How do I calculate the maximum amount I can be paid from my Old LIF each year?

A3. For 2010, the maximum income payment is still based on the LIF formula in the regulations (LIF formula). This LIF formula takes into account the amount in your account as of January 1st multiplied by a percentage that changes each year based on your age. The percentage for each age can be found in a table that FSCO publishes in December of each year. Starting in 2011, your maximum income payment will be the greater of the amount earned under the LIF formula, or your Old LIF's investment earnings from the previous year. -05/2010

Q4. What are my options if I want to transfer money out of my Old LIF?

A4. You can transfer money from an Old LIF to a New LIF, or to an insurance company to purchase a life annuity. Effective January 1, 2011 you can withdraw or transfer up to 50% of the money in an Old LIF - January 1, 2011 to April 30, 2012. - 12/2010

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A5. Transferring money from your Old LIF to a New LIF does not affect the maximum amount of income that could be paid from the Old LIF during the year of transfer. To ensure that you receive the maximum income payment possible for that year, you should arrange to receive **all** payments that you are entitled to get from the Old LIF, **before** you make the transfer.

After you purchase the New LIF with the funds from your Old LIF, the amount of income you can be paid from your New LIF for the rest of the year is set to zero. - 05/2010

Q6. Can I transfer any money into my Old LIF?

A6. No. You can no longer transfer money into an Old LIF, even if it comes from another Old LIF. - 05/2010

Q7. Can I withdraw or transfer any money from my Old LIF in addition to my annual income payment?

A7. From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to apply to withdraw or transfer up to 50 per cent of the money in your Old LIF to an RRSP or RRIF using Form 5.3. - 12/2010

Q8. What happens if I own an Old LIF when I die?

A8. If you own an Old LIF when you die, your surviving spouse is entitled to the full amount of money that is in your Old LIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF if the transfer is permitted by the federal Income Tax Act.

If you do not have a surviving spouse on the date of your death, or if your spouse has waived his/her entitlement to the death benefit payment, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your Old LIF. - 05/2010

Q9. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A9. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, **on or after the day you become 55 years old**. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q10. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A10. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q11. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A11. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- **FAQs on Rules for Ontario Locked-In Accounts**

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FAQs on Locked-in Retirement Income Funds (LRIFs)

Q1. I have an LRIF. What will happen to it as a result of the changes to the rules for locked-in accounts?

A1. As a result of the changes to the rules that govern locked-in accounts:

- As of January 1, 2009, you cannot transfer any money into your LRIF from any other source.
- After December 31, 2010, you will no longer be able to carry forward any unused maximum income payment amounts to future years and add it to future maximum income payment amounts.
- You can keep your LRIF, but effective January 1, 2011 the rules for LRIFs will be harmonized with those that govern New LIFs.
- As of January 1, 2011, the maximum amount of income paid each year from your LRIF will be the greater of the amount you would have received under the formula in Schedule 2 under Regulation 909, or the investment earnings from the previous year.
- From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in your LRIF to an RRSP or RRIF using Form 5.3. -12/2010

Q2. How do I calculate the maximum amount I can be paid from my LRIF each year?

A2. For 2010, the maximum income payment is based on the LRIF's investment earnings for the previous year. Starting in 2011, the maximum income payment will be the greater of the amount earned under the LIF formula or your LRIF's investment earnings for the previous year.

Starting in the 2011 fiscal year, you will no longer be able to carry forward any unused maximum income payment amounts to future years' maximum income payment amounts. -05/2010

Q3. What are my options if I want to transfer money from my LRIF?

A3. You can transfer the money that is in your LRIF to a New LIF, or to an insurance company to purchase a life annuity. Effective January 1, 2011 you can withdraw or transfer up to 50% of the money in an LRIF - January 1. 2011 to April 30, 2012 . -12/2010

Q4. I want to use the money in my LRIF to purchase a New LIF. How will my income payments from the LRIF and New LIF be affected when I make the purchase?

A4. Transferring money from your LRIF to a New LIF does not affect the maximum amount of income that could be paid from the LRIF during the year of transfer. To ensure that you receive the maximum income payment possible for that year, you should arrange to receive **all** payments that you are entitled to get from the LRIF, **before** you make the transfer.

After you purchase the New LIF with the funds from your LRIF, the amount of income you can be paid from your New LIF for the rest of the year is set to zero. **-**05/2010

Q5. Can I transfer money into my LRIF?

A5. No. You can no longer transfer money into an LRIF, even if it comes from another LRIF. -05/2010

Q6. Can I withdraw or transfer any money from my LRIF in addition to my annual income payment?

A6. From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to apply to withdraw or transfer up to 50 per cent of the money in your LRIF to an RRSP or RRIF using Form 5.3. -12/2010

Q7. What happens if I own an LRIF when I die?

A7. If you own an LRIF when you die, your surviving spouse is entitled to the full amount of money that is in your LRIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF, where it is permitted by the federal Income Tax Act.

If you do not have a surviving spouse on the date of your death, or if your spouse has waived his/her entitlement to the death benefit payment, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your LRIF. -05/2010

Q8. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A8. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, **on or after the day you become 55 years old**. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q9. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A9. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q10. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A10. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- FAQs on Rules for Ontario Locked-In Accounts

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.

FAQs on New Life Income Funds (LIFs)

This page provides frequently asked questions that relate to new LIFs.

General Information on New LIFs

Q1. Who may purchase a New LIF?

A1. You may purchase a New LIF in the following three situations:

1. If you are the owner of an Old LIF, LRIF or LIRA, you may transfer the funds from this account into a New LIF.
2. If your employment ended and either your plan allows you to move the funds from your pension plan into a locked-in account, or the PBA permits you to move the funds from your pension plan into a locked-in account in certain circumstances (such as a plan wind up).
3. If you are the former spouse of a pension plan member who is entitled to transfer these funds, you may transfer the commuted value of the pension funds into a New LIF. -05/2010

Q2. What are the most significant features of the New LIF?

A2.

1. *The ability to keep the New LIF past age 80.* If you choose to receive the maximum income payment each year, the money in your New LIF will be used up by age 90. However, if any money remains in the New LIF at age 90, you may keep it and continue to withdraw income from it in the future.
2. *A higher income payment*. The maximum annual income payment will be the greater of the amount you could be paid under the LIF formula and the New LIF's investment earnings from the previous year.
3. *The ability to withdraw or transfer money from the New LIF.* As of January 1, 2010, you can withdraw or transfer to an RRSP or RRIF up to 50 per cent of any amount that you transferred into the New LIF after December 31, 2009, if you apply to do so within 60 days of

the transfer. (Before January 1, 2010, the maximum amount that could be withdrawn or transferred was 25 per cent of the amount that you transferred into the New LIF, if you applied to do so within 60 days of the transfer.)

4. *The ability to withdraw or transfer an additional 25 per cent before December 31, 2010.* You may apply to withdraw or transfer an additional 25 per cent of the total amount of money that was transferred into your New LIF before January 1, 2010. To qualify for this withdrawal, you must submit your application before December 31, 2010. - 05/2010

Q3. If I purchase a New LIF with money from a locked-in account (Old LIF, LRIF or LIRA), does my spouse need to consent to the purchase, if he/she already provided consent when the original locked-in account was purchased?

A3. Yes, you must get your spouse's consent. This rule applies any time you move money from one type of locked-in account (e.g., Old LIF, LRIF or LIRA) to another (e.g., New LIF). The only exception is if you move your money into the same type of locked-in account (e.g., you use money from a New LIF to purchase another New LIF*).* -05/2010

Q4. How is the maximum annual income payment calculated in the first year of a New LIF, taking into account the ability to withdraw or transfer up to 50 per cent of the funds?

A4. The maximum annual income payment for the first year is based on the amount of money you have in the New LIF at the start of the New LIF's fiscal year, regardless of any subsequent withdrawals.

Example: a New LIF was purchased with $100,000 that was transferred from a LIRA on the date of purchase. Fifty days later, the owner withdraws 50 per cent of the funds, which leaves $50,000 in the New LIF. Based on this example, the maximum annual income payment would be based on $100,000, as the fiscal year begins on the date money was transferred into the New LIF. However, it is important to note that if the money to purchase the New LIF came from an Old LIF, LRIF or another New LIF, the maximum annual income payment amount for the New LIF for that fiscal year would be zero. -05/2010

Q5. Does the New LIF allow me to carry forward any unused portion of the maximum annual income payment for future years (similar to what has been allowed under the LRIF)?

A5. No, the New LIF does not have a carry forward feature. -07/2007

Q6. What are my options if I want to transfer money out of my New LIF?

A6. You may transfer money to another New LIF or use the money to purchase an annuity. Note that you cannot transfer money from a New LIF to a LIRA. -07/2007

Q7. My retirement savings are currently in a locked-in account in the form of non-redeemable GICs that will not mature for a few years. Can I transfer this money to a New LIF in its GIC form?

A7. Under Ontario's pension laws, you are entitled to transfer money out of your locked-in account to another locked-in account (including a New LIF) without having to cash it in. However, you can only make this transfer if an "in-kind" transfer is allowed under the terms of your contract with your financial institution. You should check with your financial institution to find out what issues might arise. -07/2007

Q8. What is the date that my New LIF is established? Is it the date I signed the application, the date the financial institution deposits the money, or some other date?

A8. The New LIF is established on the date the financial institution accepts the application, as determined by the financial institution. This could be the same date that you signed the application, and it could precede the date on which money is actually transferred into the New LIF. -07/2007

Q9. Can an Old LIF simply be converted into a New LIF?

A9. No. The New LIF is a completely different type of locked-in account than an Old LIF, in the same way that an LRIF is a different type of locked-in account than a LIF. If an owner of an Old

LIF wants a New LIF, he/she must purchase a New LIF by transferring money from the Old LIF into a New LIF. The Old LIF cannot simply be converted into a New LIF.

However, on January 1, 2011, the rules for Old LIFs, LRIFs and New LIFs will become harmonized. All three funds are essentially similar, except that owners of Old LIFs and LRIFs will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in their account. The rules for determining the maximum annual income payment from Old LIFs, LRIFs and New LIFs will be identical. The maximum income payment for all three funds will be the greater of the amount calculated under the LIF formula, or the fund's investment earnings from the previous year. - 09/2010

Q10. I want to transfer money from a New LIF to another New LIF. When must the financial institution transfer the money?

A10. The financial institution that administers a New LIF must agree to transfer money to another New LIF within 30 days of the date you made the application. Note that this does not apply to a transfer of assets that are held as securities and whose term of investment extends beyond the 30 day period. In that situation, you should discuss the transfer with your financial institution. -07/2007

Q11. If I transfer money into a New LIF after January 1, 2011, will I be able to withdraw or transfer up to 50 per cent of the amount that was transferred into the fund?

A11. It depends on where the money came from. The withdrawal or transfer option is not open to you if the money was transferred from an Old LIF, LRIF or another New LIF. If the money was transferred from a LIRA or a registered pension plan, you may apply to withdraw or transfer up to 50 per cent of the money that was transferred into the New LIF.

Q12. If I transfer money from an Old LIF or LRIF to a New LIF after January 1, 2011, will I still be paid an annual amount?

A12. Yes. During the year, you must be paid at least a minimum amount as income from the Old LIF or LRIF. When transferring money from an Old LIF or LRIF to a New LIF, you should ensure that you have been paid at least the minimum income amount from the Old LIF or LRIF before the transfer, or leave sufficient assets in the Old LIF or LRIF to be paid at least the minimum income amount from it that year. The income amount payable to you from the Old LIF or LRIF is not affected by the fact that you can no longer apply to withdraw or transfer up to 50% of the money that was transferred into the New LIF.

Q13. Between January 1, 2011 and April 30, 2012, owners of Old LIFs or LRIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How is this amount determined?

A13. The total market value of the assets in the fund is based on the amount that is stated in the owner's most recent statement that was issued by the financial institution at the time of the application. The statement must be dated within one year of the date that the application is made.

Q14. What happens if I own a New LIF when I die?

A14. If you own a New LIF when you die, your surviving spouse is entitled to the full amount of money that is in your New LIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF, where it is permitted by the federal Income Tax Act. If you do not have a surviving spouse, or if your spouse has waived his/her entitlement to the death benefit payment on the date of your death, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your New LIF. - 05/2010

Q15. Will FSCO continue to publish a table that sets out the maximum annual income payment schedule?

A. 15. Yes. FSCO publishes a table of the maximum annual income payment percentages for different ages in December of each year. The maximum annual income amount that may be paid from a New LIF is the greater of the amount earned under the LIF formula and the New LIF's investment earnings from the previous year. The LIF formula takes into account the amount in your account as of the start of the New LIF's fiscal year, multiplied by a percentage that changes each year based on your age. - 05/2010

Q16. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A16. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, on or after the day you become 55 years old. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q17. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A17. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q18. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A18. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- FAQs on Rules for Ontario Locked-In Accounts

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Unlocking, Withdrawals and Transfers from New Life Income Funds (LIFs)

This page provides frequently asked questions that relate to the unlocking, withdrawal and transfer from new LIFs.

Q1. How does the unlocking, withdrawal and transfer from the New LIF work?

A1. The owner of a New LIF has a time-limited option to withdraw in cash or transfer to an RRSP or RRIF a percentage of any money that is transferred into the New LIF. (This option will be referred to below as a "withdrawal or transfer". See the next question for the percentage that may be withdrawn). The money that is transferred to the New LIF may be from an Old LIF, LRIF, LIRA, or a Registered Pension Plan (RPP). Fund transfers from another New LIF are not entitled to the unlocking, withdrawal or transfer option, unless the funds are transferred from the other New LIF due to a relationship breakdown between two spouses.

If money was transferred from an Old LIF or LRIF before January 1, 2011, the New LIF owner can withdraw or transfer an amount up to the prescribed percentage. However, no money can be withdrawn or transferred from the New LIF in relation to transfers from an Old LIF or LRIF that are made after December 31, 2010.

For transfers from a LIRA or RPP, the owner can withdraw or transfer an amount up to the prescribed percentage after every transfer.

However, if assets are transferred from one New LIF to another New LIF, or from an annuity to a New LIF, no money can be withdrawn or transferred from the New LIF that receives the money. - 05/10

Q2. If money was transferred into my New LIF, what percentage of the money may be withdrawn or transferred?

A2. Before January 1, 2010, the amount that could have been withdrawn or transferred was 25 per cent of the "total market value of the assets" that were transferred into the New LIF. Effective January 1, 2010, this limit was changed to 50 per cent of the "total market value of the assets" that were transferred into the New LIF.

Note: the questions and answers below use the 50 per cent limit unless noted otherwise. - 05/10

Q3. How is the "total market value of the assets" for the 50 per cent withdrawal or transfer determined?

A3. The "total market value of the assets" transferred into the New LIF is determined on the date the money was transferred into the New LIF. That date should be available from your financial institution. Any increase or decrease in the value of the New LIF after the transfer is not taken into account.

Example: You transferred a sum of money into your New LIF on January 9, 2010 and then applied to withdraw 50 per cent of the funds on February 1, 2010. In this example, the 50 per cent is based on the amount that was transferred into your New LIF on January 9, 2010. - 05/10

Q4. Is there an age restriction on who can apply for a withdrawal or transfer from the New LIF?

A4. No. However, a person's age does play a role in determining the earliest date on which that person could purchase a New LIF. An individual may purchase a New LIF at any time during the calendar year that precedes the year in which he/she would have been entitled to start receiving pension payments from the pension plan from which the money used to purchase the New LIF originated.

Example: if your pension plan starts providing pension payments at age 55, you could purchase a New LIF at any time during the year that you turn 54. - 05/10

Q5. Can a person who owns a New LIF and is under 55 years of age apply for a withdrawal or transfer to an RRSP of up to 50 per cent of the money (i.e., the total market value of the assets) transferred into the New LIF?

A5. Yes, as long as he or she makes the application within 60 days from the date the money was transferred into the New LIF from a registered pension plan or LIRA (or from the LIF or LRIF of a spouse or former spouse if the money was transferred under the terms of a Family Law Act order, family arbitration award or a domestic contract). However, there is an age-related restriction relating to the earliest date that an individual can purchase a New LIF. (For more information on this age restriction, please refer to the section on age restriction in FSCO's Policy on New LIFs). -02/13

Q6. What is the deadline for applying for a 50 per cent withdrawal or transfer from a New LIF? How and where do I apply?

A6. You must apply to the financial institution that administers the New LIF into which the money was transferred, within 60 days from the date the money was transferred. The application must be made using FSCO pension Form 5.2, but it must be submitted to your financial institution (not to FSCO). - 05/10

Q7. What happens if I do not submit the 50 per cent withdrawal or transfer application within the required 60 days? Do I get another opportunity to submit the application?

A7. No. If you do not submit an application to withdraw or transfer 50 per cent of your money in a New LIF within the required 60 days, you will not have another opportunity to take advantage of this provision in relation to that transfer. - 05/10

Q8. What is the time limit for a 50 per cent withdrawal or transfer application?

A8. Every time money is transferred into a New LIF from a pension plan, LIRA, Old LIF or LRIF (but not from an annuity or another New LIF), you have 60 days to apply for a withdrawal or transfer of up to 50 per cent of the amount that was transferred into the New LIF. The 60 days begins on the date the money is transferred into the New LIF, not the date the New LIF was opened. If you are not sure about this date, please check with your financial institution. Your financial institution is required to make the payment or transfer to you within 30 days of receiving your completed application form and accompanying documents. - 05/10

Q9. Is the 50 per cent withdrawal or transfer from the New LIF in addition to the maximum amount that I can receive as income for the year?

A9. Yes. The 50 per cent withdrawal or transfer amount is in addition to the maximum amount that can be paid from the New LIF as income. The annual maximum and minimum income payment from a New LIF always relates to the balance of the New LIF at the beginning of its fiscal year. - 05/10

Q10. Does the 50 per cent withdrawal or transfer require any changes to the provisions of pension plans?

A10. No, the 50 per cent withdrawal or transfer under the New LIF does not require any pension plan changes. To apply for the 50 per cent withdrawal or transfer, you are required to submit an application to the financial institution that holds the New LIF — not the pension plan from which the money originated. - 05/10

Q11. Can the 50 per cent withdrawal or transfer be made from the existing locked-in account (e.g., LIRA, Old LIF, LRIF) prior to the transfer to the New LIF?

A11. No. The 50 per cent withdrawal or transfer must come from the New LIF after the money has been transferred into it. - 05/10

Q12. If an individual has already purchased a life annuity with locked-in money, is it possible to switch back to a New LIF to take advantage of the 50 per cent withdrawal or transfer?

A12. It may be possible to convert the unexpired part of a guaranteed life annuity and purchase a New LIF with the proceeds. However, the 50 per cent withdrawal or transfer option would not apply to the transferred money, as it only applies to money that is transferred into a New LIF directly from a pension plan, LIRA, Old LIF or LRIF — not to money that is transferred from an annuity or another New LIF. - 05/10

Q13. I own a New LIF with Company A. If I transfer all the money from the New LIF to another New LIF with Company B, can I apply to withdraw or transfer up to 50 per cent of the amount that was transferred into the New LIF with Company B?

A13. No. You cannot apply for a 50 per cent withdrawal or transfer for money that is transferred from one New LIF to another New LIF, unless the transfer was made under the terms of an order under the *Family Law Act*, a family arbitration award, or a domestic contract as defined in Part IV of that Act. - 05/10

Q14. I transferred $100,000 from a LIRA into a New LIF on January 2, 2010. By the time I applied for the 50 per cent withdrawal or transfer, the value of the New LIF decreased to $90,000. Which amount do I use to determine the withdrawal or transfer?

A14. The market value of the LIRA on the date that you transferred the money into the New LIF determines the amount that can be withdrawn or transferred. In this case, you can withdraw or transfer 50 per cent of $100,000, which equals $50,000. - 05/10

More information:

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FSCO Policies on Locked In Accounts
FAQs on Rules for Ontario Locked-In Accounts

Additional 25 per cent Withdrawals or Transfers from New Life Income Funds (LIFs)

This page provides frequently asked questions that relate to additional 25 per cent withdrawals or transfers from new LIFs.

Q1. Who is allowed to apply for an additional 25 per cent withdrawal or transfer from a New LIF and what are the circumstances?

A1. To apply for an additional 25 per cent withdrawal or transfer from a New LIF, you must have transferred money into your New LIF on or before December 31, 2009. The additional withdrawal or transfer is based on 25 per cent of the total market value of all assets that were transferred into the New LIF on or before December 31, 2009. In addition, the application must be submitted between January 1 and December 31, 2010. - 05/10

Q2. How do I apply to withdraw or transfer an additional 25 per cent from my New LIF?

A2. To apply, you must complete FSCO pension **Form 5.1.1** and submit it to the financial institution that holds your New LIF. Please do not send the application to FSCO. - 05/10

Q3. How do I determine the "total market value of all assets" for the additional 25 per cent withdrawal or transfer?

A3. The "total market value of all assets transferred into the fund on or before December 31, 2009" is based on the date the money was transferred into the New LIF. To determine that date, contact your financial institution. Note that any increase or decrease in the value of the New LIF after the transfer was made will not be taken into account.

Example: If you transferred $100,000 into a New LIF in 2009 and then applied for an additional 25 per cent withdrawal in January 2010, the 25 per cent is based on $100,000. - 05/10

Q4. I bought a New LIF in 2009, but missed the chance to withdraw or transfer 25 per cent of the money that was transferred into it. When I apply for the additional 25 per cent withdrawal or transfer in 2010, can I also apply for the first 25 per cent?

A4. No. You cannot also apply for the first 25 per cent withdrawal or transfer, since that application must have been submitted within 60 days of the transfer. That time period cannot be extended. - 05/10

Q5. I transferred money into a New LIF in 2009 and withdrew 25 per cent of the funds. Since my spouse consented to that withdrawal, does he/she also need to consent to the additional 25 per cent withdrawal or transfer?

A5. Yes, your spouse must consent to your application to withdraw or transfer an additional 25 per cent of the funds from your New LIF. - 05/10

Q6. I transferred $40,000 into a New LIF with Company A in July 2009, and then withdrew $10,000 (25 per cent of the funds) in September 2009. In January 2010, I transferred $30,000 (the full amount of the funds from the New LIF) to a New LIF with Company B. Can I apply to withdraw or transfer an additional 25 per cent from the New LIF with Company B in 2010?

A6. No. The amount you can withdraw or transfer is based on the total of all amounts that were transferred into the New LIF with Company B ***before 2010***. In this example you did not transfer any money into the New LIF with Company B before January 1, 2010. If you wanted to withdraw or transfer an additional 25 per cent, you should have applied for a withdrawal or transfer from the New LIF with Company A ***before*** the money was transferred to the New LIF with Company B. - 05/10

More information:

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Transitional Information for Transfers to New Life Income Funds (LIFs) between December 2009 and January 2010

These FAQs address some of the questions that arose from transactions in late 2009 and early 2010 as a result of the changes that came into effect on January 1, 2010.

Q1. I want to transfer money to a New LIF and then apply to withdraw or transfer a percentage of the funds in my New LIF. What determines whether I can apply for 25 or 50 per cent?

A1. The key date is **the date the money was transferred into your New LIF.** If money was transferred into your New LIF **before January 1, 2010**, you had 60 days from the date of the transfer to apply to withdraw or transfer up to 25 per cent of the funds that were transferred into the New LIF. Once the 60 day period expired, you could not apply for that original 25 per cent withdrawal or transfer. However, you can still apply to withdraw up to an additional 25 per cent of the funds in your New LIF. To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010.

If money was transferred into your New LIF **after December 31, 2009**, you can apply to withdraw or transfer up to 50 per cent of the funds that were transferred into the New LIF. To apply, you need to complete FSCO pension Form 5.2 and submit it to the financial institution that holds your New LIF within 60 days of the date the money was transferred into your New LIF.

If you are not sure of the date that your money was transferred into your New LIF, check with your financial institution. - 05/10

Q2. I transferred $50,000 into a New LIF on December 20, 2009. I applied for and obtained a withdrawal of 25 per cent of the funds ($12,500) on December 22, 2009. In 2010, what application can I make and for how much?

A2. You can apply to withdraw or transfer up to an additional 25 per cent of the total amount that was transferred into your New LIF prior to January 1, 2010. Therefore, you may apply to withdraw or transfer $12,500 (25 per cent of $50,000). Any increase in the value of the New LIF is not taken into account for the purpose of this application.

To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010. - 05/10

Q3. I transferred $50,000 into a New LIF on December 20, 2009. I did not apply for a withdrawal or transfer by the end of 2009. In 2010, what applications can I make and for how much?

A3. Since the money was transferred into your New LIF prior to January 1, 2010, you had the opportunity to make two separate applications.

For the first 25 per cent, you could have applied to withdraw or transfer up to 25 per cent of the money that was transferred into your New LIF on December 20, 2009. However, since the 60 day application period expired on February 18, 2010, you can no longer apply for the first 25 per cent withdrawal or transfer.

You can still apply to withdraw or transfer up to an additional 25 per cent of the money that was transferred into your New LIF on December 20, 2009. This 25 per cent is based on the amount that was transferred into your New LIF prior to January 1, 2010 ($50,000 x 25 per cent = $12,500). Any increase in the value of the New LIF is not taken into account for the purposes of this application. To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010. - 05/10

Q4. I arranged to open a New LIF in December 2009 and $50,000 was transferred into it on January 5, 2010. I want to apply for a withdrawal or transfer in 2010. What application can I make and for how much?

A4. You can apply to withdraw or transfer up to 50 per cent of the amount that was transferred into your New LIF on January 5, 2010. Therefore, you may apply to withdraw or transfer $25,000 (50 per cent of $50,000). Any increase in the value of the New LIF is not taken into account for the purpose of this application. To apply, you need to complete FSCO pension Form 5.2 and submit it to the financial institution that holds your New LIF within 60 days of the date the money was transferred into your New LIF (no later than 60 days from January 5, 2010). Once the 60 day period expires, you cannot apply to withdraw or transfer any money from your New LIF. - 05/10

Q5. I transferred $100,000 into a New LIF with Company A in March 2008 and withdrew 25 per cent of the money ($25,000) on April 1, 2008. From April 1, 2008 to September 1, 2009, the New LIF increased in value to $80,000. On September 1, 2009, I transferred all the funds in the New LIF with Company A ($80,000) to another New LIF with Company B. Starting in January 2010, can I apply for an additional 25 per cent withdrawal or transfer from the New LIF with Company B? Which form should I use, what is the deadline for my application, and what amount is the 25 per cent based on?

A5. You may apply to withdraw or transfer up to an additional 25 per cent from the New LIF with Company B. The 25 per cent is based on the total amount that was transferred into the New LIF with Company B before 2010, and includes any amount that was transferred from another New LIF. In this example, the total amount that was transferred into the New LIF with Company B before January 1, 2010 was $80,000. Therefore, you can withdraw or transfer up to $20,000 (25 per cent of $80,000). To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010. - 05/10

Q6. I transferred $40,000 into a New LIF with Company A in July 2009 and withdrew $10,000 (25 per cent of the money) in September 2009. In January 2010, I transferred $30,000 (the remaining money in the New LIF) to a different New LIF with Company B. In 2010, can I apply to withdraw or transfer an additional 25 per cent from the New LIF with Company B?

A6. No. The amount you can withdraw or transfer is based on the total of all amounts that were transferred into the New LIF with Company B **before 2010**. Since you did not transfer any money into the New LIF with Company B before January 1, 2010, you cannot withdraw or transfer an additional 25 per cent of the funds. If you wanted to withdraw or transfer an additional 25 per cent, you should have applied for a withdrawal or transfer from the New LIF with Company A **before** the money was transferred to the New LIF with Company B. -05/10

More information:

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FSCO Policies on Locked In Accounts

FAQs on Rules for Ontario Locked-In Accounts

FAQs on Locked-in Retirement Accounts (LIRAs)

This page provides information relating to LIRAs.

Q1. Have the rules that govern LIRAs changed? Where can I find the LIRA rules?

A1. The rules that govern LIRAs have not yet changed. However, effective January 1, 2011, all the LIRA-related provisions in R.R.O. 1990, Regulation 909 will be consolidated into a new Schedule 3, which is similar to the schedules for LIFs and LRIFs. - 05/10

Q2. What is the earliest age on which payments from a life annuity purchased from a LIRA can begin?

A2. The earliest age that an individual can purchase a LIF or LRIF is generally 55 but could be earlier depending upon the age at which members may receive a benefit under the terms of the pension plan from which the money originated. Payments from a LIF or a LRIF must begin no later than the end of the second fiscal year of the LIF or LRIF. Accordingly, the money in the LIRA can be transferred to the LIF or LRIF at age 54 or earlier if the plan so provides. -06/05

Q3. If money in a LIRA is used to purchase a LIF or LRIF, what are the earliest and latest dates that money can be transferred?

A3. The earliest age that an individual can purchase a LIF or LRIF is generally 55 but could be earlier depending upon the age at which members may receive a benefit under the terms of the pension plan from which the money originated. Payments from a LIF or a LRIF must begin no later than the end of the second fiscal year of the LIF or LRIF. Accordingly, the money in the LIRA can be transferred to the LIF or LRIF at age 54 or earlier if the plan so provides. -06/05

Q4. Can funds in an Ontario LIRA be transferred to a RRIF?

A4. No. The proceeds from an Ontario LIRA must be used to provide either a life annuity, a LIF or a LRIF so that the owner will receive regular payments when his or her earnings have stopped. Since one can outlive a RRIF, transferring the money in a LIRA to a RRIF would not achieve this objective. -06/05

Q5. Can money in an Ontario LIRA be transferred or combined with locked-in money from another jurisdiction?

A5. Because some of Ontario's statutory requirements differ from those of other Canadian pension jurisdictions, the contract for an Ontario LIRA will likely differ from the contract for a LIRA of another jurisdiction. Consequently, locked-in money that is required to be administered in accordance with the Ontario PBA may not be transferred to or combined with a locked-in account of another pension jurisdiction. -06/05

Q6. Does the holding of an investment which is not redeemable before maturity restrict the date on which the owner of a LIRA may purchase a life annuity, LIF or LRIF with the money in the LIRA?

A 6. Owners of LIRAs may purchase an annuity, LIF or LRIF before the expiry of the term of an investment at the discretion of the financial institution. Owners making investment decisions should be mindful that the Canada Revenue Agency requires that by age 71, all RRSPs including LIRAs, must be used to purchase a life annuity, LIF or LRIF -06/05

Q7. Can money in a LIRA be released to fund the purchase of a home under the federal government

A7. No. In Ontario, money in LIRAs cannot be loaned to buy a house to take advantage of the federal Home Buyers' Plan. -06/05

More information:

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FSCO Policies on Locked-In Accounts

FAQs on Rules for Ontario Locked-In Accounts

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.

FAQs for Financial Institutions

This page provides financial institutions with information relating to Old Life Income Funds (Old LIFs), new Life Income Funds (New LIFs) and Locked In Retirement Income Funds (LRIFs).

Old LIFs and New LIFs

Q1. What information are financial institutions required to disclose to their Old LIF clients?

A1. Financial institutions were required to inform their Old LIF clients of the following on or before September 30, 2010:

- After December 31, 2010, Old LIF owners can no longer transfer money from an Old LIF to a LIRA.
- Between January 1, 2011 and April 30, 2012, owners of Old LIFs can make a one-time application to withdraw or transfer up to 50 per cent of the total market value of the assets they have in their Old LIFs. Applications for this withdrawal or transfer will not be accepted after April 30, 2012.
- On or after January 1, 2011, the maximum amount that may be paid from the Old LIF as income each year will be the greater of the amount under the LIF formula or the fund's investment earnings for the previous year.

Financial institutions are also required to include in their annual statements to their clients the amounts of any withdrawals that were taken out of the Old LIF in the previous year. - 05/10

Q2. Between January 1, 2011 and April 30, 2012, owners of Old LIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How do we determine this amount?

A2. The total market value of the assets in the Old LIF is based on the amount in the most recent statement that was issued by the financial institution when the application was made. The statement must be dated within one year of the date the application was made. - 05/10

Q3. A client applied for withdrawal of an additional 25 per cent from his New LIF in January 2010 using FSCO pension Form 5.1.1. Section 8.1(1) under Schedule 1.1 under Regulation 909 provides that the 25 per cent is based on "the total market value of all assets transferred into the fund on or before December 31, 2009". How do we determine this amount?

A3. "The total market value of all the assets transferred into the fund on or before December 31, 2009" is the market value of the assets that were transferred in relation to each particular transfer, and is determined as of the date of the relevant transfer. You do not take into account any increase or decrease in the value of the New LIF after the money was transferred into it. - 05/10

Q4. In January 2010, a client transferred $100,000 into her New LIF and applied to withdraw 50 per cent of the total market value of the transferred assets to her RRSP using FSCO pension Form 5.2. Section 8(2.1) under Schedule 1.1 under Regulation 909 provides that the 50 per cent is based on "the total market value of the assets transferred into the fund in relation to a transfer of assets made on or after January 1, 2010". How do we determine this amount?

A4. "The total market value of the assets transferred into the fund in relation to a transfer of assets made on or after January 1, 2010" is the amount that was transferred into her New LIF on the relevant transfer date. This amount should be available in your records. You do not take into account any increase or decrease in the value of the New LIF after the money was transferred into it. - 05/10

Q5. When money is transferred into a New LIF, does the financial institution that administers the New LIF need to be aware of the source of that money? Does the prior locked-in vehicle's original date of purchase need to be validated?

A5. The financial institution that administers the New LIF will have to determine what kind of locked-in vehicle (e.g., a pension plan, annuity, LIRA, Old LIF, New LIF or LRIF) the money was transferred from. This is because the 50 per cent withdrawal or transfer under the New LIF after January 1, 2010 only applies to money that comes from a pension plan, LIRA, Old LIF or LRIF. It does not apply to an annuity or an existing New LIF.

It is not necessary for the financial institution that is receiving the money, to know the date on which any prior locked-in vehicle was purchased by the owner. - 05/10

Q6. If money is transferred to a New LIF from another New LIF, Old LIF or LRIF, is the financial institution required to keep track of the investment income that is earned by the transferring fund for the fiscal year up to the date of the transfer?

A6. The financial institution that administers the New LIF that received the transferred funds must be aware of the investment returns that are attributable to the transferring fund's fiscal year, up to the date of transfer. This information is required so that the financial institution can calculate one of the possible maximum income payment amounts for the New LIF's next fiscal year.

For example, if money was transferred from an LRIF to a New LIF on December 1, 2008, and $500 of investment income was earned in the LRIF's 2008 fiscal year prior to the transfer, the financial institution must ensure it determines and records the $500. In addition, this amount must be used to calculate the maximum income amount that is payable from the New LIF in 2009. - 07/07

Q7. Can a financial institution simply convert an Old LIF into a New LIF? If not, will the New LIF require a new specimen plan number, or can the Old LIF's specimen number be used?

A7. A New LIF is a completely different type of locked-in account than an Old LIF, in the same way that an LRIF is a different type of locked-in account from a LIF. Effective January 1, 2008, financial institutions were permitted to offer two distinct types of Ontario LIFs – Old LIFs and New LIFs. If an owner of an Old LIF wants a New LIF, he/she must purchase a New LIF by transferring money from the Old LIF into a New LIF. The Old LIF cannot simply be converted into a New LIF.

However, on January 1, 2011, the rules for Old LIFs, LRIFs and New LIFs will become harmonized. All three funds are essentially the same, except that owners of Old LIFs and LRIFs will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in their account. The rules for determining the maximum annual income payment from Old LIFs, LRIFs and New LIFs will be identical. The maximum income payment for all three funds will be the greater of the amount calculated under the LIF formula, or the fund's investment earnings from the previous year.

Specimen plan numbers appear to be an issue for the Canada Revenue Agency (CRA), but not for FSCO. You may wish to contact the CRA's Registered Plan Directorate at 1-800-267-3100 to discuss this question. - 09/10

Q8. If an individual merges two LIRA accounts from two different financial institutions into a New LIF, the funds are likely to be transferred into the New LIF at different times. Should the receiving financial institution determine the calculation for the 50 per cent withdrawal or transfer when each amount is received separately, or base it on the total amount when both are received? Is the individual entitled to a second 50 per cent withdrawal or transfer after the second transfer is made?

A8. The 50 per cent withdrawal or transfer applies to each individual transfer of money into the New LIF. Each time a sum of money is transferred into the New LIF from a LIRA, LRIF, Old LIF or pension plan, the New LIF owner has 60 days from the date of the transfer to apply to the financial institution to withdraw or transfer up to 50 per cent of the amount that was transferred into the New LIF. For each withdrawal or transfer, a separate application has to be made. - 05/10

Q9. If an individual wants to transfer in-kind securities from a locked-in account (other than a New LIF) into a New LIF, and the securities are received by the New LIF on different days, on what date can the individual apply for the 50 per cent withdrawal or transfer?

A9. If an individual makes a single transfer of funds which are invested in securities into a New LIF, the assets related to that transaction may be deposited into the New LIF on different dates. This is because those assets are being transferred in-kind from other locked-in accounts. The date of transfer for the 50 per cent withdrawal or transfer application is based on the last date on which any of those assets are actually transferred into the New LIF. The individual has 60 days from that date to make his or her application.

In such a case, the financial institution that administers the New LIF must inform the individual prior to making the transfer that he/she will only be able to apply for the 50 per cent withdrawal or transfer after the last deposit of assets has been received by the financial institution. The financial institution also needs to advise the owner once the transfer has been completed. - 05/10

Q10. If a client applies for a 50 per cent withdrawal or transfer from his/her New LIF, when is the financial institution required to pay or transfer the money?

A10. The financial institution is required to make the payment or transfer within 30 days of receiving the completed application form and accompanying documents from the owner of the New LIF. - 05/10

Q11. How are investment returns in a particular year calculated if there has been a 50 per cent withdrawal or transfer from a LIF?

A11. Follow the steps below to easily calculate investment returns that are attributable to a particular fiscal year for a LIF:

1. Take the balance in the LIF at the end of the fiscal year.
2. Subtract the balance in the LIF at the start of the fiscal year.
3. Add the value of any money that was withdrawn or transferred out of the LIF anytime during the fiscal year (e.g., income payments to the client, transfers of money to other accounts, unlocking application amounts that were moved out, etc.).
4. Subtract the value of any new money that was deposited into the account anytime during the fiscal year (e.g., amounts transferred into the account from other accounts, etc.).

Example:

On January 1st the balance in the New LIF was $50,000 and on December 31st of the same year the balance in the New LIF was $60,000. The owner received a $5,000 payment from the New LIF during the year as his annual income payment. That year, he also transferred $3,000 from a LIRA into his New LIF, and withdrew 50 per cent of that amount ($1,150).

To calculate this client’s investment return for the year, you would do the following:

- $60,000 (balance on December 31)
- **Minus** $50,000 (balance on January 1);
- **Plus** $6,150 ($5,000 income payment and $1,150 unlocked amount that was withdrawn);

- **Minus** $3,000 (transfer received from LIRA);
- **Equals** $13,150 (the investment income).

Therefore the client's investment return for the year was $13,500. - 05/10

Q12. If a client with an Old LIF wants to use this money to purchase a New LIF, does the financial institution have to pay out the minimum annual income amount from the Old LIF? Does it also need to set the maximum income payment amount for the New LIF to zero?

A12. If money is transferred from an Old LIF to a New LIF, any minimum amount that is required to be paid out of the Old LIF under the federal Income Tax Act must be paid out of the Old LIF before the end of its fiscal year. No money can be paid out of the New LIF during the fiscal year when the transfer occurred. - 07/07

LRIFs

Q13. What information are financial institutions required to disclose to their LRIF clients?

A13. Financial institutions must inform LRIF owners of the following ***at the beginning of the fiscal year of the fund that ends on December 31, 2010:***

- They will not be able to receive payments for all or part of any unused income payment amounts that were carried forward from a previous year.
- As of January 1, 2011, LRIF owners who choose to be paid less than the maximum annual income amounts will not be able to carry forward the difference and add it to their maximum income payment amounts for future years.

Financial institutions must inform LRIF owners of the following ***on or before September 30, 2010:***

- After December 31, 2010, they can no longer transfer assets from an LRIF to a LIRA.
- Between January 1, 2011 and April 30, 2012, they may make a one-time application to withdraw or transfer up to 50 per cent of the total market value of the assets that are in their LRIF fund(s). Applications for this withdrawal or transfer will not be accepted after April 30, 2012.

- On or after January 1, 2011, the maximum amount that may be paid from the LRIF as income each year will be the greater of the amount under the LIF formula or the fund's investment earnings from the previous year.

Financial institutions are also required to include in their clients' annual statements the amounts of any withdrawals that were taken out of the fund in the previous year. - 05/10

Q14. Between January 1, 2011 and April 30, 2012, owners of LRIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How do we determine this amount?

A14. The total market value of the assets in the fund is based on the amount in the most recent statement that was issued by the financial institution at the time of the application. The statement must be dated within one year of the date the application was made. - 05/10

More information:

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FSCO Policies on Locked In Accounts
FAQs on Rules for Ontario Locked-In Accounts

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.

FAQs: Option to Transfer Money from a Locked-in Account to an Unlocked vehicle

This page addresses questions relating to the option to transfer money from a locked-in account to an unlocked vehicle.

Q1. How have the rules for transfers of locked-in accounts changed?

A1. Effective January 1, 2008, owners of locked-in accounts have new transfer options in the following two situations:

1. If the owner of a locked-in account dies, his/her surviving spouse will be able to transfer the survivor benefit directly to his/her own RRSP or RRIF, where permitted by the federal Income Tax Act. (Under the previous rules, the surviving spouse could only take the benefit in a lump sum.)
2. If the owner of a locked-in account is older than 55 and has less than 40 per cent of the Year's Maximum Pensionable Earnings under the Canada Pension Plan in all of his/her locked-in accounts, the owner may transfer the entire amount directly to his/her own RRSP or RRIF, rather than receive it in a lump sum. - 07/07

Q2. When the owner of a locked-in account dies, is her/her surviving spouse required to take the full value of the survivor benefit in cash, or transfer it to an RRSP or RRIF? Is the surviving spouse allowed to take part of the survivor benefit in cash and transfer part of it to an RRSP or RRIF?

A2. When the survivor benefit is paid, the surviving spouse is required to fully withdraw or transfer the entire amount of the locked-in account into his/her own RRSP or RRIF. The surviving spouse cannot withdraw part of the survivor benefit in cash and transfer the remaining amount to an RRSP or RRIF. - 05/10

Q3. Is the survivor benefit required to go to the surviving spouse, or can it go to a named beneficiary?

A3. The survivor benefit must be paid to the owner's spouse. It can only be paid to the owner's named beneficiary in the following three situations:

- if the spouse waived his/her entitlement to a survivor benefit;
- if the owner of the locked-in account and his/her spouse were living separate and apart on the date of the owner's death due to a breakdown in their relationship; or
- If the owner of the locked-in account had no spouse when he/she died.

If there is no named beneficiary, then the survivor benefit would be paid to the owner's estate.
- 05/10

Q4. Can I transfer 50 per cent of the funds from my New LIF to a spousal RRSP or a spousal RRIF?

A4. Ontario's pension laws allow owners of New LIFs to transfer up to 50 per cent of the funds to any RRSP or RRIF. The law does not prohibit you to transfer that money to a spousal RRSP or a spousal RRIF. However, there may be restrictions under the federal Income Tax Act for such a transfer. Questions about the tax impact of this type of transfer should be directed to the Canada Revenue Agency's Individual Income Tax Inquiry Line at 1-800-959-8281. - 05/10

More information:

- FSCO Policies on Locked In Accounts
- FAQs on Rules for Ontario Locked-In Accounts

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FAQs on Unlocking a Locked-in Account if you are a Non-Resident of Canada

This page provides frequently asked questions on the unlocking of a locked in account for a non-resident of Canada.

Q1. How do the locked-in account rule changes impact non-residents of Canada?

A1. Effective January 1, 2008, a locked-in account owner who is a non-resident of Canada — as determined by the Canada Revenue Agency for the purposes of the federal Income Tax Act — may apply to unlock and withdraw all the money in his/her locked-in account two years after departing Canada. - 05/10

Q2. I am a non-resident of Canada. How do I apply to unlock the money in my locked-in account(s)?

A2. If you satisfy the Canada Revenue Agency's (CRA) requirements for being a non-resident of Canada, you need to complete and sign FSCO pension Form 5. You then need to submit the form to the financial institution that holds the locked-in account(s) and ensure that it is accompanied by the following:

- A written determination from the CRA that states you are a non-resident of Canada for the purposes of the Income Tax Act.
- Written consent from your spouse or a certification that you do not have a spouse.

If you are interested in finding out if you qualify, you can find more information on the CRA's website. Make sure you take a look at the criteria that the CRA uses for determining if a person is a non-resident of Canada. Read NR73-Determination of Residency Status (Leaving Canada) and Residency Status. - 07/07

Q3. I understand that as a non-resident of Canada I can apply to unlock and withdraw all of the money in my locked-in account after living abroad for two years. Can I make this application at any age? If I already used the money in the locked-in account to purchase an annuity can I still apply?

A3. If you satisfy the Canada Revenue Agency's (CRA) requirements for being a non-resident of Canada, you can unlock and withdraw money from your locked-in account(s) at any age. These rules only apply to money that is held in an Ontario locked-in account when you submit FSCO pension Form 5. If you already purchased an annuity with money that was previously in your locked-in account, you will not be able to apply to take money out of your annuity. - 05/10

More information:

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FSCO Policies on Locked In Accounts
FAQs on Rules for Ontario Locked-In Accounts

FAQs on the Effects of Changes on Other Unlocking Applications

This page provides information relating to other unlocking applications.

Q1. Will the changes to the rules that effect locked-in accounts impact the requirements for withdrawing money due to financial hardship or shortened life expectancy?

A1. The changes to the rules that effect locked-in accounts will not change the rules for unlocking your locked-in account due to financial hardship or shortened life expectancy. However, there is one exception that affects financial hardship unlocking. With the introduction of the Ontario Child Benefit in the 2007 Ontario Budget, the section of the regulations under the Pension Benefit Act that exempts certain sources of income from an individual's total income — which is used to calculate eligibility for a low income financial hardship withdrawal — will now also exempt the new benefit. - 07/07

Q2. If I withdrew 50 per cent of the money that was in my New LIF, can I still apply to unlock the funds in my New LIF due to financial hardship or any other unlocking criteria?

A2. Yes, applications for unlocking due to financial hardship or other unlocking criteria can still be made. - 05/10

More information:

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FSCO Policies on Locked In Accounts
FAQs on Rules for Ontario Locked-In Accounts

Financial Hardship Unlocking Fees

Archived Content

The following content was archived on June 24, 2013.

It is provided for historical reference.

The allows individuals who qualify under certain circumstances of financial hardship to apply for special access to the money in their Locked-in Retirement Accounts, Life Income Funds, or Locked-in Retirement Income Funds. Depending on the specific circumstances, the application will be made to the Financial Services Commission of Ontario or the financial institution that holds your locked-in account.

The *Pension Benefits Act* allows individuals who qualify under certain circumstances of financial hardship to apply for special access to the money in their Locked-in Retirement Accounts, Life Income Funds, or Locked-in Retirement Income Funds. Depending on the specific circumstances, the application will be made to the Financial Services Commission of Ontario or the financial institution that holds your locked-in account.

In the past, for situations where the application is made to the Financial Services Commission of Ontario, successful applicants were charged an application fee in order to offset FSCO's administrative costs. The 2011 Ontario Budget will extend the current application fee waiver for applications approved on and after April 1, 2009. The following questions and answers provide additional details.

Q: How does the fee waiver on financial hardship unlocking applications work?

A: While the fee waiver is in place, FSCO will *not* be charging the required fees on financial hardship unlocking applications approved on or after April 1, 2009.

Approved applications will still be subject to applicable withholding taxes at the time that funds are withdrawn from an Ontario locked-in account (locked-in retirement accounts (LIRA), life income funds (LIF) or locked-in retirement income funds (LRIF)).

Q: I received approval to withdraw money from my locked-in account because of financial hardship prior to April 1, 2009 but have not withdrawn the money yet. If I withdraw the money after April 1, will my fee be waived?

A: No. The fee waiver only applies where the approval of your application is on or after April 1, 2009. The timing of your withdrawal does not alter this.

Q: Can I get back the fees I already paid to unlock my money?

A: No. The fee waiver will apply only to applications approved on or after April 1, 2009. There will be no refunds of fees paid.

Q: When will the fee waiver on financial hardship unlocking expire?

A: The fee waiver applies to financial hardship unlocking applications approved on or after April 1, 2009 and is in place until further notice.

Financial Hardship Unlocking Fees

Financial Hardship Unlocking Fees

Archived Content

The following content has been archived.

It is provided for historical reference.

The Pension Benefits Act allows individuals who qualify under certain circumstances of financial hardship to apply to the Financial Services Commission of Ontario (FSCO) for special access to the money in their Locked-in Retirement Accounts, Life Income Funds, or Locked-in Retirement Income Funds. Successful applicants will be charged an application fee equal to 2% of the amount the applicant is entitled to withdraw (with a minimum fee of $200 and a maximum fee of $600) in order to offset FSCO's administrative costs.

Requirement to Use Approved Forms

The Superintendent has approved the use of several pension forms that must be used for various purposes in the administration of a pension plan.

The pension plan administrator must provide certain forms directly to FSCO, in the approved format. Forms that can be submitted in paper format can be downloaded and printed from FSCO's website.

Effective January 1, 2013, all prescribed pension plan filings that have a due date on or after January 1, 2013, must be filed electronically through the Pension Services Portal (PSP).

Filings with a due date before January 1, 2013

For Annual Information Returns (AIR) and Pension Benefits Guarantee Fund (PBGF) Assessment Certificates with a due date before January 1, 2013, FSCO provided plan administrators with the forms annually, in paper format. The forms contain plan specific data from the FSCO database that enhance security and aid FSCO in its review. If you wish to submit an AIR or PBGF with a due date before January 1, 2013, in paper format, you may request a duplicate from FSCO by email or by calling (416) 590-7177. The specimen forms available on FSCO's website are only for reference purposes.

FSCO will not accept non-approved AIR and PBGF forms. FSCO will return all such forms to the plan administrator with a letter outlining the correct process that must be followed. The approved forms must be completed and filed within 30 days of the date of the letter.

Contacting FSCO

Inquiries about AIR and PBGF filings should be addressed to staff assigned to the pension plan. Contact information for pension staff assigned to a particular pension plan is available at Pension Plan Information Access.

Electronic Filing - Mandatory from January 1, 2013

Effective January 1, 2013, all pension plan filings that have a due date on or after January 1, 2013 must be submitted electronically through the Pension Services Portal (PSP). To file online, the Pension Plan Administrator is required to activate his/her PSP account.

Pension Plan Administrators who have filings with a statutory due date up to December 31, 2012, and who received a filing extension beyond January 1, 2013 (under section 105 of the Pension Benefits Act or by regulation), may continue to file in paper format.

About the PSP

The PSP enables Pension Plan Administrators and their delegates the option to electronically file all prescribed filings:

- Annual Information Return (AIR)
- Investment Information Summary (IIS)
- Pension Benefits Guarantee Fund Assessment Certificate (PBGF)
- Actuarial Valuation Report/Actuarial Information Summary (AIS)
- Pension Plan/Fund Financial Statements (FS)
- Statement of Investment Policies and Procedures (SIPP) and SIPP Information Summary (Form 14)

There are several benefits of submitting the prescribed filings electronically. The PSP:

- allows Pension Plan Administrators and their delegates to submit and verify the status of electronic filings online;
- ensures that data and personal information is kept secure and protected;
- performs a preliminary verification of any data that is submitted to FSCO;
- provides alerts and warnings if it detects any errors in submissions; and
- supports FSCO's commitment to provide environmentally friendly and cost effective services.

The PSP may also be used for requesting extensions for filing deadlines and requesting approval for re-filing prescribed filings that were previously submitted through the PSP. For step-by-step instructions on all of these activities, refer to the PSP Instructions.

Filings that are Due Before January 1, 2013

If your pension plan's filings are due on or before December 31, 2012 and the criteria below are satisfied, you may use the PSP to file electronically, or you may file in paper format:

- AIR and/or PBGF – Period start date is on or after January 1, 2009.
- FS – Period start date is on or after January 1, 2010.
- AVR and AIS – Valuation date is on or after January 1, 2010.

As per section 16.1(1) of the Regulations, an AVR filed under section 3, 4, 13, or 14 must be accompanied by an AIS. Therefore, if you file the AVR electronically, you must also file the AIS electronically.

If your plan's filings are due on or before December 31, 2012 and the above criteria are not satisfied, then they must be filed in paper format.

If your IIS filing is due on or before December 31, 2012, you must use the PSP to file electronically.

How to Access the PSP

To use the PSP, a Pension Plan Administrator must first activate his/her personal PSP account. Once a Pension Plan Administrator's account is activated, he/she has the option to delegate PSP access to other individuals.

For step-by-step instructions on activating a PSP account, logging into the PSP, or delegating access to the PSP, refer to the following resources:

- PSP videos
- PSP Instructions

How to Learn About PSP Updates

Once a PSP account has been activated, FSCO will notify the Pension Plan Administrator of any PSP updates by e-mail.

Pension Plan Administrators and their delegates should also check the PSP regularly for new developments.

Learn More

For more information, refer to the following resources:

- Filing Information for Pension Plan Administrators
- FAQs on e-filing through the Pension Services Portal
- PSP videos
- PSP Instructions

Contact FSCO

To send us an inquiry or comment about the PSP, email PensionInquiries@fsco.gov.on.ca or call (416) 590-7177.

Funding Defined Benefit Pension Plans: Risk-Based Supervision in Ontario

Overview and Selected Findings
2004-2008

Financial Services Commission of Ontario

March 2009

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Funding Defined Benefit Pension Plans: Risk-Based Supervision in Ontario

Overview and Selected Findings 2004-2008

1.0 Introduction

The Financial Services Commission of Ontario (FSCO) is an arm's length agency of the Ministry of Finance that regulates Ontario registered pension plans in accordance with the *Pension Benefits Act* (PBA) and regulations.

Risk-Based Monitoring

In July 2000, FSCO implemented a risk-based approach to monitor the funding of defined benefit (DB) pension plans.[1] This approach involves the collection of key actuarial and financial data from funding valuation reports filed with FSCO, using a standard form called the Actuarial Information Summary (AIS).[2] The collected data are entered into a database, and a selective risk-based review system identifies individual funding reports for detailed compliance reviews.

Between July 1, 2004 and January 31, 2009, AIS data for approximately 8,900 funding valuation reports were entered into FSCO's database and screened through the selective review system. Thirty-four per cent of these reports were selected for further review, and over 26% of the selected reports were identified as having material compliance concerns that required further follow up. With very few exceptions, FSCO has been able to resolve the identified concerns with the plans' actuaries and administrators.

In 2006, to broaden the risk-based approach to monitoring DB pension plans, FSCO implemented a risk-based monitoring of pension fund investments.[3] This program involves the collection of key financial and investment data for DB plans on an annual basis, using a standard form called the Investment Information Summary (IIS). The collected data are entered into a database, and a selective risk-based review system identifies plans with potential investment concerns for further review. The annual monitoring cycle covers plans whose plan fiscal year end date is between July 1 of one year and June 30 of the next. Over 90% of the plans have a fiscal year end date of December 31.

In each of the first two years of implementation, 2005-2006 and 2006-2007, IIS data for approximately 4,000 plans were entered into the IIS database and assessed with the predetermined criteria. The number of IIS filings for reporting period 2007-2008 decreased to

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[1] *Risk-based Supervision of the Funding of Ongoing Defined Benefit Pension Plans* (May 2000), an overview of the risk-based approach, is available at: http://www.fsco.gov.on.ca/english/pensions/riskbasedsupervision.pdf .

[2] The AIS is a standardized form, developed jointly by FSCO, the Canada Revenue Agency and the federal Office of the Superintendent of Financial Institutions. It is prepared by an actuary and filed with FSCO in conjunction with a funding valuation report.

[3] Further information on the risk-based approach for monitoring pension fund investments is available at: http://www.fsco.gov.on.ca/english/pensions/InvestmentInformationSummary.asp .

1,919 as a result of the exclusion of designated plans.[4] Of all the IIS filings that were assessed, approximately 27% were flagged for further review, and approximately 55% of those flagged were identified as having material concerns that were brought to the attention of the plans' administrators. With very few exceptions, the identified concerns were properly addressed or rectified.

Risk-Based Reporting

The AIS and IIS databases provide FSCO with the information it needs to compile the relevant pension plan funding and investment data and to identify certain DB pension plan trends in Ontario. This is FSCO's fifth report on DB funding, and the first to include information on pension fund investments.

Key Findings

Some of the key findings are:

Funding Data

- Overall, the funded positions of pension plans have improved since the last report. In particular, the median funded ratio on a going concern basis has improved from 103% to 106%, whereas the median funded ratio on a solvency basis has improved from 90% to 91%.

- Most plans were less than fully funded on a solvency basis at their last valuation date, while significantly fewer plans were less than fully funded on a going concern basis. Specifically:
  - Seventy-six per cent of the plans were less than fully funded on a solvency basis (unchanged from the March 2008 report).
  - Thirty-two per cent of the plans were less than fully funded on a going concern basis (versus 42% in the March 2008 report).

- Assumptions and methods for the going concern valuations are increasingly more uniform when compared to prior valuations. For example:
  - Over 98% of the plans used the unit credit cost method.
  - Over 99% of the plans used either a market or smoothed market value of assets.
  - The average interest rate assumption used for going concern valuations decreased from 6.51% to 6.17% over the 2004 to 2007 valuation period, and almost 96% of the 2007 valuations used an interest rate below 7%.
  - Almost 99% of the 2007 valuations used an up-to-date (1994 or later) mortality table, compared to 84% of the 2004 valuations.

- The minimum required contributions for 2008, including employer normal cost, member required contributions and special payments, were estimated to be $6.4 billion,

[4] Designated Plans are defined in section 8515 of the federal Income Tax Regulations. Generally, these are plans for connected persons and highly-paid executives.

approximately the same as the amount estimated for 2007 ($6.5 billion).

- After several years of improvements, the funded position of pension plans is expected to decrease materially during 2008. Overall, the median solvency ratio for pension plans is projected to decrease from 93% to 77% between the 2007 and 2008 year ends. The key drivers of this reduction are the weak investment performance of financial markets during 2008 and the use of lower interest rates for determining commuted values. Special payments for less than fully funded plans are expected to lessen the extent of the decrease in solvency ratio for these plans.

Investment Data

- The asset mix of pension funds remained steady over time, and the typical 40/60 fixed income/non-fixed income split was predominant.

- Generally, plans with lower solvency ratios invested more in non-fixed income assets and had poorer performance on both absolute and relative bases than plans with higher solvency ratios.

- Larger plans invested a lower proportion of plan assets in pooled funds and had better absolute and relative investment performance.

- Over 75% of the plans did not outperform the market, when actual returns net of investment expenses were compared to market index returns.

2.0 Statistical Analysis – Funding

This section summarizes some of the funding data, including actuarial assumptions and methods, for DB pension plans with valuation dates between July 1, 2005 and June 30, 2008. The data were compiled from the AIS and funding valuation reports received by FSCO on or before January 31, 2009.

Generally, funding valuation reports must be filed once every three years on both a going concern and solvency basis. However, if solvency concerns are indicated,[5] annual filing is required until these concerns are eliminated. Early filings may also be required when events such as plan mergers, partial windups, or sales of businesses occur. To avoid double counting, only the data from a plan's most recently filed report were included.

For the purpose of this report, designated plans, plans where members are no longer accruing future benefits, and plans with outstanding valuation reports have been excluded. In addition, seven (7) large public sector plans[6] have been excluded in order not to skew the results of our analysis.

In total 1,564 plans were included in the statistical analysis. Table 1 presents a summary of these pension plans.

Table 1 – Summary of Plans Included

Plan/ Benefit Type	# of Plans	Active Members	Retired Members	Other Beneficiaries	Total	Market Value of Assets ($Million)
Final Average	619	205,969	125,873	50,587	382,429	$ 59,390
Career Average	220	42,448	25,595	14,586	82,629	$ 6,612
Flat Benefit	338	112,767	111,796	37,643	262,206	$ 28,677
Hybrid	315	156,407	124,250	67,986	348,643	$ 32,695
Multi-Employer	72	368,450	94,446	328,850	791,746	$ 18,888
Total	1,564	886,041	481,960	499,652	1,867,653	$ 146,262

The average age of the membership for all included plans was 42.3 for active members and 71.5 for retired members.

[5] A report is said to indicate solvency concerns if (i) the solvency ratio is less than 80%, or (ii) the solvency ratio is between 80% and 90% and the solvency liabilities exceed the market value of assets by more than $5 million. A plan's solvency ratio is the ratio of the market value of the plan's assets to the plan's solvency liabilities.

[6] Based on the most recently filed reports, these seven public sector plans had a total membership exceeding one million (681,000 actives, 349,000 retirees and 144,000 other beneficiaries) and total assets of $229 billion at market value. The average age of their membership was 44.3 for active members and 69.9 for retired members.

Compared with the findings in FSCO's previous reports (June 2006, March 2007, March 2008[7]) there continues to be a decrease in the number of final average, career average and flat benefit plans, and an increase in the number of hybrid plans. Since the March 2008 report, 125 (7.7%) of the DB plans have become hybrid plans, have wound up or have frozen future accruals of defined benefits.

2.1 Summary of Funded Status

The main findings regarding the funded status of DB pension plans are as follows:

- For all plans analyzed, the median funded ratios were 106% on a going concern basis and 91% on a solvency basis. Thirty-two per cent of the plans were less than fully funded on a going concern basis, while 76% were less than fully funded on a solvency basis.

- Of the 619 final average earnings plans, 255 (41%) were less than fully funded on a going concern basis and 406 (66%) were less than fully funded on a solvency basis.

- Of the 220 career average earnings plans, 50 (23%) were less than fully funded on a going concern basis and 190 (86%) were less than fully funded on a solvency basis.

- Of the 338 flat benefit plans, 73 (22%) were less than fully funded on a going concern basis. On a solvency basis, flat benefit plans were the least well funded – 309 (91%) of these plans were less than fully funded, and 85 (25%) had a solvency ratio of less than 80%.

- Of the 315 hybrid plans, 103 (33%) were less than fully funded on a going concern basis and 229 (73%) were less than fully funded on a solvency basis.

- Of the 72 multi-employer pension plans (MEPPs), 20 (28%) were less than fully funded on a going concern basis and 53 (74%) were less than fully funded on a solvency basis. Sixteen plans (22%) had a solvency ratio of less than 80%. These 16 plans have approximately 544,000 members and former members, representing almost 69% of the total MEPP membership.

[7] These reports are available at: http://www.fsco.gov.on.ca/english/pensions/DB_Funding_Report_2006.pdf, http://www.fsco.gov.on.ca/english/pensions/DB_Funding_2007.pdf and http://www.fsco.gov.on.ca/english/pensions/DB_Funding_2008.pdf.

Tables 2 and 3 below provide a more detailed breakdown of the going concern and solvency funded ratios in respect of different types of DB pension plans.

Table 2 – Going Concern Funded Ratios

Funded Ratio (FR)	**Final Average**	**Career Average**	**Flat Benefit**	**Hybrid**	**MEPP**	**All Plans**
FR < 0.60	6	2	5	1	1	15
0.60 ≤ FR < 0.80	12	5	6	3	1	27
0.80 ≤ FR < 0.90	80	8	19	23	5	135
0.90 ≤ FR < 1.00	157	35	43	76	13	324
1.00 ≤ FR < 1.20	283	133	171	157	44	788
FR ≥ 1.20	81	37	94	55	8	275
Total	619	220	338	315	72	1,564
Median Ratio	1.03	1.08	1.11	1.05	1.05	1.06

Table 3 – Solvency Funded Ratios

Solvency Ratio (SR)	**Final Average**	**Career Average**	**Flat Benefit**	**Hybrid**	**MEPP**	**All Plans**
SR < 0.60	11	4	8	2	4	29
0.60 ≤ SR < 0.80	39	44	77	21	12	193
0.80 ≤ SR < 0.90	173	82	144	100	11	510
0.90 ≤ SR < 1.00	183	60	80	106	26	455
1.00 ≤ SR < 1.20	152	22	27	65	17	283
SR ≥ 1.20	61	8	2	21	2	94
Total	619	220	338	315	72	1,564
Median Ratio	0.93	0.87	0.85	0.93	0.92	0.91

2.2 Summary of Actuarial Assumptions and Methods

The key actuarial assumptions and methods used in going concern valuations are as follows:

- Over 98% of the plans used the unit credit cost method (with salary projection for final average plans) to calculate the going concern liabilities.

Table 4 – Liability Valuation Method

Liability Valuation Method	**# of Plans**	**% of Plans**
Unit Credit	1,541	98.5%
Entry Age Normal	17	1.1%
Aggregate	3	0.2%
Other	3	0.2%
Total	1,564	100.0%

- Assets were most frequently valued using a market or market-related approach, with over 99% of the plans using either a market or smoothed market value.

Table 5 – Asset Valuation Method

Asset Valuation Method	# of Plans	% of Plans
Market	1,046	66.9%
Smoothed Market	506	32.3%
Book	6	0.4%
Book & Market Combined	5	0.3%
Other	1	0.1%
Total	1,564	100.0%

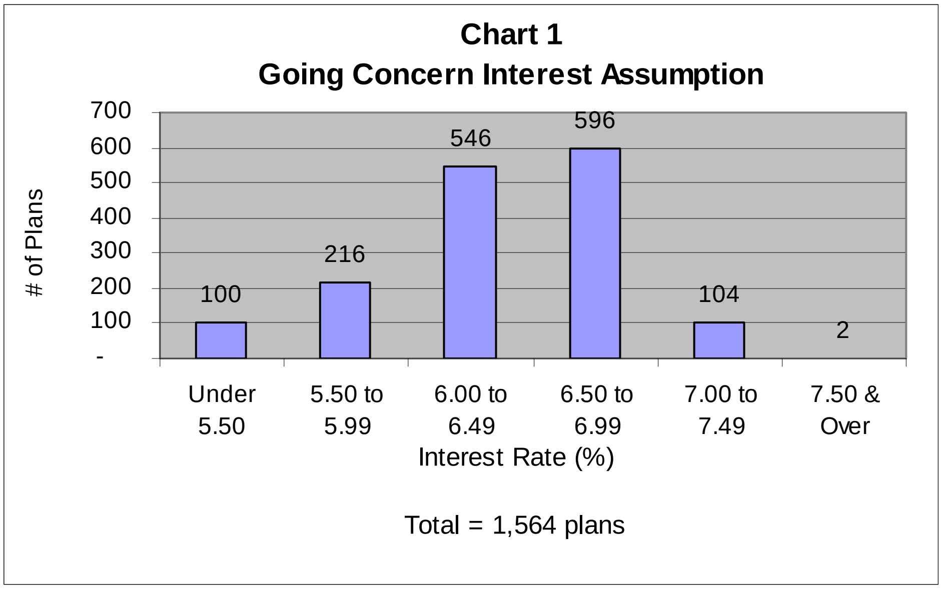
- For going concern valuations, only 1% of the plans used a mortality assumption based on the 1983 Group Annuity Mortality (GAM) table developed by the Society of Actuaries, while 99% used a more up-to-date table (e.g., 1994 GAM Static, 1994 Group Annuity Reserving (GAR), 1994 Uninsured Pensioner (UP), and RP-2000). The 1994 UP (with or without projection of mortality improvement) mortality assumption was used by more than 91% of the plans.[8]

Table 6 – Mortality Assumption

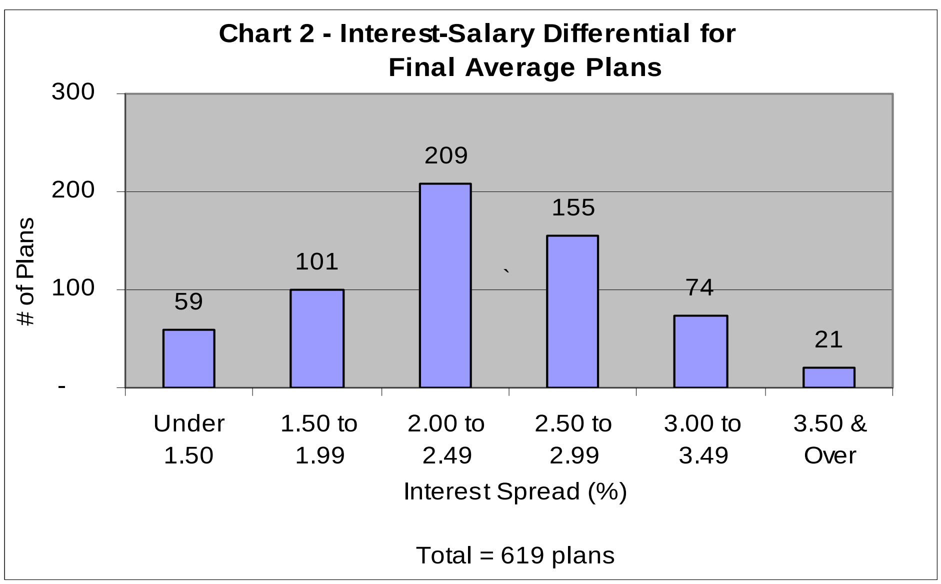
Mortality Assumption	# of Plans	% of Plans
1983 GAM	17	1.1%
1994 GAM Static	61	3.9%
1994 GAR	21	1.3%
1994 UP	1,433	91.6%
Other (2000RP, 1995 Buck)	32	2.1%
Total	1,564	100.0%

[8] Also see commentary on mortality assumptions that accompanies Table 16 in this report.

- Interest rate assumptions used to value the going concern liabilities were generally lower than in prior years, with approximately 88% of the plans using a rate at or below 6.5%. Rates continued to fall within a relatively tight range, with two-thirds (67%) of the plans using a rate between 6.0% and 6.5%.[9]



- For final average earnings plans, the difference between the interest assumption and the salary increase assumption used in going concern valuations typically fell within a range of 1.5% to 3.0% (accounting for 84% of all final average plans).[10]



[9] Of the 596 plans that used a going concern interest rate assumption in the range of 6.50% to 6.99%, 508 plans used an interest rate of 6.50%.
[10] Of the 74 final average plans with interest-salary differential in the range of 3.00% to 3.49%, 58 plans had an interest-salary differential of 3.00%.

- Table 7 shows the total wind up expense allowance made in solvency valuations by plan membership size, including members, former members and other beneficiaries.[11] The expense allowance is also expressed in average dollar amounts per plan and per plan member. The allowance for wind up expenses is generally higher than the amounts previously reported. The average expense allowance per member generally decreases as plan membership size increases. The reverse pattern appears for plans with 10,000 or more members. Because there is only a small number of plans in the last two size categories (i.e., more than 5,000 members), greater caution should be exercised when interpreting the results for plans of this size.

Table 7 – Provision for Wind Up Expenses

Plan Membership	# of Plans	Total Membership	Total Wind Up Expenses	Average Wind Up Expenses Per Plan	Average Wind Up Expenses Per Member
<100	500	23,378	$ 21,622,855	$ 43,246	$ 925
100-499	573	138,846	$ 58,932,200	$ 102,849	$ 424
500-999	182	126,276	$ 37,984,880	$ 208,708	$ 301
1,000-4,999	209	420,227	$ 96,097,150	$ 459,795	$ 229
5,000-9,999	36	239,726	$ 46,344,000	$1,287,333	$ 193
10,000-49,999	25	442,582	$149,008,000	$5,960,320	$ 337
Total	1,525	1,391,035	$409,989,085	$ 268,845	$ 295

[11] For confidentiality reasons, the two plans with more than 50,000 members and other beneficiaries were excluded from this analysis.

3.0 Statistical Analysis – Investment

The plans included in the investment statistical analysis were those of the 1,564 plans summarized in Table 1 whose latest IIS (for plan years ending between July 1, 2007 and June 30, 2008) was received by FSCO on or before January 31, 2009. There are 1,477 plans in this subset, representing 94% of the total.[12]

For hybrid plans, only the defined benefit component of the pension fund is included in the data.

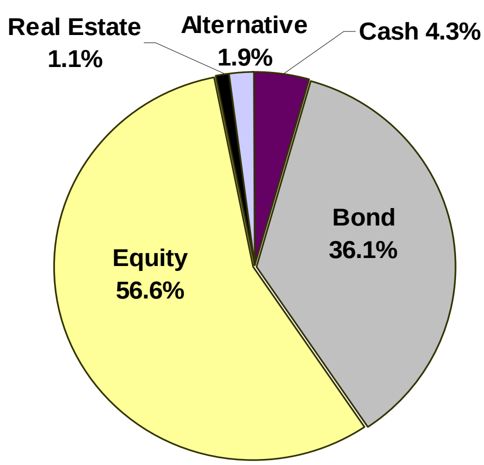
3.1 Pension Funds Profile

The asset mix of the 1,477 pension funds, as a whole, for the latest monitoring cycle is described in Table 8 and depicted in Chart 3.

Table 8 – Asset Mix of All Plans as a Whole

	Asset Class[13]	Market Value ($Millions)	% of Total Investments
Asset Mix	Cash	$6,375	4.3%
	Bond	$53,004	36.1%
	Equity	$83,052	56.6%
	Real Estate	$1,606	1.1%
	Alternative Investments[14]	$2,754	1.9%
	Total	$146,791	100.0%

Chart 3: Asset Mix of All Plans as a Single Portfolio



[12] Plans included in the funding analysis that are not in the investment analysis are primarily new plans, plans with outstanding IIS filings, and plans that were no longer required to file an IIS after the date of the last filed valuation.
[13] Plan assets invested in pooled funds totaling $58,494 million or 39.8% of total investments. Pooled funds are included in the asset mix of all plans based on their underlying asset classes.
[14] Alternative Investments include hedge funds, private equity, infrastructure, resource properties, etc.

On a broad basis, fixed income assets include cash and bonds and constitute 40% of total investments, whereas non-fixed income assets include equity, real estate and alternative investments and constitute 60% of total investments.

3.2 Summary of Fund Performance

This section provides statistics on asset mix and investment performance by various categories for the latest monitoring cycle.

The 1,477 plans included in the analysis are very diverse. To illustrate the investment results for pension plans that have different characteristics, the asset mix and performance data are presented by different plan type, benefit type, plan size, solvency ratio and percentage invested in pooled funds.

In the "Asset Mix" section, the weight of each asset class is shown for all plans in each subgroup and for all plans as a whole.

In the "Performance" section, all performance numbers are determined at the individual plan level. "Return" means the rate of return, net of all investment expenses, while "Outperformance" measures how a pension fund performs relative to the market. Outperformance relative to market performance for an individual fund is determined as the fund's actual rate of return (net of expenses) minus the weighted average of market index returns, given the individual pension fund's asset mix.

By Plan Type

The investment overview of single employer pension plans (SEPPs) and multi-employer pension plans (MEPPs) is given below. The asset mix and average performance returns are shown in Table 9A, while the percentile performance returns appear in Table 9B.

Table 9A – Investment Results by Plan Type

Plan Type		SEPP	MEPP	Total
# of Plans		1,406	71	1,477
Asset Mix	Fixed Income	40.8%	38.1%	40.4%
	Non-Fixed Income	59.2%	61.9%	59.6%
Performance	Average Return[15]	1.77%	1.66%	1.76%
	Average Outperformance	-1.99%	-2.12%	-1.99%

[15] This and those in Tables 10-13 are the arithmetic (equally-weighted) average of investment returns of pension funds in each subgroup. The average of investment returns weighted by the sizes of all pension funds is 2.41%, compared to 1.76% on an equally-weighted basis shown herein.

Table 9B – Performance Result Percentiles by Plan Type

Plan Type	SEPP	MEPP	Total
Investment Returns			
90th Percentile	5.08%	4.29%	5.07%
75th Percentile	3.14%	2.66%	3.11%
Median	1.46%	1.51%	1.47%
25th Percentile	0.12%	0.52%	0.12%
10th Percentile	-1.24%	-0.97%	-1.24%
Investment Outperformance			
90th Percentile	1.40%	0.34%	1.35%
75th Percentile	-0.31%	-1.06%	-0.36%
Median	-2.30%	-2.38%	-2.31%
25th Percentile	-3.83%	-3.36%	-3.81%
10th Percentile	-5.19%	-4.30%	-5.17%

By Benefit Type

The investment overview of pension plans with various benefit types is given in Table 10.

Table 10 – Investment Results by Benefit Type

Benefit Type		FAE	CAE	FB	Hybrid	Total
# of Plans		586	224	364	303	1,477
Asset Mix	Fixed Income	39.8%	40.4%	37.6%	44.8%	40.4%
	Non-Fixed Income	60.2%	59.6%	62.4%	55.2%	59.6%
Performance	Average Return	1.75%	1.84%	1.90%	1.58%	1.76%
	Average Outperformance	-2.05%	-2.10%	-1.74%	-2.12%	-1.99%

By Plan Size
The investment overview of pension funds of various sizes is given in Table 11.

Table 11 – Investment Results by Plan Size

Size		Small (<$25 Million)	Medium (>$25M, <$250M)	Large (>$250 Million)	Total
# of Plans		931	439	107	1,477
Asset Mix	Fixed Income	42.6%	42.1%	39.7%	40.4%
	Non-Fixed Income	57.4%	57.9%	60.3%	59.6%
Performance	Average Return	1.68%	1.91%	1.94%	1.76%
	Average Outperformance	-2.19%	-1.75%	-1.26%	-1.99%

By Solvency Ratio
The investment overview of pension plans with various solvency ratios is given in Table 12.

Table 12 – Investment Results by Solvency Ratio (SR)

Solvency Ratio (SR)		SR < 0.8	0.8≤SR<1	SR ≥ 1.0	Total
# of Plans		134	962	381	1,477
Asset Mix	Fixed Income	35.4%	40.9%	42.0%	40.4%
	Non-Fixed Income	64.6%	59.1%	58.0%	59.6%
Performance	Average Return	0.93%	1.81%	1.94%	1.76%
	Average Outperformance	-2.67%	-1.95%	-1.86%	-1.99%

By Percentages Invested in Pooled Funds
The results for plans with various percentages invested in pooled funds are given in Table 13.

Table 13 – Investment Results by Percentage Invested in Pooled Funds

Percentage Invested in Pooled Funds		< 20%	20% to 80%	> 80%	Total
# of Plans		229	239	1,009	1,477
Asset Mix	Fixed Income	40.7%	40.1%	40.4%	40.4%
	Non-Fixed Income	59.3%	59.9%	59.6%	59.6%
Performance	Average Return	2.63%	2.00%	1.51%	1.76%
	Average Outperformance	0.19%	-2.19%	-2.44%	-1.99%

3.3 Investment Observations

This section presents some main observations of the analyses set out in sections 3.1 and 3.2. The focus is on those findings that are both sufficiently recognizable for 2007 and commonly evident for the previous two monitoring cycles. These observations are as follows:

- The asset mix of pension funds remained steady over time and the typical 40/60 fixed income/equity split was predominant.
- Pension funds of MEPPs generally invested more in non-fixed income assets than SEPPs.
- Flat benefit plans invested more in non-fixed income assets than other plans, while hybrid plans invested more in fixed income assets.
- Plans with lower solvency ratios invested more in non-fixed income assets and had poorer performance on both absolute and relative bases than plans with higher solvency ratios.
- Larger plans invested a lower proportion of plan assets in pooled funds and performed better on both absolute and relative bases than smaller plans.
- Pension funds that invested less in pooled funds generally performed better on both absolute and relative bases than those that invested more in pooled funds. This could be explained in large part by the higher investment management fees charged to pooled funds.
- Over 75% of the plans did not outperform the market, when actual returns net of investment expenses were compared to market index returns.

4.0 Trends Analysis

The following trends analysis incorporates data from all filed reports with valuation dates between July 1, 2004 and June 30, 2008.[16]

4.1 Solvency Funded Status

Table 14 shows a breakdown of plans by solvency ratios for the following valuation years:

- 2004 valuation year: July 1, 2004 to June 30, 2005
- 2005 valuation year: July 1, 2005 to June 30, 2006
- 2006 valuation year: July 1, 2006 to June 30, 2007
- 2007 valuation year: July 1, 2007 to June 30, 2008

The majority of plans have a valuation date of either December 31 or January 1. Plans having solvency concerns are required to file valuation reports annually and, therefore, would appear in our database for more than one valuation year.

Table 14 - Solvency Ratios by Valuation Year

	2004		2005		2006		2007	
Solvency Ratio (SR)	**# of Plans**	**% of Plans**	**# of Plans**	**% of Plans**	**# of Plans**	**% of Plans**	**# of Plans**	**% of Plans**
SR < 0.60	34	3.6%	37	4.4%	24	2.6%	12	1.8%
0.60 ≤ SR < 0.80	315	33.0%	338	40.8%	164	17.6%	125	18.5%
Sub-Total < 0.8	349	36.6%	375	45.2%	188	20.2%	137	20.3%
0.80 ≤ SR < 0.90	289	30.3%	203	24.5%	303	32.5%	231	34.2%
0.90 ≤ SR < 1.00	148	15.5%	119	14.4%	256	27.5%	174	25.7%
Sub-Total < 1.00	786	82.4%	697	84.1%	747	80.2%	542	80.2%
1.00 ≤ SR < 1.20	117	12.3%	90	10.8%	143	15.4%	103	15.2%
SR ≥1.20	51	5.3%	42	5.1%	41	4.4%	31	4.6%
Total	954	100.0%	829	100.0%	931	100.0%	676	100.0%
Median Ratio	0.83		0.81		0.89		0.88	

Table 14 shows the distribution of solvency ratios was relatively unchanged between the 2006 and 2007 valuations, and the ratios for these two years were generally higher than those for 2004 and 2005. Underfunded plans accounted for 80.2% of the plans that filed a 2006 or 2007 valuation, compared with 82.4% and 84.1% of those plans that filed a 2004 or 2005 valuation. The proportion of reports showing a solvency ratio of less than 80% was 20.3% in 2007, less than half of the 45.2% reported in 2005 valuation.

[16] Plans that had outstanding funding valuation reports were excluded from the analysis in FSCO's previous report (March 2008). Some of those outstanding reports have since been filed. Therefore, the number of plans in each of the 2004, 2005 and 2006 valuation years is somewhat higher than in the previous report.

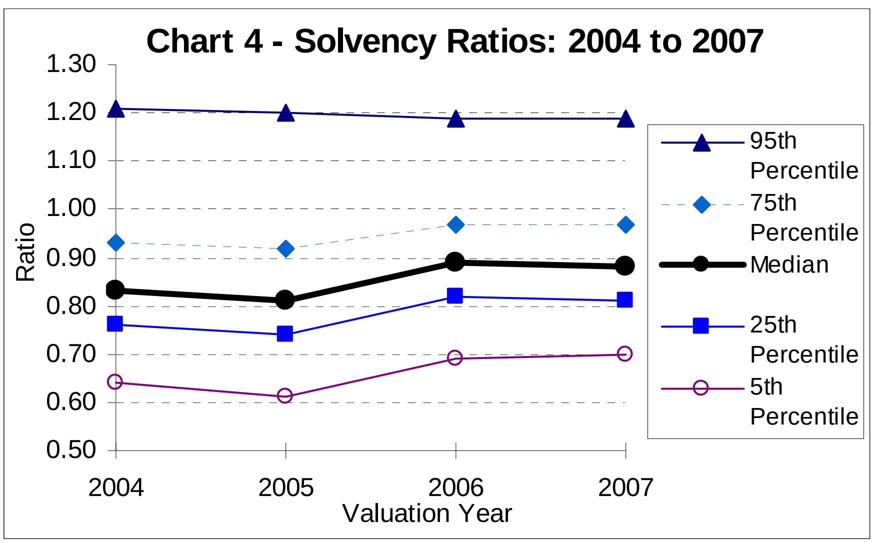
The overall solvency funding position of pension plans remained relatively unchanged from the 2006 level. In particular, the solvency funding position of pension plans in 2007 was affected by:

- Pension fund returns, with a median return of 1.5%,[17] were lower than the liability interest rates assumed in the 2006 valuation.

- Deficit reduction special payments were made or contribution holidays were taken during 2007, which had positive and negative effects, respectively.

- Solvency valuation assumptions remained relatively stable, in comparison with those used in the 2006 valuation:
    - The interest rate assumption for calculating transfer values changed from 4.75% for all years (effective at the end of 2006) to 4.75% for the first 10 years and 5.0% thereafter (effective at the end of 2007).
    - The interest rate assumption used to value immediate pensions decreased from 4.6% (effective at the end of 2006) to 4.5% (effective at the end of 2007).
    - The mortality assumption remained unchanged as 1994 UP with projection for mortality improvement to year 2015.

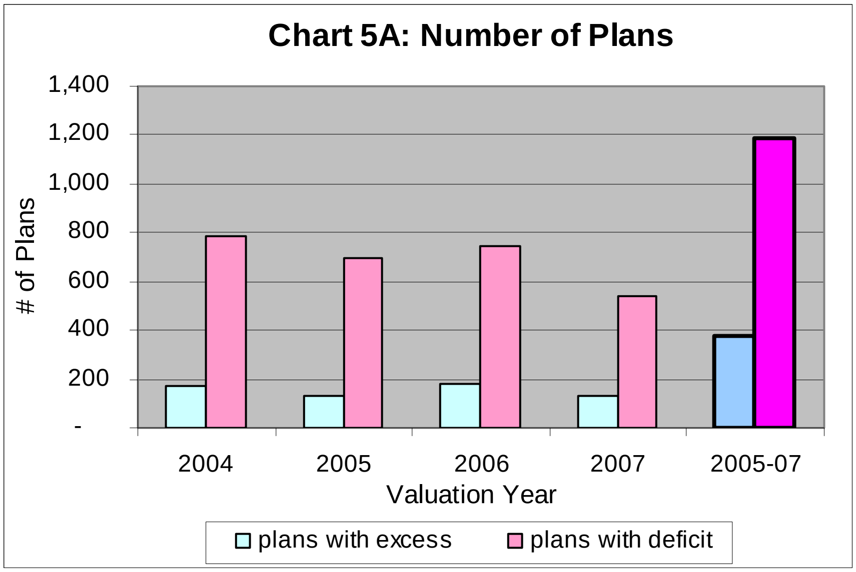
Chart 4 shows the distribution of solvency ratios at different percentiles. The solvency ratios at the 95th percentile have been relatively stable in recent years. All other percentiles experienced an increase from the 2005 valuation year to the 2006 valuation year, and remained relatively stable for the 2007 valuation year.



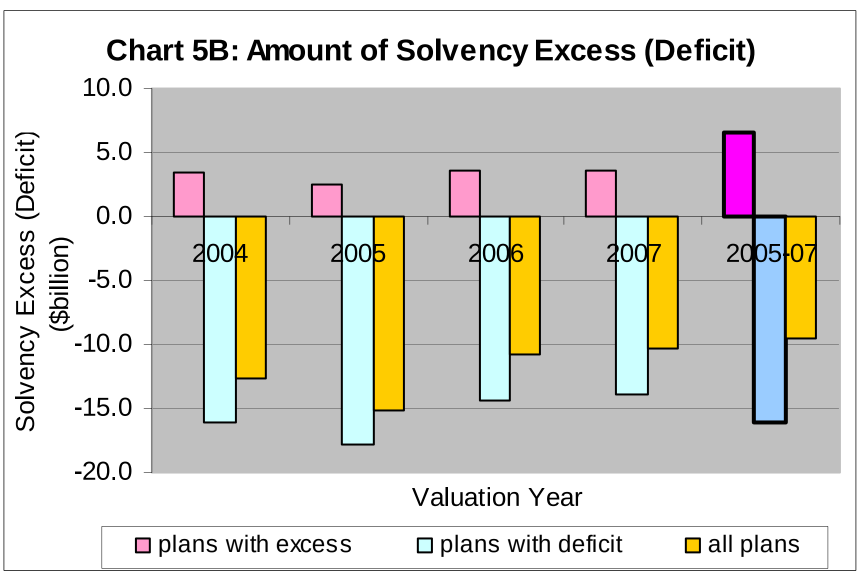
[17] Canadian Institute of Actuaries, *Report on Canadian Economic Statistics 1924-2007*, April 2008.

Chart 5 compares plans with a solvency excess to those with a solvency deficit for each of the four valuation years from 2004 to 2007, as well as for the three-year valuation period of 2005 to 2007.[18] Chart 5A compares the number of plans and Chart 5B compares the amount of solvency excess (deficit).

Chart 5 - Solvency Funding Positions of Ontario Defined Benefit Plans



The number of plans with solvency excesses has remained well below the number of plans with solvency deficits.



[18] Individual valuation years include those plans that filed a report with a valuation date that fell during that individual year. The 2005-07 period includes only the last funding valuation report filed for a plan with a valuation date falling in the period July 1, 2005 to June 30, 2008. The sum of the number of plans included in each of the 2005, 2006 and 2007 valuation years is higher than the number of plans included in the combined period 2005-2007.

On a dollar amount basis, plans that filed a report within the three valuation years 2005 to 2007 reported a *net* solvency deficit of $9.6 billion (after allowance for expenses) on solvency liabilities of $155.4 billion. This represents the aggregate level of under-funding for the DB plans registered in Ontario, exclusive of the seven public sector plans and the other excluded plans previously described.

Ontario's legislation allows certain benefits (e.g., post-retirement indexation, consent benefits, plant closure and permanent layoff benefits) to be excluded in the calculation of solvency liabilities. There were 221 plans that excluded one or more of these benefits, resulting in a reduction of liabilities in the amount of $12.5 billion. Thus, the aggregate *wind up* funding shortfall for those plans that filed a report within the three valuation years 2005 to 2007 would have exceeded their *net* solvency deficit by the same amount. This translates into a wind up funding deficit of $22.1 billion ($9.6 plus $12.5), after allowance for expenses, on wind up liabilities of $167.9 billion.

4.2 Actuarial Assumptions

Table 15 shows the interest rate assumptions used in the going concern valuations. There is a clear trend of using a lower interest rate assumption since 2004. This downward trend has been reported since we started publishing trend statistics for valuation years after 2000.

Table 15 - Interest Rate Assumption by Valuation Year

	2004		2005		2006		2007	
Rate (%)	# of Plans	% of Plans	# of Plans	% of Plans	# of Plans	% of Plans	# of Plans	% of Plans
Rate < 5.50	7	0.7%	30	3.6%	55	5.9%	40	5.9%
5.50 ≤ Rate < 6.00	53	5.6%	86	10.4%	132	14.2%	83	12.3%
6.00 ≤ Rate < 6.50	239	25.1%	235	28.3%	290	31.1%	280	41.4%
6.50 ≤ Rate < 7.00	378	39.6%	360	43.4%	374	40.2%	245	36.3%
7.00 ≤ Rate < 7.50	257	26.9%	110	13.3%	79	8.5%	27	4.0%
Rate ≥ 7.50	20	2.1%	8	1.0%	1	0.1%	1	0.1%
Total	954	100.0%	829	100.0%	931	100.0%	676	100.0%
Average (%)	6.51%		6.34%		6.22%		6.17%	

The average of the assumed interest rates declined from 6.51% to 6.17% over the four valuation years 2004 to 2007 and, for the first time, the interest rate range most often used dropped from the 6.50-6.99% range to the 6.0-6.49% range.

The proportion of plans using an interest rate assumption of 7% or more has decreased each year. Almost 96% of the plans with a 2007 valuation used an assumed interest rate below 7%.

As a comparison, the Canadian Institute of Actuaries recommended the following select-period interest rates for computing minimum transfer values: 5.5% (2004), 4.5% (2005) and 4.75% (2006 and 2007).

Table 16 shows the relative frequency of the mortality tables used in going concern valuations. Almost all plans are now using more up-to-date mortality tables, i.e., the 1994 tables (GAM, GAR, UP).

Table 16 - Mortality Assumption by Valuation Year

	2004		2005		2006		2007	
Mortality Assumption	**# of Plans**	**% of Plans**	**# of Plans**	**% of Plans**	**# of Plans**	**% of Plans**	**# of Plans**	**% of Plans**
1983 GAM	138	14.5%	24	2.9%	14	1.5%	8	1.2%
1994 GAM static	174	18.3%	79	9.5%	54	5.8%	10	1.5%
1994 GAR	7	0.7%	9	1.1%	14	1.5%	8	1.2%
1994 UP	625	65.5%	709	85.5%	826	88.7%	626	92.6%
Other	10	1.0%	8	1.0%	23	2.5%	24	3.5%
Total	954	100.0%	829	100.0%	931	100.0%	676	100.0%

In the 2004 valuation year, 84% of the plans used a 1994 table. This percentage was above 96% for the 2005 and 2006 valuation years. In the 2007 valuation year, all but 8 plans (99%) used a mortality table of 1994 or later.[19]

The trend towards using more up-to-date mortality tables is particularly evident with the 1994 UP table. The proportion of plans using that table (with or without projection for mortality improvement) has increased each year since 2004 (and earlier), from 65.5% in 2004 to 92.6% in 2007.

[19] All of the plans using "Other" mortality assumptions (24 of them) used other post-1994 mortality tables – e.g., RP2000.

5.0 2008 Projections

5.1 Estimated Funding Contributions in 2008

Table 17 presents the estimated funding contributions – comprising normal costs and special payments – that are expected to be made in respect of defined benefits in 2008, including those related to defined benefit provisions under hybrid plans. The estimates are based on information from the most recently filed funding valuation reports with valuation dates between July 1, 2005 and June 30, 2008.[20]

Table 17 – Estimated Funding ($Million) of Defined Benefits in 2008

	Plans with Solvency Excess	Plans with Solvency Deficit	All Plans
Number of Plans	377	1,187	1,564
Employer Normal Cost Contributions	$ 1,322	$ 2,007	$ 3,329
Member Required Contributions	$ 357	$ 179	$ 536
Sub-total	**$ 1,679**	**$ 2,186**	**$ 3,865**
Special Payments	$ 84	$ 2,421	$ 2,505
Total	**$ 1,763**	**$ 4,607**	**$ 6,370**

The total estimated funding contributions for 2008 are estimated to be $6.4 billion, which is very close to the 2007 estimate of $6.5 billion. A $157 million decrease in special payments (primarily from solvency valuations) was partially offset by a $63 million increase in normal cost and member contributions (from going-concern valuations). The special payments of $2.5 billion represent 39% of the total estimated 2008 funding contributions of $6.4 billion.

The table also provides a breakdown of the estimated funding contributions between plans that had a solvency excess and plans that had a solvency deficit. The aggregate special payments for plans with a solvency excess ($84 million) represent 5% of the total contributions ($1.8 billion) for these plans. This compares with the aggregate special payments for plans with a solvency deficit ($2.4 billion), which represent 53% of the total contributions ($4.6 billion) for these plans.

The estimated 2008 funding contributions are determined without consideration of prior year credit balances, which can be used to reduce required contributions during the valuation period. A total of $853.3 million of prior year credit balances were reported for 121 plans that had a non-zero prior year credit balance.

[20] For plans where AIS reported contributions did not extend to the end of 2008, the 2008 estimated contributions were determined assuming contributions would continue at the same rate as that reported for the valuation period.

5.2 Projected Solvency Position as at December 31, 2008

This section presents a projection of the solvency funding position of DB plans to the end of 2008 by capturing the impact of investment returns, changes in solvency interest rates and the special payments expected to be made during 2008. The methodology and assumptions used are described below.

Methodology and Assumptions

The results reported in the last filed funding valuations (i.e., assets and liabilities) were first adjusted, where appropriate, to reflect the financial conditions as at December 31, 2007. The adjusted results were then projected to the end of 2008, using the following assumptions:

- Sponsors would use all available funding surplus and prior year credit balance, subject to any statutory restrictions, for contribution holidays;

- Sponsors would make the normal cost contributions and special payments, if required, at the statutory minimum level;[21] and

- Amounts of cash outflow would be the same as the pension amounts payable to retired members as reported in the last filed funding valuation.

The median investment returns of pension funds (shown in Table 18 below) were used to project the market value of assets. The actual investment performance of individual plans was not reflected.

Table 18 – Median Pension Fund Returns

Year	Annual Rate of Return[22]
2004	10.1%
2005	11.8%
2006	12.3%
2007	1.5%
2008	-14.1%

The projected liabilities as at December 31, 2007 and December 31, 2008 were determined by extrapolating the solvency liabilities from the last valuation, and then adjusting them to reflect any changes in the solvency valuation basis, as provided in Table 19.

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[21] If the valuation period did not extend to the end of the projection period, contributions were assumed to continue at the same rate as that reported for the valuation period.

[22] For years 2004 to 2007, the rates are the median investment returns of pension funds provided in the Canadian Institute of Actuaries' *A Report on Canadian Economic Statistics 1924-2007*, dated April 2008. The rate for 2008 is the Canadian pooled balanced pension fund median return in accordance with the Mercer Investment Consulting's Pooled Fund Survey for the period ending December 31, 2008.

Table 19 – Solvency Liability Projection Basis

Valuation Date	Commuted Value Basis	Annuity Purchase Basis
December 31, 2007	Interest: 4.75% for 10 years, 5.00% thereafter Mortality: 1994 UP projected to 2015	Interest: 4.5% Mortality: 1994 UP projected to 2015
December 31, 2008[23]	Interest: 3.75% for 10 years, 5.25% thereafter Mortality: 1994 UP projected to 2015	Interest: 4.55% Mortality: 1994 UP projected to 2015

Projection Results

Table 20 presents the distribution of solvency ratios that were reported in the filed funding valuations and the distribution of projected solvency ratios (PSRs) derived from the projected assets and liabilities.

Table 20 – Distribution of Solvency Ratios

Distribution of Solvency Ratio	As at Last Filed Valuation	PSR as at December 31, 2007	PSR as at December 31, 2008
10th Percentile	79%	81%	69%
25th Percentile	84%	87%	73%
50th Percentile	91%	93%	77%
75th Percentile	100%	100%	81%
90th Percentile	112%	110%	88%

After several years of improved solvency funding ratios, the projected solvency ratios at December 31, 2008 would drop substantially as a result of the market turmoil in 2008.

Table 20 shows that the median PSR is estimated to drop from 93% to 77% between December 31, 2007 and December 31, 2008. The decrease in PSR was due mainly to the losses from negative investment returns for pension funds and a decrease in the interest rates for commuted values, partially offset by the funding improvements due to special payments expected to be made during 2008. Plans with solvency ratios less than median (and often with higher proportional special payments) are expected to see a smaller decrease in PSRs in 2008, while the PSRs for plans with solvency ratios above median (and often with lower proportional or zero special payments) are estimated to have a larger decrease during the same period.

[23] The commuted value basis for the December 31, 2008 solvency projections is based on the Canadian Institute of Actuaries' Standards of Practice for Pension Commuted Values, section 3800, effective February 1, 2005.

6.0 Glossary

The following terms are explained for the purpose of this report:

Defined Benefit Pension Plan: In a DB pension plan, the amount of the pension benefit is determined by a defined formula, usually based on years of service. There are several types of DB plans, including:

- **Final Average** – the benefit is normally based on the member's average earnings over the member's last several years (typically 3 or 5) of employment and years of service;
- **Career Average** – the benefit is normally based on the member's earnings over the member's entire period of service; and
- **Flat Benefit** – the benefit is normally based on a fixed dollar amount for each year of service.

Defined Contribution Pension Plan: In a defined contribution plan, the amount of the pension benefit is based solely on the amount contributed to the member's individual account together with any expenses and investment returns allocated to that account.

Funded Ratio: The funded ratio of a plan is the ratio of the plan's assets to the plan's liabilities.

Funding Valuation: This is a valuation of a DB pension plan prepared for funding purposes. Two types of valuations are required by the PBA: a *going concern* valuation, which assumes the pension plan will continue indefinitely; and a *solvency* valuation, which assumes the plan would be fully wound up as at the effective date of the valuation. Under Ontario's legislation, a solvency valuation may exclude the value of specified benefits, for example, indexation, prospective benefit increases, or plant closure/layoff benefits.

Hybrid Pension Plan: A hybrid pension plan contains both defined benefit and defined contribution provisions.

Investment Return: Rate of return on the pension fund for the reporting year, net of all investment expenses.

Investment Outperformance: The amount by which the pension fund's investment return for the reporting year exceeds (or falls short of) the corresponding market return determined for the same reporting period, using a weighted average of the benchmark market indices for the different asset classes of the pension fund's asset mix.

Liability and Asset Valuation Methods: These are the actuarial methods used by actuaries to value the liabilities and assets of a pension plan.

Multi-Employer Pension Plan: A multi-employer pension plan covers the employees of two or more employers and is specifically defined in the legislation. Typically, these plans provide defined benefits but the required contributions are negotiated through collective bargaining.

Smoothed Market Value: The smoothed market value is determined by using an averaging method that stabilizes short-term fluctuations in the market value of plan assets, normally calculated over a period of not more than five years.

Consultations and Proposed Legislation

2019 2018 2017 2016 2015 2014 2013 2012 2011

This page provides links to consultation papers and proposed legislation primarily related to the regulation of Ontario pension plans under the Pension Benefits Act and related legislation. Links to the consultation papers and proposed legislation of other jurisdictions are provided for your convenience.

In addition to the consultation papers and proposed legislation noted here, a number of FSCO consultation papers, along with information on making submissions, are provided on the website. All stakeholders are encouraged to review these documents and submit their comments.

2019

Consultation on Proposed Amendments to the Pension Benefits Act: Electronic Communications

On August 6, 2019, the Ontario government released a consultation document that provides details of proposed amendments to the Pension Benefits Act to help facilitate further electronic communication between administrators and members. Comments may be submitted to the Ministry of Finance by August 27, 2019.

Consultation on Proposed Amendments to Ontario Regulation 193/18 Concerning the Purchase of Pension Benefits from an Insurance Company

On April 11, 2019, the Ontario government released a consultation document that provides details of proposed regulatory amendments to Regulation 193/18 in order to support technical amendments made to the Pension Benefits Act in the fall of 2018 to clarify the annuity discharge provision. Comments may be submitted to the Ministry of Finance by May 3, 2019.

Consultation on Proposed Regulations for Variable Benefits

On April 11, 2019, the Ontario government released a consultation document that provides details of proposed regulations which are required to proclaim the variable benefits provisions in the Pension Benefits Act (PBA) into force. The variable benefits provisions in the PBA would permit a pension plan that provides DC benefits to offer Life Income Fund (LIF)-like payments directly from the plan through the establishment of a variable benefit account. The proposal also proposes consequential technical amendments to the Family Law Regulations as well as the General Regulation 909. Comments may be submitted to the Ministry of Finance by May 3, 2019.

2018

Consultation - Ontario's Proposed Funding Rules for Multi-Employer Pension Plans that Offer Target Benefits: Description of Proposed Regulations

On April 4, 2018, the Ontario government released a consultation document that provides a description of proposed regulations relating to the funding framework for eligible multi-employer pension plans that provide target benefits. Comments may be submitted to the Ministry of Finance by May 4, 2018.

Consultation on Proposed Regulations for Variable Benefits

On March 20, 2018, the Ontario government released a consultation document that provides details of proposed regulations, which are required to proclaim the variable benefits provisions in the Pension Benefits Act (PBA) into force. The variable benefits provisions in the PBA would permit a pension plan that provides DC benefits to offer Life Income Fund (LIF) - like payments directly from the plan through the establishment of a variable benefit account. Comments may be submitted to the Ministry of Finance by May 4, 2018.

Consultation on proposed amendments to Pension Benefits Guarantee Fund (PBGF) assessments

On January 19, 2018, the Ontario government released a consultation document that provides details of proposed amendments to the PBGF assessment formula in Regulation 909 under the Pension Benefits Act. The changes to the assessment formula are in response to a planned increase in the PBGF coverage limit to $1500 per month, announced by the government in May 2017 (but which is not yet in effect). Comments may be submitted to the Ministry of Finance until February 20, 2018.

2017

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act (PBA): Provision of Discharge for Purchase of Annuities

On December 14, 2017, the Ontario government proposed regulatory amendments under the PBA, to provide pension plan Administrators with a discharge of liabilities in respect of the purchase of annuities for former and retired members of a Single Employer Pension Plan. Comments may be submitted to the Ministry of Finance by January 29, 2018.

Consultation on Reform on Ontario's Funding Rules for Defined Benefit Pension Plans

On May 19, 2017, the Ontario government announced it would be implementing a new funding framework for defined benefit pension plans. On December 14, 2017, the government released a consultation document Size: ## kb that provides details of the proposed amendments to Regulation 909, to implement many of the May 2017 proposals. The changes are intended to apply to valuation reports dated on or after December 31, 2017, that are filed after the new framework comes in force, except if otherwise noted. Feedback may be submitted to the Ministry of Finance by January 29, 2018.

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act: Making Permanent the Temporary Exemption of Certain Jointly Sponsored Pension Plans (JSPPs) from the Requirement to File a Reference Valuation

JSPPs named in s.47.7.1 of Regulation 909 are exempted until March 31, 2018, from the requirement to file a reference valuation provision. On September 22, 2017, the Ontario government proposed regulatory amendments to make this a permanent exemption. Comments may be submitted to the Ministry of Finance by November 9, 2017.

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act: Extending the Temporary Exemption for Certain Jointly Sponsored Pension Plans (JSPPs) from the Annual Valuation Filing Requirement

Certain JSPPs have been temporarily exempted from the solvency concerns filing requirement until December 31, 2017. On September 22, 2017, the Ontario government proposed regulatory amendments to extend the current exemption for these plans for an additional two years. Comments may be submitted to the Ministry of Finance by November 9, 2017.

Proposed Amendments to Ontario Regulation 909 under the Pension Benefits Act: Superintendent Consent for Annuity Purchases on Wind Up & Extended Allocation of Payments from the Pension Benefits Guarantee Fund

Schedule 19 of Bill 70-Building Ontario Up for Everyone Act (Budget Measures) 2016, introduced new provisions into the Pension Benefits Act (PBA). On August 11, 2017, the Ontario government proposed regulations that are required before these sections can be proclaimed. Comments may be submitted to the Ministry of Finance by September 8, 2017.

Proposed Amendment to Regulation 311/15 under the Pension Benefits Act: broader public sector Single Employer Pension Plan mergers (SEPPs) with Jointly Sponsored Pension Plans (JSPPs)

On June 26, 2017, the Ontario government proposed regulatory amendments under the PBA to enact changes to better facilitate mergers for those broader public sector employers who would like to merge their SEPPs with an existing JSPP. Comments may be submitted to the Ministry of Finance by July 10, 2017.

Proposed Amendments to Ontario Regulation 909 under the Pension Benefits Act: Administrative Penalties

On April 28, 2017, the Ontario government proposed regulatory amendments under the PBA that would provide the Superintendent of Financial Services (Superintendent) with the authority to impose administrative penalties if the Superintendent is satisfied that a person is contravening a prescribed provision of the PBA or the regulations, a requirement imposed by order, or an obligation assumed by way of undertaking. Comments may be submitted to the Ministry of Finance by June 12, 2017.

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act: Special Orders by the Superintendent

On April 28, 2017, the Ontario government proposed regulatory amendments under the PBA that would provide the Superintendent of Financial Services with the authority to issue special orders requiring an administrator, an employer or any other person to prepare and file a new valuation report or another prescribed type of report in respect of a pension plan, in prescribed circumstances. Comments may be submitted to the Ministry of Finance by June 12, 2017.

Proposed Amendments to Regulation 909 under the Pension Benefits Act - Portability Options for Retired Members

On January 9, 2017, the Ontario government proposed amendments to Regulation 909 that would update references to portability to recognize retired members' access to them. Comments may be submitted to the Ministry of Finance by January 20, 2017.

2016

Proposed Amendments to Regulation 909 of the Pension Benefits Act - Superintendent Power to Appoint or Act as Administrator

On September 13, 2016, the Ontario government proposed amendments to Regulation 909 that would allow the Superintendent of Financial Services to appoint or act as the administrator of a pension plan in prescribed circumstances. Comments may be submitted to the Ministry of Finance by September 22, 2016.

Proposed Amendment to Regulation 909 of the Pension Benefits Act (PBA) - Advisory Committees

On August 25, 2015, the Ontario government proposed an amendment to Regulation 909 that would implement section 24 of the PBA, concerning pension advisory committees. Based on feedback received during this consultation, on August 22, 2016, the Ontario government proposed revisions to the amendment. Two subsections have also been added that would implement recent amendments made to section 24 of the Pension Benefits Act by the Jobs for Today and Tomorrow Act (Budget Measures), 2016. The revisions and additions are underlined in the amendment. Comments may be submitted to the Ministry of Finance by September 12, 2016.

Proposed Amendment to Ontario Regulation 178/11 under the Pension Benefits Act (PBA) - Solvency Funding Relief for Certain Public Sector Pension Plans

On July 29, 2016, the Ontario government proposed regulatory amendments under the PBA, to allow sponsors of pension plans to reduce the minimum required level of solvency funding, on a temporary basis. Comments may be submitted to the Ministry of Finance by September 9, 2016.

Consultation - Ontario Review of Solvency Funding

On July 26, 2016, the Ontario Government released a consultation paper on solvency funding in Ontario. Feedback on key policy issues associated with pension plan funding in Ontario may be submitted to the Ministry of Finance by September 30, 2016.

Consultation on draft regulations under the Pooled Registered Pension Plans Act, 2015 (PRPP Act)

On May 28, 2015, the PRPP Act received Royal Assent. The Jobs for Today and Tomorrow Act (Budget Measures), 2016 amended the PRPP Act to further facilitate harmonization with other jurisdictions and ensure the efficient operation of pooled registered pension plans (PRPPs). The draft regulations will complete the legal framework for the establishment and administration of PRPPs in Ontario and enable the PRPP Act to be proclaimed. Comments may be submitted to the Ministry of Finance by August 19, 2016

Consultation regarding 30 per cent Rule on Federally Regulated Pension Plans

The Department of Finance Canada announced the launch of consultations to assess the value of the 30 per cent rule —the rule that restricts federally regulated pension plans from holding more than 30 per cent of the voting shares of a company—in the prudent management of pension investments. The consultations will also seek views on the tax policy issues associated with the growth of active investments by pension plans. Comments on the ongoing usefulness of the 30 per cent rule and considerations relating to its retention, relaxation or elimination should be sent before September 16, 2016, by email to: FIN.Pensions-Pensions.FIN@canada.ca.

Proposed Amendment to Regulation 909 under the Pension Benefits Act (PBA) - Temporary Solvency Funding Relief for Private Sector Defined Benefit Pension Plans

On May 6, 2016, the Ontario government proposed regulatory amendments under the PBA that would provide private sector sponsors of single-employer defined benefit pension plans temporary solvency funding relief, as announced in the 2015 Ontario Economic Outlook and Fiscal Review and the 2016 Ontario Budget. Comments may be submitted to the Ministry of Finance by May 13, 2016.

CAPSA Consultation on the Revisions to the Pension Plan Governance Guideline

On March 11, 2016, CAPSA released a draft of their revised Guideline No. 4: Pension Plan Governance, and the related Self-Assessment Questionnaire and FAQ Document. This consultation is part of CAPSA's strategic initiative to review and determine if revisions are necessary to CAPSA's pension plan governance guidance, which is intended to assist plan administrators to implement and maintain good governance practices. CAPSA invites comments from all pension industry stakeholders by June 10, 2016.

Proposed Amendment to Regulation 909 under the Pension Benefits Act (PBA) - Eliminating the 30 per cent rule for Pension Investment

On March 14, 2016, the Ontario government proposed a regulatory amendment to eliminate the rule that restricts a pension plan from investing in more than 30 per cent of the voting shares of a corporation, known as the '30 per cent rule'. Comments may be submitted to the Ministry of Finance by April 29, 2016.

Proposed Amendments to Regulation 310/13 under the Pension Benefits Act (PBA) - Asset Transfers under Sections 80 and 81 of the PBA

The current asset transfer rules that came into effect on January 1, 2014, apply only to single employer pension plans. The proposed regulatory amendments would allow these existing rules to also apply to multi-employer pension plans (MEPPs). These amendments are not related to the proposed framework for Target Benefit multi-employer pension plans. The consultation draft is intended to facilitate dialogue concerning the proposed regulatory amendments. Comments may be submitted to the Ministry of Finance by March 21, 2016.

2015

Proposed Amendment to Regulation 178/11 under the Pension Benefits Act - Solvency Funding Relief for certain Public Sector Pension Plans

Currently, pension plans in stage 2 of the broader public sector solvency funding relief program are able to make interest only payments for the first 3 years in stage 2 and amortize the balance of their stage 2 solvency deficit over the remaining 7 years. This option is only available to plans that entered stage 2 on or before December 31, 2014. The amending regulation would extend this option to all plans accepted to stage 2. Comments may be submitted to the Ministry of Finance by November 16, 2015.

Proposed Amendments to Regulations under the Pension Benefits Act – Actuarial Standards

On October 15, 2015, the Ontario government proposed amendments to Regulation 909, O. Reg. 287/11(Family Law Matters) and O. Reg. 310/13 (S. 80 and 81 Asset Transfers). The amendments would update the commuted value calculation requirements for pensions, to reflect current actuarial standards of practice. Comments may be submitted to the Ministry of Finance by November 30, 2015.

Consultation on draft regulation to amend Regulation 909 under the Pension Benefits Act

On October 13, 2015, the Ontario government posted for public consultation a draft regulation which would exempt the Hamilton Street Railway Pension Plan from the application of the Pension Benefits Guarantee Fund and related assessment, on a go-forward basis, effective January 1, 2016. Comments may be submitted to the Ministry of Finance by November 16, 2015.

Proposed Amendment to Regulation 909 under the Pension Benefits Act

On August 25, 2015, the Ontario government proposed an amendment to Regulation 909 that would implement section 24 of the PBA, concerning pension advisory committees. Comments may be submitted to the Ministry of Finance by October 13, 2015.

Target Benefit Multi-Employer Pension Plans (MEPPs)

The Ontario government has released a consultation paper inviting feedback on key policy issues associated with developing a new target benefit framework for MEPPs in Ontario. The proposed framework would address issues such as eligibility conditions, funding rules and governance requirements. Comments can be submitted to pension.feedback@ontario.ca. Due to interest in this consultation, the submission deadline **has been extended to October 9, 2015** (from September 25, 2015).

Draft Regulations under the Pension Benefits Act (PBA) - conversions/merger of broader public sector single employer pension plans (SEPPs) into jointly sponsored pension plans (JSPPs)

Bill 14 - the 2014 Budget Bill - amended the PBA to establish a legislative framework permitting single employer pension plans in the broader public sector to be converted into jointly sponsored pension plans (JSPPs) or merged into existing JSPPs if specific conditions are satisfied. Regulatory amendments are required to proclaim the framework. Consultation on the draft regulations was completed in February 2015; the feedback has been incorporated into a revised draft of the proposed regulations. Comments are to be submitted to the Ministry of Finance by August 10, 2015.

Proposed Amendments to Regulation 909 under the Pension Benefits Act

On April 21, 2015, the Ontario government introduced for consultation proposed amendments to Regulation 909. These amendments would enact changes to strengthen the funding rules for contribution holidays and benefit improvements. Comments are to be submitted to the Ministry of Finance by June 12, 2015.

Proposed Criteria for Exempting New Broader Public Sector (BPS) Multi-Employer JSPPs from Solvency Funding Requirements

On April 15, 2015, the Ontario government has released a consultation paper on the proposed criteria that the government might use to evaluate whether newly established multi-employer Jointly Sponsored Pension Plans (JSPPs) obtain an exemption from solvency funding requirements. Comments can be sent to the Ministry of Finance by June 1, 2015.

Proposed Regulations under the Pension Benefits Act: Merger of Broader Public Sector (BPS) Single Employer Pension Plans (SEPPs) with Existing Jointly Sponsored Pension Plans (JSPPs) or Conversion to new JSPPs

The 2014 Budget Bill - Bill 14 - amended the Pension Benefits Act to establish a legislative framework permitting SEPPs in the BPS to be converted into JSPPs or merged into existing JSPPs, if specific conditions are satisfied. The Ontario government is inviting feedback on the key regulations required for the conversion or merger. The consultation documents include the proposed content for the regulations and an overview of the conversion and merger process. Comments can be sent to the Ministry of Finance by Feb. 27, 2015.

2014

Ontario Retirement Pension Plan

The Ontario government has released a consultation paper inviting feedback on key design details of the new Ontario Retirement Pension Plan (ORPP). Feedback on questions related to delivery, administration and the phased implementation can be sent to the Ministry of Finance by Feb. 13, 2015.

Proposed Amendment to Regulation 909 under the Pension Benefits Act: Pension Investment in Infrastructure

On November 6, 2014, the Ontario government proposed a regulatory amendment with respect to exemptions from the 30 per cent rule for pension investment in infrastructure. Comments may be submitted to the Ministry of Finance by January 9, 2015.

Proposed Amendments to Regulation 909 of the Pension Benefits Act

The Ontario Government has incorporated feedback from the April-June 2014 consultation and is proposing the following amendments:

- Disclosure of Environmental, Social and Governance Factors in Statements of Investment Policies and Procedures
- Statements for Former and Retired Members

There is also a proposal to amend subsection 20(3) of the Regulation so that it applies only to section 42(1)(b) and (c) of the Act:

- Commuted value transfers from Ontario plans to plans in other Canadian jurisdictions

Comments may be submitted to the Ministry of Finance by October 24, 2014.

Proposed Amendment to Regulation 909 of the Pension Benefits Act - Statements for Former and Retired Members

On April 25, 2014, the Ontario government proposed regulatory requirements to implement s. 27(2) of the PBA, requiring plan administrators to provide periodic statements to former members and retired members. Comments may be submitted to the Ministry of Finance no later than June 16, 2014.

Proposed Amendment to Regulation 909 under the Pension Benefits Act: Disclosure of Environmental, Social and Governance Factors in Statements of Investment Policies and Procedures

On April 25, 2014, the Ontario government proposed regulatory amendments that would require plans to file Statements of Investment Policies and Procedures (SIPPs) with the regulator and to disclose whether or not their SIPPs address environmental, social or governance factors. Comments may be submitted to the Ministry of Finance no later than June 16, 2014.

Proposed Amendment to Regulation 909 under the Pension Benefits Act: Updated filing requirements to reflect recent changes to accounting standards

On April 25, 2014, the Ontario government proposed regulatory amendments to update Section 76 of the General Regulation of the Pension Benefits Act (PBA) to reflect updates to the Chartered Professional Accountant (CPA) Canada Handbook, previously referred to as the Canadian Institute of Chartered Accountants (CICA) Handbook. Comments may be submitted to the Ministry of Finance no later than June 16, 2014.

Proposed Amendment to Regulation 909 under the Pension Benefits Act - Direct Payments from Pension Plans which provide Defined Contribution Benefits

On April 25, 2014, the Ontario proposed regulatory amendments that would allow pension plans which provide a defined contribution benefit to pay retirement income directly to members, based on Life Income Fund amounts under the PBA. Comments may be submitted to the Ministry of Finance no later than June 10, 2014.

Proposed Amendment to Regulation 909 - Exemption for U.S. government securities from the "10 per cent rule"

On February 5, 2014, the Ontario government proposed a regulatory amendment that would modify one of the quantitative investment limits that apply to registered pension plans in Ontario, which promotes diversification by restricting a plan administrator from investing more than 10 per cent of a pension plan's assets in a single entity, or two or more associated entities or affiliated companies. The proposed amendment would remove this restriction for investments in securities issued and fully guaranteed by the government of the United States of America. Comments on the proposal can be submitted to the Ministry of Finance on or before February 18, 2014.

2013

Pooled Registered Pension Plans (PRPP)

On November 29, 2013, the Ontario government issued a consultation paper titled "Consulting on a Framework for Pooled Registered Pension Plans in Ontario". The Ministry of Finance is seeking feedback from all interested parties on how a PRPP framework would be best implemented in Ontario. Comments can be submitted to the Ministry of Finance on or before January 20, 2014.

Letters of Credit - Public Sector Single Employer Pension Plans

On October 29, 2013, the Ontario government posted for comments, details of a draft regulatory amendment to extend the letter of credit (LOC) provisions to employer sponsors of SEPPs in the public sector that meet certain criteria. Comments may be submitted to the Ministry of Finance no later than December 31, 2013.

Consultation on Pension Asset Transfers

On July 2, 2013, the Ontario government posted for public consultation a draft regulation which would allow for the transfer of pension assets between pension plans that have been affected by a corporate restructuring, including the sale of a business, in either the public or private sector, while protecting benefit security for plan members and pensioners. Comments may be submitted to the Ministry of Finance no later than September 9, 2013.

Consultation on Pension Transfers – Public Sector Pension Plans

On February 21, 2013, the Ontario government posted for public consultation a draft regulation which would allow eligible members, former members and retired members of certain public sector pension plans to consolidate their pension benefits as a result of past government-initiated restructurings. Comments may be submitted to the Ministry of Finance no later than April 15, 2013.

2012

Facilitating Pooled Asset Management for Ontario's Public-Sector Institutions

On November 16, 2012, the Ministry of Finance released "Facilitating Pooled Asset Management for Ontario's Public-Sector Institutions", a report to the Minister of Finance from William Morneau, Pension Investment Advisor. This report follows an extended period of consultation and research, and contains a discussion of investment issues and recommendations for Ontario public sector pension plans.

Financial Hardship Unlocking

On November 13, 2012, the Ontario government released for consultation a proposed restructuring of the financial hardship unlocking program, which is intended to create a simpler and more efficient procedure for applicants requesting a withdrawal from their locked-in account based on financial hardship. Comments may be submitted to the Ministry of Finance no later than January 7, 2013.

Alberta government introduced the Employment Pension Plans Act

On October 25, 2012, the Alberta government introduced into its legislature Bill 10, the Employment Pension Plans Act.

Consultation on Proposed Regulation Respecting Letters of Credit

On July 30, 2012, the Ontario government posted for public consultation details of a draft regulatory amendment relating to letters of credit. Comments may be submitted to the Ministry of Finance no later than August 31, 2012.

Consultation on the Pooling of Pension Fund Assets of Broader Public Sector (BPS) Pension Plans

As announced in the 2012 budget, the Ontario government intends to introduce a legislative framework in Fall 2012 that would facilitate the pooling of pension fund assets in the BPS. Mr. Bill Morneau has been appointed as a special Pension Investment Advisor to lead the implementation process. The views of individual plans, affected stakeholders and other individuals and groups are being sought on a number of questions. Comments can be submitted to the Ministry of Finance on or before June 30, 2012.

Consultation on draft regulatory amendment - Public sector pension plans

On May 16, 2012, the Ontario government posted for consultation a draft regulatory amendment relating to filing extension for certain pension plans in the public sector and broader public sector for public comment. Comments for the draft amendment may be submitted to the Ministry of Finance no later than June 11, 2012.

Consultation on draft regulatory amendments under the Pension Benefits Act

On April 30, 2012, the Ontario government posted for consultation draft regulatory amendments relating to retired member, immediate vesting, surplus provisions and other changes. Also posted is an outline of the regulations required to implement sections of 74 and 74.1 of the Pension Benefits Act (grow-in) and a clarification of the circumstances under which the Superintendent may order the wind up of a pension plan.

Draft regulations relating to grow-in and to disclosure requirements were posted on May 3, 2012 and May 9, 2012 respectively.

Comments for any of these postings may be submitted to the Ministry of Finance no later than June 1, 2012. The announcement relating to these can be accessed via the ontariocanada.ca website.

Consultation on New legislative framework for jointly sponsored public sector pension plans

On April 25, 2012, the Ontario government released for consultation a new legislative framework for jointly sponsored public sector pension plans.

2011

Nova Scotia government announced a new Pension Benefits Act

The Nova Scotia government announced on November 15, 2011 a new Pension Benefits Act (the "Act") to modernize the Act, and to harmonize with the legislation of other jurisdictions. For more information, see the Labour and Advanced Education website of Nova Scotia.

CAPSA Guidelines on Pension Plan Prudent Investment Practices, Self-Assessment Questionnaire on Prudent Investment Practices, and Pension Plan Funding Policy

On November 15, 2011, CAPSA released:

- Letter to Stakeholders
- Guideline No. 6 on Pension Plan Prudent Investment Practices
- Self-Assessment Questionnaire on Prudent Investment Practices
- Guideline No. 7 on the Pension Plan Funding Policy

The prudent investment practices guideline and companion questionnaire are intended to provide guidance to plan administrators on how to demonstrate the application of prudence to the investment of pension plan assets. The funding policy is intended to provide guidance on the development and adoption of funding policies. Additional information is available on the CAPSA website www.capsa-acor.org.

Consultation on Transfer Agreements under s. 80.1 of the Pension Benefits Act (PBA)

On July 5, 2011, the Ontario Government posted the intended content of the regulations pursuant to section 80.1 of the Pension Benefits Act that will allow certain public sector pension plans to negotiate agreements that will give eligible employees an opportunity to consolidate their pension benefits from past government-initiated restructurings. Comments on these proposals can be made until August 19, 2011.

Bill 33 - amendments to the Pension Benefits Act of Manitoba

The Manitoba government has introduced Bill 33 that would amend the Pension Benefits Act (PBA) of Manitoba to allow the province's superintendent of pensions to register a lien against all property of an employer, including real estate, for failure to pay into a plan. Section 4 of the Bill amends section 11(3) of the Manitoba PBA relating to multi-jurisdictional pension plans.

Bill 173 - Better Tomorrow for Ontario Act, 2011

On May 5, 2011, the Ontario Government ordered for third reading of Bill 173. Schedule 35 of the bill contains several proposed amendments to the Pension Benefits Act. One of these proposed amendments permits a pension plan to provide a provision within its plan terms that allows a former member to transfer the commuted value of his or her deferred pension towards the purchase a life annuity. Note: this provision would change the earlier amendment proposed in Bill 135 which would have seen this option disappear in June 2011.

Risk-Based Regulation Framework sol

This consultation paper solicits pension stakeholders' comments and feedback on FSCO's proposed broad-based framework for the risk-based regulation of pension plans in Ontario. The purpose of introducing this framework is to improve FSCO's overall effectiveness in its monitoring of key pension risks, and to ensure appropriate regulatory response is taken by FSCO to address risk situations, thereby better protecting the interests of pension plan beneficiaries.

Bill 133, Family Statute Law Amendment Act, 2009

On March 3, 2011, the Ontario Government released draft regulations and consultation paper (PDF) in support of the previously enacted amendments to the Pension Benefits Act related to family law matters. The draft regulations provide the details related to the valuation, division and settlement of pension assets on the breakdown of a spousal relationship. The consulation paper outlines the contents of the draft regulations that are currently under consideration. Comments on these documents can be made until April 18, 2011.

CAPSA Guideline on Fund Holder Arrangements

On March 1, 2011, CAPSA released a Guideline on Fund Holder Arrangements (Guideline No. 5). The guideline highlights the governance principles related to fund holder arrangements, identifies the types of fund holder arrangements permitted, discusses roles and responsibilities of key players and provides information on what the regulator looks for when examining fund holder arrangements. A copy of the Guideline, Guideline Table and Letter to stakeholders are available on the CAPSA website (www.capsa-acor.org).

CAPSA Consultation - Draft Guideline and Self-Assessment Questionnaire on Pension Plan Prudent Investment Practices, and Draft Guideline on Pension Plan Funding Policy

On March 1, 2011, CAPSA released a draft Guideline and Self Assessment Questionnaire on Pension Plan Prudent Investment Practices and a draft Guideline on Pension Plan Funding Policy for stakeholders' review and comment. A copy of the draft guideline (Prudent Investment Practices ,Funding Policy), draft self assessment questionnaire and letter to stakeholders are available on the CAPSA website (www.capsa-acor.org). The deadline for submissions is June 1, 2010.

Proposed Amendment to Regulation 909

The Ontario Government, on February 10, 2011 released two proposed regulations (Temporary Funding Relief & Filing Extension) with respect to funding relief for certain single employer, defined benefit or hybrid plans within the broader public sector, including Ontario university pension plans. In an exchange for the relief, plan sponsors would be expected to adopt plan changes that would make their plans more sustainable in the long term. Details of the relief measures would be outlined in an amendment to the regulations, which is expected to come into effect by mid-May 2011. Comments on the proposal can be made until March 28, 2011.

Previous Consultations and Legislative Proposals

RISK-BASED REGULATION FRAMEWORK

Consultation Document

Financial Services Commission of Ontario
March, 2011

Table of Contents

Executive Summary

This document describes a broad-based framework proposed by the Financial Services Commission of Ontario (FSCO) for the risk-based regulation of pension plans in Ontario. The purpose of introducing this framework is to improve FSCO's overall effectiveness in its monitoring of key pension risks, and to ensure appropriate regulatory response is taken by FSCO to address risk situations, thereby better protecting the interests of pension plan beneficiaries. It also serves in part to address the Ontario Expert Commission on Pensions' recommendations in regard to FSCO, which are contained in a report entitled *A Fine Balance – Safe Pensions, Affordable Plans, Fair Rules*.

Our proposed framework is grounded on the following five principles:

- **Proactive** – We will take proactive measures to promote compliance and to reduce risks to plan beneficiaries;
- **Focused** – We will focus our attention on those plans posing the most serious risks to the security of plan beneficiaries' benefits;
- **Proportionate** – Our regulatory response will be proportionate to the risks identified, with due regard to the probability and impact of risk, and we will intervene on a specific basis only when necessary;
- **Consistent** – We will apply our approach consistently and in a way that minimizes uncertainty about our likely response; and
- **Informed** – Our assessment of risk and regulatory response will be informed by the evidence gathered from appropriate sources.

In addition, our approach is building on existing risk-based processes that have proven to be effective. The risk-based approach as proposed in this consultation document will apply to any Ontario registered pension plan that provides either defined benefit (DB) or defined contribution (DC) benefits, or both.

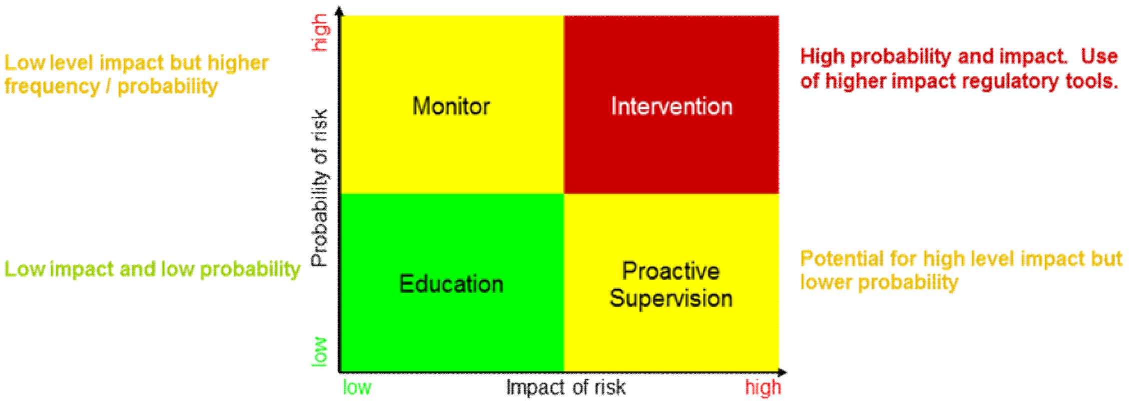
The core of the framework is a Regulatory Response Model, which includes a trigger mechanism based on readily available information and supported by a plan specific assessment process to identify plans posing the greatest risks. Both the likelihood and impact of risk are taken into account in the assessment process. As well, a certain degree of judgment will be required depending on the nature of the risks being assessed.

In designing the trigger mechanism and assessment process, we intend to focus initially on five risk areas, namely:

- funding risk,
- investment risk,
- administration risk,
- governance risk, and
- sponsor/industry risk.

Once a plan is judged to pose a high risk, we would look carefully at the circumstances of the plan before deciding on the appropriate regulatory actions to take, which may include prosecution under the Pension Benefits Act.

The following chart depicts the Regulatory Response Model.



The proposed framework is a significant change to the way in which FSCO regulates. The full implementation of the framework will take time and flexibility will need to be built into transition plans as implementation is phased in. We plan to carry out over the next three years the following activities:

1. Enhance existing risk-based processes - integrating the monitoring and review of funding and investment risks; adding other risk factors (e.g., late filings, stakeholder complaints) to the trigger mechanism; strengthening site examinations.
2. Enhance stakeholders' understanding of FSCO's risk-based approach.
3. Establish a quality control and maintenance process.

Consultation Questions

FSCO would like to hear from administrators and other interested stakeholders on the risk-based regulation framework (Framework) proposed in this document. We welcome comments on the following:

General questions

1. *Do you agree with FSCO's overall approach to risk-based regulation?*
2. *Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?*

Specific questions

Section 1 sets out the objectives for FSCO's risk-based regulation of pensions and the design principles in creating the Framework.

3. *Do you agree with the design principles on which the Framework is based?*

Section 2 gives an overview of the Regulatory Response Model, describes the risk universe and risk assessment methodology, identifies the data sources and regulatory tools necessary to assess risks and to carry out the regulatory response, and describes the regulatory process flow.

4. *Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?*
5. *Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?*
6. *Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?*
7. *Do you have any comments on the regulatory process flow and the related business processes?*

Section 3 outlines the principal activities FSCO plans to carry out over the next three years for transition to the Framework.

8. *Do you consider the transition plan reasonable, in the light of FSCO's regulatory capacity and the stakeholders' expectation?*
9. *Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?*

How to Provide Comments

FSCO welcomes comments regarding this consultation document. There are several ways to submit your comments.

1) You may send your comments by email to: Tim.Thomson@fsco.gov.on.ca. Please include in the subject line of your email "Risk- Based Regulation Framework."

2) You may mail your comments to:
   Attention: Tim Thomson, Project Manager
   Financial Services Commission of Ontario
   5160 Yonge Street, Box 85
   Toronto ON M2N 6L9

   Please include a subject line in your letter referencing "Risk Based Regulation Framework."

3) You may send your comments by fax to (416) 226-7787. Please include a subject line in your fax referencing "Risk-Based Regulation Framework."

If you need clarifications on the technical aspects of the proposed Framework prior to submitting your response, please contact either:

George Ma, Chief Actuary
Tel: (416) 226-7785
Email: George.ma@fsco.gov.on.ca

or

Lester Wong, Senior Actuarial Consultant
Tel: (416) 226-7784
Email: lester.wong@fsco.gov.on.ca

Please note that we may publish the feedback you send us as part of our response to the consultation. If you wish your comments to remain anonymous, please state this explicitly in your response.

If you wish your response to be kept confidential, please state so and we will take the necessary steps to meet your request. However, please be aware that, should we receive a formal request under Freedom of Information legislation, we may be required to make your response available.

When responding, please advise whether you are responding as an individual or on behalf of an organization. If responding on behalf of an organization, please specify the organization.

Closing date

This consultation document was published on March 8, 2011. The closing date for responses to this consultation is April 7, 2011.

1. Introduction

1.1 Background

Over the past decade pension regulators around the world have been moving towards risk-based regulation. This trend has been sparked by a desire to address funding issues, as well as to promote good governance and risk management practices, in recognition that pure compliance approaches are limited. As an initial step, FSCO has instituted processes addressing funding and investment risk.

The Ontario Expert Commission on Pensions recommended in its report *A Fine Balance – Safe Pensions, Affordable Plans, Fair Rules* that FSCO should:

- Develop a program of proactive monitoring, auditing, inspections and investigations directed especially at plans whose profiles, sponsors' profiles or sectoral location suggest that they may be at risk of failure or of significant under-funding.
- Expand and update its existing systems for monitoring risks, ensure that these systems are designed and administered by expert staff, and supplement them with other strategies for detecting plans at risk.
- Be empowered to undertake remedial measures based on the results of its proactive monitoring.

Furthermore, FSCO's assessment is that:

- Current pension regulatory programs at FSCO may not identify all key risks inherent in pension plans and may not adequately protect the interests of pension plan beneficiaries. FSCO pension resources can be allocated more effectively to address pension plan risks.
- Through the expansion and enhancement of its existing risk-based monitoring programs, FSCO could better monitor primary pension risks, and ensure appropriate steps are taken to address non-compliance and risk taking without proper risk governance, thereby better protecting the interests of pension plan beneficiaries.
- With access to consolidated data and information collected from stakeholders and other available sources, and the provision of sufficient regulatory authority and resources, FSCO would be equipped to address non-compliance and to mitigate potential risk to pension plans and their beneficiaries in a more timely, effective and efficient manner.

A project to enhance risk-based regulation was established by FSCO in 2009, in response to the Ontario Expert Commission on Pensions Report that recommended, inter alia, developing a program of proactive monitoring of pension plans and updating systems and processes to detect plans at risk.

The Framework as proposed in this document builds on the existing risk monitoring programs that have proven to be effective and considers a broader universe of pension plan risks including those related to administration, governance and sponsor related risks.

The Framework provides for a base level of regulation across all pension plans including monitoring of key risk indicators, improved dialogue with pension stakeholders, and promotion of best practices. Above this base level, the Framework directs resources to those plans that are exposed to or exhibit greatest risks. It is expected that this approach would help FSCO more effectively monitor and manage the risk of pension plan failure and optimizes its use of regulatory resources.

The Framework presented herein is based on consideration of the pension plan environment in Ontario, the current regulatory activities of FSCO's Pension Division, as well as leading practices in risk-based regulation that have been adopted by The Pensions Regulator in the United Kingdom, the Australian Prudential Regulation Authority, the De Nederlansche Bank in the Netherlands, and the Office of the Superintendent of Financial Institutions of Canada.

1.2 Objectives

The objectives for FSCO's risk-based regulation of pensions are set out below:

- Regulation should enhance the security of plan beneficiaries' benefits.
- Regulation should reduce the risk of situations which may lead to calls on the Pension Benefits Guarantee Fund (PBGF).[1]
- Regulation should ensure compliance with the law, in particular ensuring FSCO discharges its responsibilities set out in the Pension Benefits Act.
- Regulation should encourage sponsors and plan administrators to adopt good governance, risk management and business practices.

These objectives are broadly consistent with those observed at peer regulators. The risks that are addressed on the basis of the above objectives are defined by the Risk Universe contained within the Framework.

[1] It should be noted, however, that we do not regard our objective of reducing the risk of situations which may lead to calls on the PBGF as meaning that this risk should, or could, be reduced to zero. As the causes of calls on the PBGF are very diverse, particularly those related to employer insolvency, it is not possible for the regulator to achieve this outcome. In addition, FSCO needs to balance the extent of its regulatory oversight with the administrative burdens put on the plan sponsors.

1.3 Design Principles

In designing the Framework, a number of key principles have been considered. These design principles assist in creating a framework that is consistent with the risk-based regulation objectives and recognize FSCO's current resources, activities and plans. The key principles are as follows:

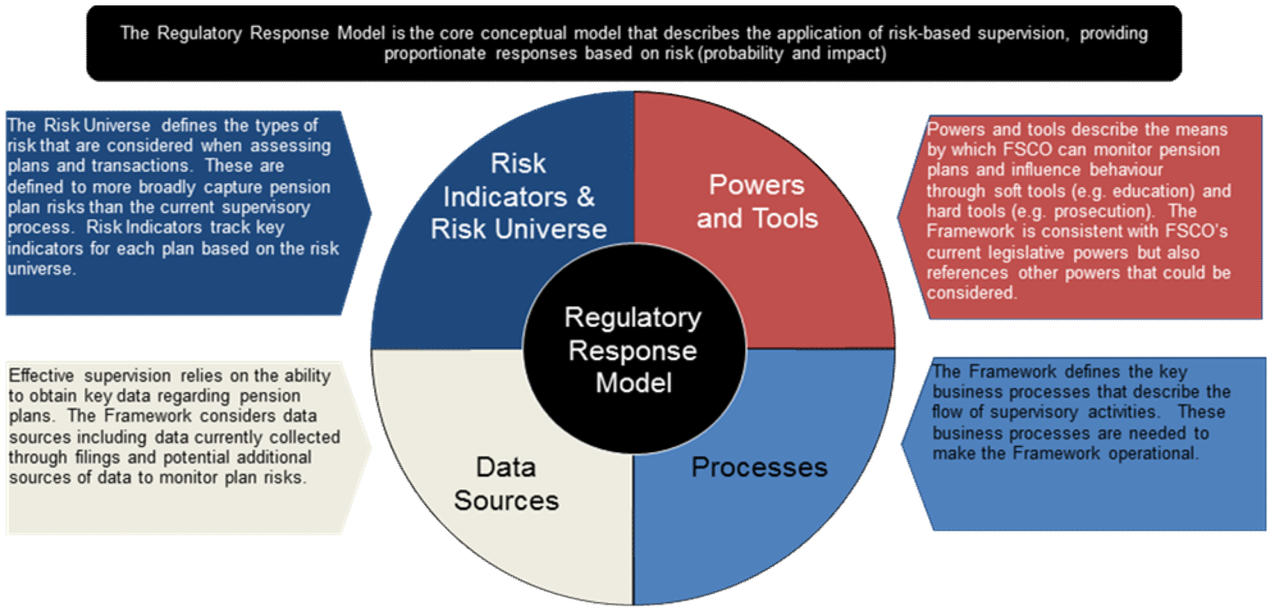
- **Proactive** – The Framework should entail proactive measures to promote compliance and to reduce risks to plan beneficiaries, recognizing that prevention is better than cure.
- **Focused** – The Framework should encourage a focus on the appropriate risk areas, minimize side effects, and ensure resources are targeted towards plans and areas of higher risk.
- **Proportionate** – The Framework should enable FSCO to plan its regulatory activities proportionate to the risk involved. This includes use of high impact regulatory tools towards areas of higher risk and intervention only when necessary.
- **Consistent** – The approach applied within the Framework should be consistent and in a way that minimizes uncertainty about our likely response.
- **Informed** – Risk assessment and our regulatory response should be informed by the evidence and due attention should be paid to emerging risks.

In addition, FSCO already has some risk-based monitoring processes that have proven to be effective and these would be built upon.

2. The Proposed Framework

The following chart depicts the component parts of the Framework. The key elements of the Framework are described more fully in the balance of this document.

Figure 2.1



2.1 Regulatory Response Model

The Regulatory Response Model, illustrated by the diagrams in this section (Figures 2.2 – 2.4), lies at the core of the Framework. The diagrams summarize our approach to prioritizing regulatory work according to risk. Both the probability and the impact of risk are taken into account in determining FSCO's level of response in specific cases.

The Framework envisages that the model will be used to assess plan and transaction risks on an ongoing basis. Plans and transactions will be classified within the model depending on their risk characteristics. Consideration of the risk universe and related risk indicators should be made in determining the quadrant into which a plan or transaction falls.

The model provides for a base level of regulation across all pension plans including a focus on industry education, promotion of best practices and monitoring of risk indicators. Above this base level, the model directs resources to those plans that are exposed to or exhibit greater risks. It is expected that this approach would help FSCO more effectively manage the risk of pension plan failure and optimize the use of regulatory resources.

Figure 2.2

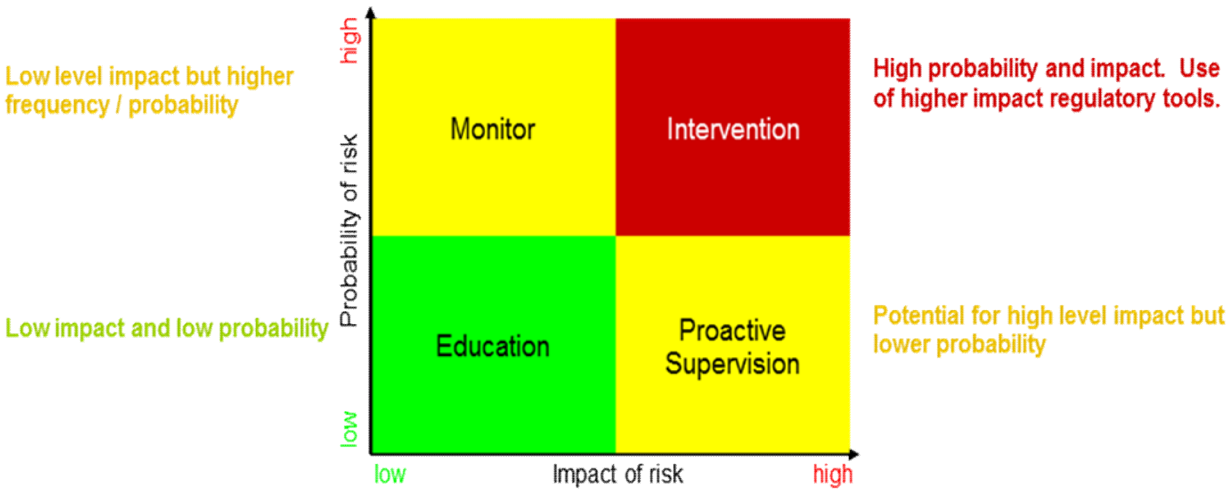
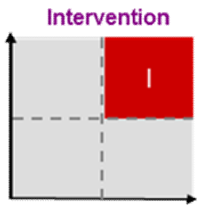
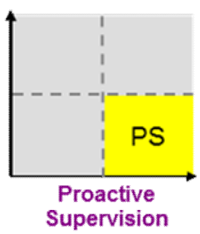


Figure 2.3

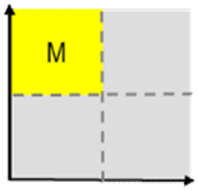


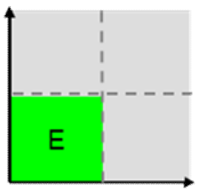


Examples of Plans / Issues	Potential Regulatory Responses
<u>Intervention: High Impact, High Probability</u> High risk events/transactions (e.g. failure to remit contributions over extended period of time, major corporate restructurings affecting large number of plan members) Chronic significant underfunding, especially in collective bargained plans with periodic benefit improvements Significant member complaints about plan administration or benefit entitlements Significantly underfunded plans carrying excessive investment risks Plans with significant sponsor risk (e.g. CCAA)	<u>Intervention: High Impact, High Probability</u> Regular interactions and /or meetings with plan administrator, sponsor, plan advisors etc.) Take proactive measures to mitigate risks Keep FSCO Management abreast of the issues and the corresponding regulatory actions taken Site examinations Actions or legal proceedings pursuant to PBA
<u>Proactive Supervision: High Impact, Low Probability</u> Very large plans may fall in this category due to the potential for adverse impact on a large number of members, or very high impact on the PBGF in the event of employer insolvency Plans where there are early signs of high impact events occurring	<u>Proactive Supervision: High Impact, Low Probability</u> Ongoing monitoring Included in periodic management reporting, particularly if impact can be very large Ongoing media monitoring of plan and sponsor Possible interactions with plan Consider for site examinations

Figure 2.4

Monitor





Educate

Examples of Plans / Issues	Potential Regulatory Responses
Monitor: Low Impact, High Probability Smaller plans with clear risk indicators (e.g. small plan but significant solvency issue, contribution issues etc.). Issues can be either significant individually or in combination. Larger plan but issue itself is not a large impact, e.g. consistently late filings, although consideration should be given to whether issue relates to other larger risk, especially in combination with other indicators (e.g. late filings plus large number of member complaints).	**Monitor: Low Impact, High Probability** Continue to monitor and flag if identified risks persist or additional risk indicators present Enhanced review may be appropriate Communication with plan may be warranted, e.g. to bring awareness of the issue, request explanation
Educate: Low Impact, Low Probability Plans other than very large plans with little or no risk indicators present Many IPPs and DC plans will fall in this category (although IPPs and DC plans with significant risks or issues may fall into other categories)	**Educate: Low Impact, Low Probability** No specific communications to individual plans required Provide general education/communications to plan administrators and advisors, with a view to enhancing understanding of pension administration , governance principles and PBA requirement, e.g.: - FSCO reports and industry sessions - guidance notes/ best practices

2.2 Risk Universe

The proposed risk universe is intended to capture broadly the risks inherent in pension plans. Risk indicators for key risks will be developed and tracked for all plans. They are used as guidance when applying the Regulatory Response Model and in performing more detailed risk assessments. While it describes the various risks that could potentially be considered, judgment will be applied to determine what risks to review in specific cases and to what extent.

It is recognized that some of the risks will be more challenging to assess than others. In some cases, the tools or information to make meaningful assessments of specific risks are not currently available. Therefore, more emphasis will be given to those risks in the universe for which meaningful and relevant assessments can be made.

The Framework envisages that detailed risk assessments will be performed primarily on plans identified to be high risk. However, detailed risk assessments will also be performed on other plans periodically as part of the quality control process to ensure that the Framework remains effective.

The risk universe focuses on risks within pension plans. The following is a suggested risk universe categorization:

- Funding Risk
- Investment Risk
- Administration Risk
- Governance Risk
- Sponsor/Industry Risk

Definitions and examples of risk considerations for each category are set out in Table 2.1 below.

Table 2.1

Risk Area	Example Inherent Risk Considerations
Funding Risk *The risk to member benefits posed by shortfalls in plan funding*	• Appropriateness of actuarial assumptions and methods used in valuations • Plan solvency per actuarial reports and internal (FSCO) estimates • Timeframe for plan recovery • Late or unremitted contributions
Investment Risk *The risk of exposure to changes in the value of plan assets that support the plan liabilities*	Market Risk (*exposure to changes in market prices*) • Volatility of investment products • Complexity and liquidity of investments Matching Risk (*risk of mismatch between assets and liabilities*) • Difference in average duration between assets and liabilities • Classes of investments held vs. liabilities for active / retired members Credit Risk (*risk of counterparty failing to meet obligations*) • Credit quality of assets
Administration Risk *The risk associated with inefficient or insufficiently effective processes or organization in the administration of the plan*	• Benefit processing (accuracy, timeliness and communication) • Complex plan arrangements • Recordkeeping procedures • Errors / complaints: Frequency and response effectiveness • Late filings / errors in filings • Multi-jurisdictional plans • Regulatory compliance ***Note: Some aspects can only be assessed through plan examination***

Table 2.1

Risk Area	Example Inherent Risk Considerations
Governance Risk *The risk associated with lack of or poor governance practices*	• Existence of code of conduct / policies and procedures • Use of qualified outsourced providers and oversight by the plan administrator • Existence of oversight / monitoring / supervision policies and evidence that policies are followed (i.e. internal controls) • Information, performance measures and risk management processes ***Note: Some aspects can only be assessed through plan examination***
Sponsor/Industry Risk *The risk of sponsor insolvency or potential adverse financial impact due to industry-wide events*	• Continuity / financial strength of pension plan sponsor • Business outlook of Industry sector; industry reports • Mergers / acquisitions /Downsizing

2.3 Risk Indicators

The Framework recommends that risk indicators be developed consistent with the risk universe. When developing risk indicators, consideration should be given to the following:

- FSCO's ability to obtain, track and report on the risk indicator;
- The ability to leverage current processes and information tracked by FSCO;
- The relative importance of the risk indicator in identifying plans at risk;
- The total number of risk indicators – including consideration that too many indicators can reduce the usefulness of the indicator concept as it can be difficult to assess which indicators are relevant for which plan.

The Framework recommends that a tool be developed to present the risk indicators through taking quantifiable / measurable risk-based metrics and presenting these in an appropriate format. The appropriate format will be one that can be supported by FSCO's IT system and that presents the indicators clearly and concisely (e.g. on one page / screen, such as a dashboard format).

The primary purpose of the risk indicator tool is to provide an initial pre-screening to establish a preliminary assessment within our Regulatory Response Model. The tool will highlight potential key risk areas for further analysis, and supports staff in the next level of review within the Framework.

The risk indicator tool will likely include indicators that can be automated and others where manual input is required. For example, funding risk and investment risk indicators can build on the data collected in the AIS and IIS filings and for which we have already established some risk-based monitoring processes. These existing processes can be used (perhaps with modifications) to provide the risk indicator ratings in an automated fashion. Other indicators, such as sponsor specific risks, may be identified through manual processes such as media searches.

The risk indicator tool can be implemented initially based on information currently available in our database. Over time, the risk indicators to include in the tool will be refined based on availability of information as well as our experience with each indicator's effectiveness in satisfying the main purpose of the tool.

Indicators to consider for initial implementation are shown in Table 2.2 below.

Table 2.2

Risk Category	Risk Indicator	Potential Rating Method
Funding	Flags based on AIS data	System rule based on AIS process (e.g. plan solvency, actuarial assumptions, actuarial gains/losses, demographics, etc.)
	Late or unremitted Contributions	System rule based on frequency, tardiness and size of late contributions
Investment	Flags based on IIS data	System rule based on IIS process (e.g. regulatory breach, investment performance, asset/liability mismatch, etc.)
Administration	Late Filings	System rule based on frequency and lateness of late filings
	Complaints	System rule based on number and severity of complaints
	Non-compliance	Manual input
	Complexity of plan structure	Flag based on existing data
	Multijurisdictional plan	Flag based on existing data
	Benefits processing	Manual input based on plan examination results
Governance	Plan type	Flag based on existing data
	Audit Report	Manual input based on issues identified in audit report
	Policies and procedures	Manual input including plan examination results
Sponsor/Industry	Industry outlook	Manual input
	Mergers/acquisitions/downsizing	Manual input
	Sponsor insolvency	Manual input

2.4 Detailed Risk Assessments

As discussed earlier, detailed risk assessments are recommended for plans or transactions designated as higher risk through the Regulatory Response Model, as well as other plans on a selective basis. Such risk assessments can provide the following benefits:

- More comprehensive approach whereby staff more fully consider the risks faced by the plan, taking into account the plan's specific circumstances;
- Confirm or otherwise modify initial risk assessment provided mainly by system-based approach;
- Risk factors are not considered in isolation, but rather a "holistic" approach is taken to obtain a more complete picture of the risks involved;
- The documentation of risks assists in developing appropriate regulatory responses;
- Ability to track how risks are changing over time and highlights new risks;
- The process can identify plans that are no longer high risk;
- Risk assessment provides direction and focus to the plan examination process;
- The documentation allows for *ex-post* reviews of the risk assessment process and risk universe, assisting in future improvements to the regulatory approach.

Detailed risk assessments are intended for internal purposes only and would be used as a tool to guide regulatory action or dialogue. While there will be some structure in performing detailed risk assessments, they will be customized as needed to fit the particular circumstances of the plan or transaction being reviewed. It does not result in a standardized report.

In performing the detailed risk assessment, the elements from the risk universe will be prioritized based on what is deemed most relevant as well as the availability and quality of information. It is unlikely that all elements of the risk universe would be considered in any particular case.

It is intended that material concerns and issues arising from the detailed risk assessments would be communicated and shared with the plan administrator. This provides an opportunity for the administrator to address these concerns and issues through constructive dialogue. Further regulatory action, if any, would be guided by the outcome of such a process.

Please see Appendix for illustrations of what a detailed risk assessment might entail.

2.5 Regulatory Powers and Tools

Regulatory tools are generally set out in legislation but can also include actions taken by the regulator to influence through moral suasion (e.g. stakeholder communication, educational material, guidance on industry best practices).

Regulatory powers and tools assist the regulator in performing its regulatory duties and influencing the actions of the regulated entities. These include powers and tools which:

- Enable the regulator to monitor plans to help identify plans that are at higher risk, for example through providing early warning signals.
- Help the regulator change the behavior of plan administrators and sponsors, which can include educational tools such as best practice guidance as well as deterrence tools that deal with known instances of non-compliance.

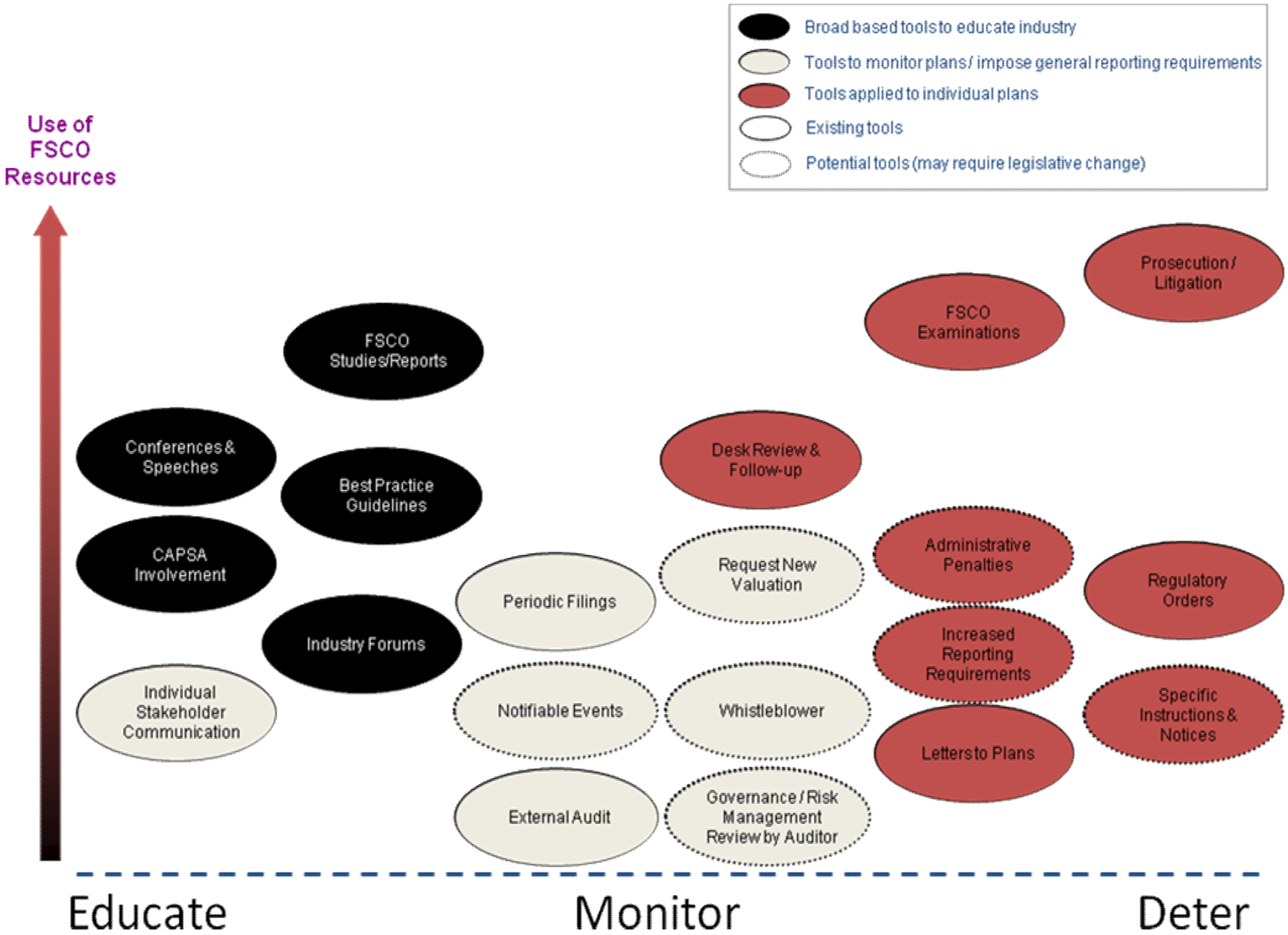
Powers which enable the regulator to monitor plans, particularly when the regulator indicates the reasons for monitoring and the risks being monitored, may also influence the behaviour of administrators since administrators know that their plans are being monitored.

The Framework is generally designed to be consistent with the powers of FSCO under the current Pension Benefits Act and regulations.

In reviewing the Framework and processes used by peer regulators in other jurisdictions, it was noted that some have other powers and tools available to them that FSCO does not have. Some of these powers and tools are mentioned in this document and may be recommended for future legislative reform. **Note, however, that FSCO does not have any authority to make legislative changes,** and therefore they are presented herein primarily for informational purposes.

The following diagram provides an overview of key regulatory tools for risk-based regulation. The proportionate nature of the tools is illustrated through the categories: Educate Monitor and Deter. For illustrative purposes, included are certain tools that currently do not exist and would require legislative change to bring about.

Figure 2.5



The use of many of the regulatory powers and tools will require coordination between the regulatory functions and other functions such as policy, legal, and enforcement.

2.6 Data Sources

The data obtained by FSCO through plan filings is broadly consistent with those of leading risk-based peer regulators. As such the Framework does not recommend wholesale changes to plan filings although certain enhancements are discussed in this document.

The Framework also recommends that additional information could be collected outside the plan filings to assist with monitoring risks within the broader risk universe. As well, should FSCO obtain legal powers to collect additional information, such information can be used within the Framework.

This section considers three categories of data source enhancement:

A. Existing data that can be used in an enhanced manner.
B. New data to consider collecting absent legislative change
C. New data that may be provided pursuant to legislative change

A. <u>Existing Data That Can Be Used In an Enhanced Manner</u>

This includes information that is currently collected or available in some form, which can, for example, be used to enhance the risk indicator tool including:

- **Complaint information.** A process is currently being implemented to track complaint information and to categorize by severity. Metrics for tracking complaint information can be used to facilitate risk indicator reporting.
- **Unremitted contributions**. Plan trustees notify FSCO when required contributions are not made.
- **Late Filings and Applications.** Late filings are tracked in the system and can form part of the risk indicator reporting. Tracking of late applications may require enhancement to be used effectively as a risk indicator.
- **Examinations.** Examinations can be used to grade plans, particularly in risk areas where little information is available on plan filings (e.g. administration and governance). Key results of examinations can be made available within the Pension Division systems.
- **Audit Reports.** FSCO receives audited financial statements for pension plans where an audit is required. The audit results, including disclosures in the notes in financial statements, can be used in the risk assessment process.

B. <u>New Data to Consider Collecting Absent Legislative Change</u>

Industry and Sponsor Intelligence. The Framework recommends that an intelligence process be established to monitor industry and sponsor risks.

- **Industry risks.** Examples of data that can be monitored for industry risks include forward looking (e.g. research reports on industry) and backward looking information (e.g. past insolvency rates by industry). Availability of data and cost considerations may impact the choice of sources of industry risk data.
- **Sponsor risks.** Risks for certain specific sponsors can be monitored. It would be impractical to actively monitor all sponsors, and accordingly FSCO would focus on the sponsors of plans that have been designated as high risk through a detailed risk assessment. Examples of data sources include news alerts related to sponsors (e.g. news aggregators such as Google news alerts and RSS feeds, subscription services such as Dow Jones Factiva). As well, where sponsors are public companies with issued debt, credit ratings are typically readily available and these can be monitored. In certain circumstances, for example when funding shortfalls are significant and there are concerns about sponsor viability, FSCO may wish to acquire credit reports for privately held companies.

External Scans and Monitoring for Emerging Trends and Risks. This would include information that would be used to refine and enhance the approach to risk-based regulation. A number of sources may be used in combination, including ongoing interaction with the industry; participation in forums and communication with peer regulators; and scanning external information and reports.

Additional Data Concerning Plans and Service Providers. While FSCO often obtains and records information identifying service providers to plans, FSCO could consider requiring this information to be provided, for example via AIRs). This would allow FSCO to record, for all plans, the details of who provides investment advice and actuarial services, allowing this data to be mined if required (e.g. if FSCO wanted to know what plans a particular investment firm advises). This type of information should normally be available to the plan administrator as part of its governance process of monitoring and overseeing its service providers.

C. <u>Potential New Data Pursuant to Legislative Changes</u>

There are a number of areas where peer regulators obtain information on pension plans outside the regular filing process that FSCO could introduce, and which may require legislative change. Examples of such new data include:

- **Notifiable events**. These are predefined significant events that require reporting by plan administrators / sponsors, such as breaches of bank covenants, senior management convictions, sponsors moving outside the jurisdiction, and can be used as early warning signals of potential problems.
- **Whistleblower reports**. These are reports of legislative breaches made by sponsors, administrators or plan advisors. Whistleblower obligations can be set out under the law.
- **Governance / Risk Management Information**. Other jurisdictions require pension plans to provide details of their governance arrangements or require external audits of risk management processes.
- **Other information that could be subject to an external assurance process**. FSCO could require disclosure of information such as related party transactions, conflicts of interest, and investment holdings outside quantitative limits, and could explore whether this could be provided through an external assurance process.

2.7 Process Overview

The following chart provides an overview of the regulatory process flow.

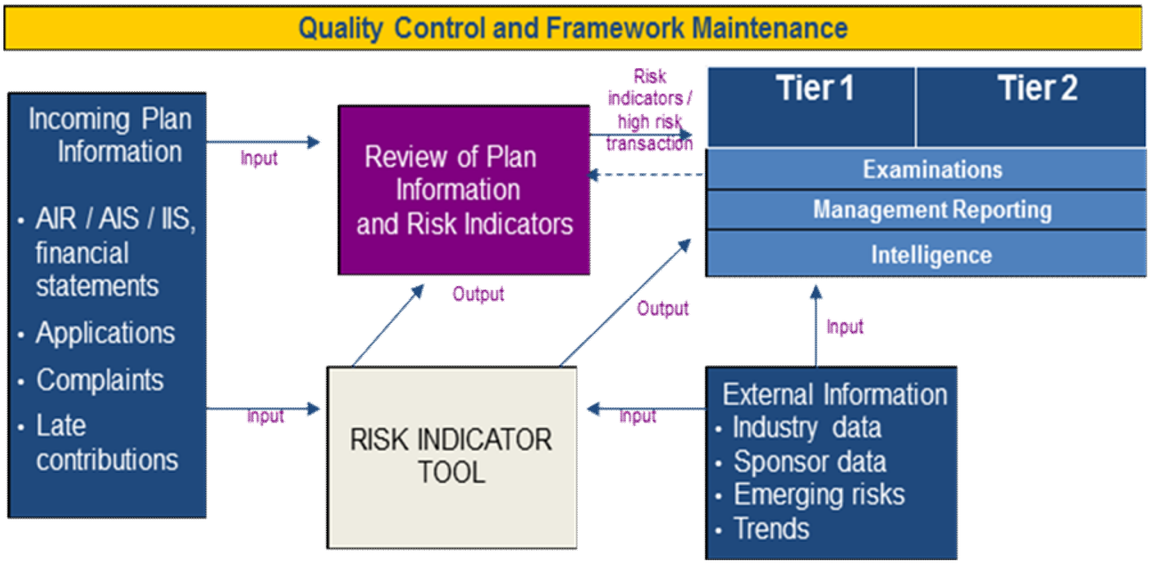


Figure 2.6

The cornerstone of the Regulatory Response Model is a Risk Indicator Tool (RIT) that uses incoming plan information as input. Initially, the RIT will use information on existing FSCO databases such as Annual Information Return (AIR), Actuarial Information Summary (AIS), Investment Information Summary (IIS), late filing information, plan size, plan type, late or unremitted contributions, plan demographics, whether collectively bargained, multi-jurisdictional, frequency and severity of complaints, as well as complexity of plan structure.

Inputs to this tool can be automated to the extent practical. Based on pre-defined algorithms, the RIT presents the outcome of various risk indicators in a "traffic light" format (illustrative only and subject to change), as shown on the next page, and it determines if a plan or transaction requires further review.

(green)	Low risk
(yellow)	Potential risk – consider in conjunction with other risk indicators whether to forward to / obtain advice from the Tier 1 review process
(red)	High risk – consider using application of judgement whether to forward to / obtain advice from Tier 1 review process
N/A	No data available / indicator not applicable to this plan

The remaining process is described as follows:

- Other than for plans or transactions presenting no major risk factors, a Tier 1 review would be performed[2]. The purpose of Tier 1 review is to assess risk in terms of probability and impact on the basis of pre-defined risk assessment criteria, supplemented by judgments in the light of the particular circumstances of a plan or transaction. It then assigns the plan or transaction with a preliminary risk classification, into one of the four quadrants of the Regulatory Response Model as described in Section 2.1. The outcome of Tier 1 review is used to guide FSCO staff as to what type of regulatory response should be undertaken.
- A plan or transaction in the “high risk” classification (i.e., upper-right quadrant) would be subject to a Tier 2 review. Based on the judgment of the Tier 1 reviewers, some plans or transactions in the “moderate risk” category (i.e., lower-right or upper-left quadrant) would also be subject to a Tier 2 review.
- Where a Tier 2 review is required, a detailed risk assessment would be performed to confirm the preliminary risk classification. If a “high risk” classification is confirmed, the specific plan or transaction will be case-managed by a dedicated team of FSCO staff consisting of a case manager, front-line pension officers as well as actuarial, investment, legal and/or other professional support. The case management teams conduct on-going monitoring of high risk plans and high risk transactions, which includes recommending approval of specific applications by the Superintendent, periodic risk assessments,

[2] Applications that require Superintendent’s approval (e.g., wind-ups, asset transfers etc.) are routinely subject to a standard review for legislative and regulatory compliance, which forms part of the Tier 1 review process. If material non-compliance is identified in a plan situation, the issue will be escalated to a Tier 2 review.

interactions with plan administrators and their advisors as well as regulatory interventions, if warranted.

- Additional Tier 2 activities may include:
  - On site examinations of pension plans linked to the risk assessment process.
  - Management reporting on risk-based activities such as those relating to high risk plans, trends and significant issues.
  - Intelligence process (e.g. reviewing news feeds, general industry data) to identify areas of risk that can be used to update the risk indicators and be communicated more broadly as required. The intelligence process would also monitor internal data such as results of on-site examinations and risk assessments for trends and issues to ensure these are identified and disseminated.

The Framework operates with ten key business processes that can be described as follows:

Table 2.3

Business Process	Summary Definition
Incoming Plan Information	The receipt of plan information (filings, applications, complaints etc.), the initial review for completeness and routing to the appropriate person / group
Intelligence	Review of external information (e.g. media reports) and internal information (e.g. outputs from risk assessments), and filtering to determine relevant information to disseminate
Risk Indicator Tool	The process by which risk indicators are determined and kept current, and any changes made to the screening process
Routine Review	The review of routine applications, filings, complaints, approval/rejection of applications, and identification of higher risk items.
Tier 1 Review	Review to assess risk related to a plan or transaction, in terms of probability and impact as well as legislative and regulatory compliance, and to assign the plan or transaction into one of the four quadrants of the Regulatory Response Model.
Tier 2 Review	Consists of: • Detailed risk assessment • Process by which high risk applications / plans / issues are case managed.
Examinations	On site examinations of pension plans linked to the risk assessment process.
Management Reporting	Oversight by senior management through reporting on developments relating to higher risk plans / issues, trends and key performance indicators
Quality Control and Framework Maintenance	Oversight of methodology of risk-based regulation including ensuring it is applied appropriately and consistently through quality control processes and it is revised and updated appropriately
Education and Engagement	Providing education internally and externally on the risk-based regulation approach, including communication of expectations to stakeholders and soliciting their feedback and input

3. Medium Term Strategy

The proposed Framework is a significant change to the way in which FSCO regulates pension plans. The full implementation of the Framework will take time, and flexibility will need to be built into transition plans as implementation is phased in.

To transition to the new Framework, the principal activities FSCO plans to carry out over the next three years are:

- Enhance existing risk-based processes, including integrating the monitoring and review of funding and investment risks, applying risk indicators such as late filings and stakeholder complaints for risk monitoring, and strengthening on-site examinations with focus on administration and governance risks.
- Enhance stakeholders' understanding of FSCO's risk-based approach through ongoing engagement including education and communication.
- Establish quality control and maintenance process that includes the oversight and update of the risk-based methodology and application.

3.1 Framework Transition

FSCO will streamline its existing risk-based processes by integrating the monitoring and review of funding and investment risks. Focus will be placed on, but not limited to, the review of appropriateness of actuarial assumptions and methods, contributions remittance, asset mix policy in relation to the liabilities of the plan, and the measurement of fund performance relative to appropriate benchmarks.

In addition to the AIR, FSCO will introduce and implement e-filings of the IIS, PBGF and AIS to facilitate the collection of data necessary for risk monitoring. It will use other evidence such as late filings, stakeholder complaints, and news alerts, for risk monitoring and assessment.

Well governed pension plans are likely to be better administered, have greater awareness of financial risk, and to represent better the interests of plan members. FSCO intends to strengthen its on-site examinations by placing focus on identifying instances of poor governance and administration, and working with the administrators to address the shortcomings related to their plans.

At the same time, FSCO will take steps to promote, on an industry-wide basis, the knowledge and understanding of the governance requirements for pension plans (e.g., information session on CAPSA governance guidelines, best practices of well-governed plans).

3.2 Stakeholder Education and Engagement

A key element of risk-based regulation is the communication of the regulator's expectations to stakeholders, including plan administrators, sponsors and their advisors, through ongoing engagement including education and communication.

There are two elements of education and communication:

- Education and communication of the changes to the regulatory approach as FSCO expands its application of risk-based regulation.
- On-going communication of the outcome of risk-based regulation as it is applied.

Extensive consultations with stakeholders and the industry will be required during the period of transition. Consultation activities could include:

- Working collaboratively with stakeholders and the industry to design and develop a comprehensive risk-based regulation framework.
- Providing information about the risk-based regulatory approach and how it is to be applied to pension plans.
- Communication with a broader public audience to ensure that the regulatory approach and its limitations are properly understood.

Ways in which ongoing education and communication may be achieved include:

- Providing periodic reports on the outcome of risk-based activities to industry on regulated areas. Currently, FSCO provides annual reports on funding and investment monitoring activities. This will be expanded to include other risk monitoring activities.
- Providing reports on the application of risk-based regulation in general including aggregate risk profiles, common issues, cases escalated to enforcement, the use of regulatory tools, PBGF claims information, etc.
- Identifying areas of potential concern within the pension system, performing thematic reviews and reporting to the industry on the results.
- Providing guidance to pension administrators and sponsors on a variety of areas, especially in regard to plan governance. This may be performed in conjunction with other pensions regulators (e.g. through CAPSA) or through FSCO initiatives.
- Engaging in industry forums, conferences, and speaking engagements.
- Encouraging a customer service approach to contact with pension plans which may include more personal interaction (e.g. face to face meetings, telephone calls) in place of written correspondence.

- Providing regular updates through website postings, news releases, webinars, email newsletters on regulatory and policy developments, including key issues, emerging trends, enforcement actions taken by FSCO.
- Broadening the potential scope of on-site examinations, and ensuring linkage between examination of plans and outputs from the risk assessment process.

3.3 Quality Control and Framework Maintenance

A key element of effective application of the Framework is recognizing that:

- Its implementation is subject to human judgment and hence its application can vary.
- Staff training to ensure common understanding of the risk-based regulatory approach and its application is essential.
- Quality control procedures need to be put in place to ensure appropriate and consistent application.
- Update of the Framework will be needed as the industry practices change, new risks emerge and priority of existing risks changes.

It is expected that the Quality Control and Framework Maintenance process will include the following activities:

- Setting benchmarks or key performance indicators to monitor and measure the effectiveness of risk indicators in identifying higher risk plans, and modifying them as appropriate.
- Maintaining the Framework including periodically revisiting and updating the methodology, risk definitions and assessment criteria.
- Coordinating the identification of emerging or increasing risks and developing approaches to address those risks (e.g. identifying areas for thematic reviews, providing guidance / training / updates to colleagues, recommending changes to the application of the Framework).
- Ensuring, through leading initiatives or coordination / participation with others, appropriate communication and education to the industry regarding the risk-based approach and regulatory expectations.
- Liaison with relevant IT groups to ensure that the system of risk-based regulation is appropriately supported by technology.
- Maintaining network of strategic relationships within FSCO, the industry, national and international regulatory bodies.
- Reporting to senior management on the status and effectiveness of risk-based regulation.

These measures will be implemented once the Framework has become operational and as we learn more about the risk profile of the pension plan universe.

Appendix - Illustrations of Detailed Risk Assessment

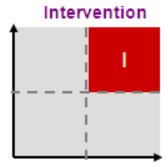
For the purposes of this Appendix, we have assumed that a risk indicator tool with pre-defined algorithms presents the outcome of various risk indicators in a "traffic light" format, as shown in Section 2.7.

Other than for a "low risk" situation, a Tier 1 review is performed to assign a plan or transaction with a preliminary classification into one of the four quadrants of the Regulatory Response Model shown in Section 2.1. If the plan or transaction is classified in the "high risk" category (i.e., upper-right quadrant), it will be subject to a Tier 2 review. In addition, there may be situations where a Tier 2 review is warranted even for plans classified in the other quadrants. In the Tier 2 review process, a detailed risk assessment (DRA) would be performed to confirm the risk classification and to guide FSCO in determining the appropriate regulatory actions.

As part of the DRA process, FSCO may seek additional information to better assess the risks to the pension plan. Request may be made directly to the administrator or the employer, but the information gathering process would be broad and dependent on the specific situation.

It should be noted that these examples have been provided purely for illustrative purposes and any resemblance to an existing registered pension plan is coincidental.

Example 1 – Plan A: Suppose the risk indicator tool presented the following results for Plan A and that the Tier 1 review process gave a preliminary classification for Plan A to the "high risk" quadrant.

Plan A	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Solvency ratio 65%
Late contributions		
IIS Flags		Performance below benchmark, A/L mismatch
Late filings		History of late filings of IIS and FS
Complaints		
Non-compliance		
Complexity of plan		
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		BC, AB, ON and QC
Policies and procedures	N/A	
Industry outlook		Auto parts manufacturing
Mergers / acquisitions	N/A	
Sponsor insolvency		Media alerts on potential CCAA

Detailed Risk Assessment

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

Key Plan Data:

Benefit type	Collectively bargained career average plan				
Membership profile	Number	Avg Age / Service		Avg Salary / Pension	
- Active	350	46 / 16		$45,800 / $5,400	
- Retired	90	72		$4,700	
- Other	130	41		$2,000	
Market value of assets	$12,533,000				
Financials as of Dec 31, 2009	**Going-concern**			**Solvency**	
Actuarial value of assets	14,417,000			12,363,000	
Plan liabilities:					
- Active	9,161,000	63%		12,996,000	67%
- Retired	4,244,000	29%		4,887,000	25%
- Other	1,158,000	8%		1,626,000	8%
- Total	14,563,000	100%		19,509,000	100%
Surplus (Deficit)	(146,000)			(7,146,000)	
Contribution requirements	Year 1		Year 2		Year 3
- Total normal cost	665,000		665,000		665,000
- Special payments	911,000		790,000		667,000

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The actuarial basis used for both the going-concern and solvency valuations are reasonable
b) Plan size vs. Sponsor size	The solvency liability of $19.5 million represents approximately 2% of the sponsoring company's assets. And the deficit of $7.1 million represents 0.7% of the company's assets. The $7.1 million deficit does not appear to be a material amount relative to the company's recent cash flow and revenue figures. However, due to the deterioration in business conditions, this may be an issue in the near future.

Risk Area	Analysis / Commentary
c) Sponsor size vs. Contribution requirements	The normal cost represents 4.2% of the company's active payroll while the special payment represents 5.7% of payroll, for a total of close to 10%. However, the annual contribution requirement does not appear to be a material amount relative to the company's recent cash flow and revenue figures.
d) Other	The plan sponsor is a subsidiary of an US-based parent. There does not seem to be any evidence that the parent company is in difficulty at this time. The US parent is a public company and has a very large market capitalization. It is not known at this time if any parent company guarantee exists should the Canadian subsidiary experience financial difficulty. . FSCO should inquire into this matter further.
2. Investment Risk	The pension fund has an asset mix target of 60% equity/40% fixed income and its actual asset mix is reasonably close to this. The assets are managed by Manager ABC in diversified pooled funds. It is invested in a traditional manner without the use of leverage or esoteric strategies.
a) Matching risk - Asset mix vs. Demographics	The current asset mix does not exhibit a material mismatch. Take action if necessary to ensure investment policy is reviewed in the event of material plan changes (e.g. windup or partial windup). Monitor to ensure plan does not take on undue risk to try and close the windup deficit.
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc.
a) Errors / complaints	Levels of member complaints and resolution efforts are acceptable.
b) Multi-jurisdictional plans	Multi-jurisdictional plan with members in BC, AB, ON and QC.
c) Late filings / errors in filings	There is a history of requests for filing extensions for the financial statements and IIS. As well, there have been some instances of errors in filings, although it appears that all of these have been resolved.
d) Regulatory compliance	No issues have been found.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk.
a) Use of qualified outsourced providers and oversight by the plan	No known issues with respect to the service providers engaged by the administrator.
b) Incidence and nature of legislative breaches	No known breaches.

Risk Area	Analysis / Commentary
5. Sponsor/Industry Risk	
a) Continuity / financial strength of pension plan sponsor	Due to media alerts on potential CCAA application, there are major concerns about the financial strength of the plan sponsor. Therefore, proactive monitoring is called for along with direct interaction/dialogue with the administrator/sponsor to ensure that funding requirements are met promptly and that investment of pension fund is prudent in the circumstances.
b) Business outlook of Industry sector; industry reports	Plan sponsor's business is in the auto sector. Outlook has improved since financial crisis in 2008. However, there continue to be concerns about the economic recovery in general and the auto sector in particular. The big 3 US automakers seem to have favourable outlooks going forward – which would be a direct benefit to the auto sector.
c) General economic environment	Still have concerns about housing and employment situation, especially in the US. This likely will have direct impact on sponsor's business.
d) Mergers / acquisitions	No specific information about M&A activity, although this is viewed as a distinct possibility.
e) Incidence and nature of litigation against plan and sponsor	No media reports of any legal actions.
6. Other Matters	
a) PBGF coverage	Most if not all of the benefits provided are covered by the PBGF – members' accrued pensions are typically under the coverage limit. No benefit improvements within the last 3 years.

<u>Conclusions and Actions</u>

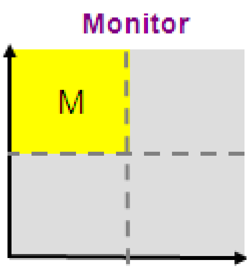
There is a risk of sponsor insolvency which would leave the plan with a windup deficit of approximately $7 million as of the last valuation date, December 31, 2009. The plan is significantly underfunded on a solvency basis with a solvency funded ratio of approximately 65%. However, because of the level of pensions, Ontario members would have most, if not all, of their pensions covered by the PBGF. The PBGF is exposed to a modest claim. There would be a risk to non-Ontario members of a 35% reduction in their benefits should the plan windup without any additional contributions by the sponsor.

Since the plan sponsor is up to date in remitting required contributions to the fund, the emphasis for FSCO is to ensure that the sponsor continue to make the required contributions to the plan in a timely manner and to take further action should contributions become delinquent.

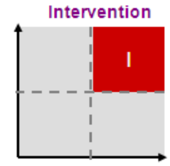
Staff should also engage in dialogue with the administrator and employer to better understand the company business situation and to also communicate our concerns and remind the sponsor of his obligations under the PBA. Staff should also determine if possible whether the parent company intends to stand behind the pension obligations of the plan sponsor (its subsidiary).

The investments should also be closely monitored to ensure that no undue risks are taken by the sponsor in an attempt to eliminate the deficiency.

Reclassify to the "Monitor" quadrant of the Regulatory Response Model:



<u>Example 2 – Plan B:</u> Suppose the risk indicator tool presented the following results for Plan B and that the Tier 1 review process gave a preliminary classification for Plan B to the "high risk" quadrant.

Plan B	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Solvency ratio 65%, very large solvency deficiency, excluded benefits
Late contributions		
IIS Flags		Performance concerns, derivatives, alternative investments
Late filings		
Complaints		
Non-compliance		
Complexity of plan		Public sector plan, fairly complex employees from many employers
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		
Policies and procedures	N/A	
Industry outlook		
Mergers / acquisitions	N/A	
Sponsor insolvency		

<u>Detailed Risk Assessment</u>

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

Key Plan Data:

Plan type	Large public sector plan.		
Benefit type	Collectively bargained final average plan, fully indexed		
Membership profile	Number	Avg Age / Service	Avg Salary / Pension
- Active	25,000	45 / 11.0	$55,000
- Retired	15,000	72	$13,000
- Other	4,000	46	$2,800
Market value of assets	$47.8 billion		

Financials as of December 31, 2009	**Going-concern**		**Solvency**	
Actuarial value of assets	$6.7 B		5.9B	
Plan liabilities:				
- Active	3.9 B	57%	$3.6 B	57%
- Retired	2.7 B	40%	2.6 B	41%
- Other	0.2 B	3%	0.1B	2%
- Total	$6.8 B	100%	$6.3 B	100%
Surplus (Deficit)	$(0.1) B		$(0.4) B	

Contribution requirements	Year 1	Year 2	Year 3
- Total normal cost	275,000,000	287,000,000	300,000,000
- Special payments	3,000,000	13,000,000	14,000,000

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The actuarial basis used for the going-concern valuation is on the aggressive end of the range. For the solvency valuation, they have excluded indexing benefits (excluded benefits from the solvency liabilities are $2.6 B). Additionally due to the large plan size and indexed pensions, the estimated annuity purchase price for pensions and deferred pensions have been estimated to be the same as for a lump sum commuted value calculation – there is no definitive standard or practice how these should be valued.
b) Plan size vs. Sponsor size	For this plan, the participating employers are in the public sector and are large relative to the plan size.

Risk Area	Analysis / Commentary
c) Sponsor size vs. Contribution requirements	The employer required contributions represent approximately 8% to 8.5% of payroll. Members are required to contribute an equal amount. Given the nature of the employers, there is no significant risk of an inability by employers to make the required contributions.
d) Demographics	The plan is comprised of a diverse mix of members in terms of earnings and service.
e) Other	Given that the participating employers are in the public sector, there is a very low probability of a plan windup. For the same reason, there is a low probability that the employers will be unable to make the minimum required contributions under the PBA. We do not have information about the impact on the plan if a participating employer ceases its participation. FSCO should research this.
2. Investment Risk	The pension fund investments are considered very sophisticated, including allocations to real estate, infrastructure and private equity. The initial system screen indicated a "risky" situation due to performance issues, use of derivatives and investment in alternative asset classes. The level of complexity, volatility and potential liquidity are valid concerns for this plan. The current information we collect through financial statements and the IIS do not allow us to assess this plan very effectively due to the varied asset classes as well as the difficulty in determining appropriate benchmarks for the non-traditional investments (e.g. infrastructure or private equity). The plan does have qualified investment professionals on staff and has in place systems and processes for monitoring and assessing its investments. As well, the plan itself is audited annually and prepares a report which includes investment performance statistics and benchmark statistics. The annual audit includes an assessment of their internal controls and risk management processes and systems. Although the asset mix is on the aggressive side (relative to the plan demographics) and the plan uses derivatives and other sophisticated financial instruments, they have on staff investment professionals and have established documented procedures for managing and monitoring their investments. As such, they appear to follow prudent investment practices.

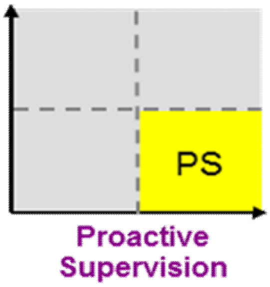
Risk Area	Analysis / Commentary
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc. Nevertheless, the fact that an organization exists with plan administration as one of its primary purposes suggests that the administration risk is low for this plan. The plan maintains a website through which it can communicate with its members and with other stakeholders.
a) Errors / complaints	Levels of member complaints and resolution efforts are acceptable.
b) Late filings / errors in filings	No material issues noted.
c) Regulatory compliance	No issues have been noted.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk. However, they have a well-developed framework for plan governance and have documented its governance structure and processes. The board of directors has representation from both the employers and the members. The plan's governance appears to be functioning effectively.
5. Sponsor/Industry Risk	There is a very low probability of any issues related to sponsor risk (or employer risk in this case) given that the participating employers are all public sector entities.

Conclusions and Actions

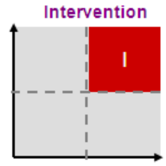
This plan was initially flagged as a "high risk" plan by the system based screening tool and the Tier 1 review process. The primary reasons were the low transfer ratio, very large windup deficiency, complexity of the plan and investment related concerns.

The detailed risk assessment undertaken in the Tier 2 review process indicates that there is a very low probability of plan failure and that the issues related to plan complexity and investments are being managed effectively by the plan administrator. Nevertheless, due to the large number of plan members and the high profile nature of the plan, any significant negative event affecting the plan would potentially cause a concern and affect a large number of individuals. Therefore, it would be prudent to re-classify this plan to be in the "Proactive Supervision" quadrant and take steps to be aware of issues concerning the plan on a timely basis.

The plan is currently in full compliance with the PBA and FSCO should focus on being up-to-date about the plan's circumstances through regular periodic monitoring efforts.



Example 3 – Plan C: In this example, a pension plan is being terminated and there is an application to wind-up the plan. The risk indicator tool and Tier 1 review classifies this as a high risk transaction to be reviewed in Tier 2.

Plan C	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Transfer ratio 55%, large solvency deficiency of $130 million
Late contributions		Contributions are up-to-date
IIS Flags	N/A	
Late filings	N/A	
Complaints		
Non-compliance	N/A	
Complexity of plan		Moderate complexity, different classes of employees get different benefits
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		
Policies and procedures	N/A	
Industry outlook		Steel industry, currently in down cycle
Mergers / acquisitions	N/A	
Sponsor insolvency		

Detailed Risk Assessment

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

The plan sponsor's business is in the steel industry. The industry appears to be at a low point in the business cycle with media reports of shrinking global demand and a poor outlook over the next 12 – 18 months. The company is also undergoing a major restructuring effort which includes a significant downsizing. As part of its restructuring plan, the company is winding up the pension plan. The windup report as at December 31, 2010 provides the following information:

<u>Key Plan Data:</u>

<table>
<tr><td>Plan type</td><td colspan="4">Single employer</td></tr>
<tr><td>Benefit type</td><td colspan="4">Collectively bargained flat benefit plan with generous early retirement provisions</td></tr>
<tr><td>Membership profile</td><td>Number</td><td colspan="2">Avg Age / Service</td><td>Avg Salary / Pension</td></tr>
<tr><td>- Active</td><td>800</td><td colspan="2">45 / 16.3</td><td>$16,800</td></tr>
<tr><td>- Retired</td><td>500</td><td colspan="2">61</td><td>$24,800</td></tr>
<tr><td>- Other</td><td>100</td><td colspan="2">47</td><td>$3,300</td></tr>
<tr><td>Market value of assets</td><td colspan="4">$170.0 million</td></tr>
<tr><td>Financials as of December 31, 2010</td><td colspan="2"><u>Going-concern</u></td><td colspan="2"><u>Wind-Up</u></td></tr>
<tr><td>Actuarial value of assets</td><td colspan="2">Not relevant</td><td colspan="2">169.8 M (net of expenses)</td></tr>
<tr><td><u>Plan liabilities:</u></td><td colspan="2"></td><td></td><td></td></tr>
<tr><td>- Active</td><td colspan="2">n/a</td><td>$150.2 M</td><td>47%</td></tr>
<tr><td>- Retired</td><td colspan="2">n/a</td><td>156.0 M</td><td>49%</td></tr>
<tr><td>- Other</td><td colspan="2">n/a</td><td><u>10.9 M</u></td><td><u>4%</u></td></tr>
<tr><td>- Total</td><td colspan="2">n/a</td><td>317.1 M</td><td>100%</td></tr>
<tr><td>Surplus (Deficit)</td><td colspan="2">n/a</td><td colspan="2">$(147.3) M</td></tr>
<tr><td>Contribution requirements
- Special payments over 5 years</td><td colspan="4">30.1 M per year</td></tr>
</table>

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The windup basis is in accordance with prescribed requirements.
b) Plan size vs. Sponsor size	The windup deficit of $147.3 million is a significant amount for the sponsor, especially given the current business difficulties.
c) Sponsor size vs. Contribution requirements	The minimum amount if funded over 5 years is $30.1 million per year. Under normal business conditions, it appears that a $30.1 million cash contribution requirement would be manageable. The normal cost from the prior valuation was $3.5 million. Given the difficulties faced by the sponsor and also the business conditions faced by the steel industry, there is a significant funding risk of the sponsor not making the required contributions or not being able to fully fund the deficit within 5 years.
2. Investment Risk	The pension fund investments are broadly diversified and managed by investment professionals. There are significant allocations to equities, both domestic and foreign, which represent approximately 70% of the total portfolio. Due to the windup, there is a significant mismatch risk between how the liabilities are determined versus the assets backing them. Going-concern scenarios are irrelevant and the focus should be on windup and how to fully fund the windup deficit.
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc. Given that a windup is intended, some review of benefit processing accuracy and recordkeeping practices would be advisable. There have been no unusual levels of member complaints logged and plan filings have been received on time.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk. The activities to finish the windup and settle benefits will likely be delegated to a service provider.
5. Sponsor/Industry Risk	There is a possibility that the plan sponsor could become insolvent before fully funding the windup deficit.
6. Other Risks	
a) PBGF Coverage	The average pension to retired members is more than double the amount covered by the PBGF and the average accrued pension for active members is about 40% higher than the PBGF covered amount. Therefore if the sponsor does not fully fund the windup deficit then there could be a large reduction to members' pensions. In addition, there is a large potential exposure for the PBGF.

Conclusions and Actions

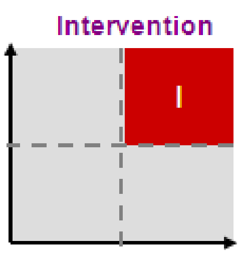
This transaction was initially flagged as a "high risk" transaction by the system based screening tool. The primary reasons were the low wind up funded ratio, very large windup deficit, and the negative business/industry outlook.

The plan is significantly underfunded on a windup basis with a windup funded ratio of approximately 54%. There is a risk of sponsor insolvency which would leave the plan with a windup deficit of approximately $147 million as of December 31, 2010. Furthermore, the level of pensions indicates that members would be at risk of substantial reductions since a significant percentage of their pensions exceed the PBGF limit.

Of concern is the investment risk (primarily matching risk) and FSCO should take whatever measures it can to minimize the investment risk in the plan. This includes discussions with the administrator about restructuring the investment portfolio to more closely match the liabilities of the plan.

Another risk that FSCO can try to manage is the funding risk associated with late or unremitted contributions. FSCO should ensure that the sponsor continues to make the required contributions to the plan for funding the windup deficit within the prescribed timelines. Prompt action should be undertaken if non-compliance is identified.

The "high risk" classification for this transaction is confirmed. A dedicated team is established to manage the wind up of the plan.



Regulations Relating to Pension Division on Marriage Breakdown (Bill 133)

Overview

Bill 133, the *Family Statute Law Amendment Act, 2009*, received Royal Assent in May 2009. Bill 133 introduces new rules on pension asset division on marriage breakdown. The new pension division regime introduces two major reforms:

Valuation: The valuation of pension assets on marriage breakdown will be determined according to a prescribed formula and calculated by plan administrators.

Settlement: Immediate settlement of the former spouse's entitlement where there is a court order, family arbitration award or domestic contract awarding a payout from the pension.

- For former spouses of active and deferred members, settlement is effected through a lump sum transfer out of the plan.

- For former spouses of retired members, settlement is effected through a division of the pension in pay.

The provisions of Bill 133 that amend the *Pension Benefits Act* (PBA) require the enactment of corresponding regulations prior to proclamation. The government is interested in feedback on this important initiative. Draft regulations, along with this accompanying paper, are posted on the Regulatory Registry for public consultation.

Contents of Draft Regulation

The draft regulation contains the majority of the content required to implement the new regime. In particular, the draft regulation:

- outlines the valuation methodology, including rules for calculating both the *preliminary value* (the total value of the pension up to the "family law valuation date") and the *imputed value* (the portion of the preliminary value attributable to the period or marriage or cohabitation, as applicable);

- describes any exceptions or adjustments to the preliminary valuation;

- describes the circumstances in which a former spouse would be entitled to inspect plan documents;

- prescribes rules on how to apply for a valuation and, where applicable, payout of the former spouse's entitlement;

- sets out the contents of the valuation statement to be provided by plan administrators;

- lists certain transfer options available to former spouses of active and deferred members entitled to a payout from the pension plan;

- outlines the rules for updating the imputed value if a transfer of a lump sum occurs;

- describes the circumstances that may limit or delay the payout of the former spouse's entitlement;

- prescribes rules for adjusting the member's pension if the former spouse's entitlement is paid out; and

- updates regulations that apply to the transitional provisions outlined in Bill 133.

Contents of Regulation Currently Under Consideration

Not all elements of the new pension division regime are reflected in the accompanying draft regulation. The government welcomes public comment on the following elements as well.

1. Hybrid Plans

Options regarding a separate valuation, updating, and adjustment methodology for "hybrid" plans are being considered, and the government invites further suggestions. This would include a methodology for both "combination" plans, where a member would be entitled to a stand-alone defined benefit (DB) and defined contribution (DC) benefit (e.g., as a result of a plan conversion), as well as plans which provide a benefit formula containing inter-connected DB and DC benefits (e.g., plans with a minimum guaranteed DB floor).

2. Amendments to PBA Regulation Regarding Locked-in Accounts/ Annuities

Amendments to General Regulation 909 under the PBA will be required to account for the option of an immediate transfer of an eligible former spouse's entitlement to a locked-in account. It is anticipated that amendments will be made to:

- explicitly permit a former spouse of a member or deferred member to transfer his/her entitlement to a locked-in account (i.e., a life income fund (LIF) or a locked-in retirement account (LIRA)); and

- base the receipt of payment from such locked-in account on the former spouse's age rather than the age of the member.

Further, amendments will be required to clarify that locked-in accounts and annuities covered by the PBA will be available for immediate settlement and will continue to be subject to the “50% rule” —that is, that the former spouse cannot receive more than 50% of the value of the retirement vehicle’s assets, accrued during the period of marriage or cohabitation, as applicable, as part of an equalization payment.

3. Transfer Option under s. 67.3(2), para. 4 of the PBA

Bill 133 permits an eligible former spouse to leave his/her lump sum entitlement in the plan to the credit of the former spouse. This option would only be available with administrator consent and in circumstances to be prescribed. The regulations would set out rules that provide for:

- on-going disclosure of plan documents and information to the former spouse while his/her entitlement remains in the plan;
- the conditions for commencement of payment to the former spouse of his/her entitlement;
- unforeseen circumstances arising while the former spouse’s entitlement remains in the plan (e.g., death, wind-up); and
- the extent of a former spouse’s rights under the plan.

4. Miscellaneous Amendments to PBA Regulation

Other minor amendments to Regulation 909 will be required to account for the new PBA provisions in Bill 133.

Issues Arising from Pension Reform Initiatives (Bills 236 and 120)

Over the past year, the government has been engaged in a number of pension-related initiatives. In May and December 2010, the Legislature passed Bill 236, the *Pension Benefits Amendment Act, 2010* and Bill 120, *Securing Pension Benefits Now and for the Future Act, 2010*, respectively.

A number of the initiatives introduced in these bills may affect the new pension division regime set out in Bill 133 and its corresponding regulations. In particular, rules regarding target benefits, the payment of variable benefits from a DC plan, phased retirement, and optional ancillary benefits may require adjustment to the new regime. It is anticipated that such adjustments will be considered once these initiatives have been fully implemented through regulation.

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ONTARIO REGULATION

made under the

PENSION BENEFITS ACT

FAMILY LAW MATTERS

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INTERPRETATION

Family law matters

1. This Regulation relates to the family law matters governed by sections 67.1 to 67.6 of the Act.

Interpretation

2. (1) In this Regulation,

"General Pension Regulation" means Regulation 909 (General) of the Revised Regulations of Ontario, 1990 made under the Act.

(2) Expressions used in this Regulation have the same meaning as in the General Pension Regulation, unless the context requires otherwise.

(3) Where this Regulation refers to section 3500 of the *Canadian Institute of Actuaries Standards of Practice*, the reference is to section 3500 ("Pension Commuted Values") of the *Standards of Practice* of the Actuarial Standards Board, dated January 2011, published by the Canadian Institute of Actuaries, which section is described in the *Standards of Practice* as being effective February 1, 2005 and revised May 1, 2006, December 8, 2008, March 26, 2009 and June 3, 2010.

PRELIMINARY VALUATION
(SUBSECTIONS 67.2 (1) TO (4) OF THE ACT)

Overview of preliminary valuation

3. (1) For the purposes of section 67.2 of the Act, the preliminary value of pension benefits, a deferred pension or a pension is determined in accordance with the requirements set out in this section and in sections 4 to 13 of this Regulation.

(2) For the purposes of a preliminary valuation, the following must be determined using the methods and actuarial assumptions that are consistent with section 3500 of the *Canadian Institute of Actuaries Standards of Practice*:

1. The commuted value of pension benefits that are defined benefits.

2. The commuted value of a deferred pension or a pension that is provided with respect to defined benefits.

3. The commuted value of ancillary benefits.

(3) Additional voluntary contributions are not included in a preliminary valuation of pension benefits or a deferred pension.

(4) A lump sum payable under subsection 39 (4) of the Act is not included in a preliminary valuation of pension benefits, a deferred pension or a pension.

Preliminary value of member's pension benefits (defined contribution benefits)

4. The preliminary value of a member's defined contribution benefits is the total amount of the contributions, and the interest on the contributions, paid by or for the credit of the member and determined on an individual account basis as of the family law valuation date. However, if that amount cannot be determined as of the family law valuation date, it must be determined as of the last day of the month immediately preceding the family law valuation date.

Preliminary value of former member's deferred pension (defined contribution benefits)

5. The preliminary value of a former member's deferred pension that is provided with respect to defined contribution benefits is the total amount of the contributions, and the interest on the contributions, paid by or for the credit of the former member and determined on an individual account basis as of the family law valuation date. However, if that amount cannot be determined as of the family law valuation date, it must be determined as of the last day of the month immediately preceding the family law valuation date.

Preliminary value of member's pension benefits (defined benefits)

6. (1) The preliminary value of a member's pension benefits that are defined benefits is determined using the following formulas, in which "A", "B", "C" and "T" have the meaning assigned by subsection (2):

1. If "T" for the member is at least zero but less than 10,

$$(0.1T/10) \times A + [(4 - 0.04T)/10] \times B + [(6 - 0.06T)/10] \times C$$

2. If "T" for the member is at least 10 but less than 20,

$$[(0.3T - 2)/10] \times A + [(4.8 - 0.12T)/10] \times B + [(7.2 - 0.18T)/10] \times C$$

3. If “T” for the member is at least 20 but less than 30,

$$[(0.45T - 5)/10] \times A + [(6 - 0.18T)/10] \times B + [(9 - 0.27T)/10] \times C$$

4. If “T” for the member is 30 or more,

$$(0.85 \times A) + (0.06 \times B) + (0.09 \times C)$$

(2) In the formulas used in subsection (1),

“A” is the commuted value of the member’s accrued pension benefits,

(a) determined as if the member had terminated employment or membership in the plan on the family law valuation date,

(b) determined in accordance with the terms of the pension plan on the family law valuation date and without consideration of future salary, benefits or changes to the plan and regardless of whether the member’s entitlement to the pension benefits is vested under the plan on the family law valuation date,

(c) determined assuming that if, as of the family law valuation date, the member has met all eligibility requirements under the plan necessary to choose one or more dates on which he or she may commence a pension, the member will choose the date that results in a pension with the greatest commuted value, and

(d) adjusted to include the commuted value of any ancillary benefit for which, as of the family law valuation date, the member has met all eligibility requirements under the plan necessary to exercise the right to receive the benefit;

“B” is the commuted value of the member’s accrued pension benefits,

(a) determined as if the member had terminated employment or membership in the plan on the family law valuation date,

(b) determined in accordance with the terms of the pension plan on the family law valuation date and without consideration of future salary, benefits or changes to the plan and regardless of whether the member’s entitlement to the pension benefits is vested under the plan on the family law valuation date, and

(c) determined assuming that the member's pension will commence at the normal retirement date under the terms of the plan;

"C" is the commuted value of the member's accrued pension benefits,

(a) determined as if the member had terminated employment or membership in the plan on the family law valuation date,

(b) determined in accordance with the terms of the pension plan on the family law valuation date and without consideration of future salary, benefits or changes to the plan and regardless of whether the member's entitlement to the pension benefits is vested under the plan on the family law valuation date, and

(c) determined assuming that the member's pension will commence, without reduction,

(i) at the earliest date at which he or she would be eligible, without the administrator's or employer's consent, to be paid an unreduced pension if his or her employment or membership in the plan continued on the same terms to that date, or

(ii) if the administrator's or employer's consent is an eligibility requirement for the member's entitlement to be paid an unreduced pension, at the earliest date at which the member would be eligible, with the administrator's or employer's deemed consent as described in subsection (3) or (4), to be paid an unreduced pension if his or her employment or membership in the plan continued on the same terms to that date, and

(d) if the plan provides bridging benefits, adjusted to include the commuted value of the bridging benefits as determined in accordance with subsection (5); and

"T" is the number of years during the period that begins on the member's family law valuation date and ends on the earliest date on which the member would be eligible, or would be deemed in accordance with subsection (3) or (4) to be eligible, to be paid an unreduced pension under the pension plan if his or her employment or membership in the plan continued on the same terms to that date.

(3) For the variables "C" and "T" in subsection (2), if the administrator's or employer's consent is an eligibility requirement for an unreduced pension before the normal retirement date and if the administrator or employer is otherwise deemed to have consented for any other purpose under the Act, the administrator or employer is also deemed to have consented for the purposes of the preliminary valuation.

(4) For the variables “C” and “T” in subsection (2), if the administrator’s consent is an eligibility requirement for an unreduced pension before the normal retirement date and if the administrator is not otherwise deemed to have consented for any other purpose under the Act, the administrator is deemed to have consented for the purposes of the preliminary valuation if all of the following conditions are satisfied:

1. The member would meet all of the other eligibility requirements for his or her entitlement to be paid the unreduced pension, if he or she continues his or her employment or membership in the pension plan on the same terms to the earliest date on which the unreduced pension could commence.

2. The administrator has consented in respect of at least 80 per cent of the instances where consent was required within the three fiscal years of the plan before the family law valuation date.

(5) For the variable “C” in subsection (2), if the member would be entitled to bridging benefits when payment of the unreduced pension begins, the variable “C” includes the commuted value of the bridging benefits,

(a) as accrued for service up to the family law valuation date and as payable from the earliest date on which the member would be eligible to be paid the unreduced pension, in the case of bridging benefits determined with reference to the length of the member’s service; or

(b) as prorated by the ratio that the member’s actual period of employment or membership in the plan up to the family law valuation date bears to the period of employment or membership that would end on the earliest date on which the member would be eligible to be paid the unreduced pension and full bridging benefits, in the case of bridging benefits that are not determined with reference to the length of the member’s service.

(6) For the variable “T” in subsection (2), the number of years during the specified period must include one-twelfth of a year for each full month during the period.

(7) For the purposes of clause (5) (b), the period of employment or membership in the plan is measured in months and must include one-twelfth of a year for each full month of employment or membership during the period.

Preliminary value of former member’s deferred pension (defined benefits)

7. The preliminary value of a former member’s deferred pension that is provided with respect to defined benefits is the commuted value of the deferred pension, as of the family law valuation date, adjusted to include the commuted value of any ancillary benefits for which, as of the family law valuation date, the member has met all eligibility requirements necessary to exercise the right to receive the benefit.

Preliminary value of retired member's pension (defined benefits)

8. (1) This section applies if payment of the first instalment of a retired member's pension that is provided with respect to defined benefits is due on or before the family law valuation date.

(2) The preliminary value of the retired member's pension that is provided with respect to defined benefits is the commuted value of the pension, as of the family law valuation date,

(a) adjusted to include the commuted value of any ancillary benefits that the member was receiving as of the family law valuation date; and

(b) adjusted to exclude the value of any pension payable to the spouse upon the death of the retired member.

Preliminary value of spouse's survivor benefit (defined benefits)

9. (1) This section applies with respect to the pension payable to the spouse of a retired member of a pension plan upon the death of the retired member.

(2) The preliminary value of a pension payable to the spouse of a retired member of a pension plan upon the death of the retired member is the commuted value, as of the family law valuation date, of the pension.

Special circumstances — no vested entitlement

10. If the entitlement to the pension benefits is not vested under the pension plan on the family law valuation date, the preliminary value of the pension benefits as otherwise determined is reduced by 50 per cent.

Special circumstances — shortened life expectancy

11. (1) This section applies if, on or before the family law valuation date, the administrator receives an application for the withdrawal of the commuted value of pension benefits, a deferred pension or a pension from the pension fund in circumstances of the shortened life expectancy of a member, former member or retired member.

(2) The preliminary value for family law purposes of the pension benefits, deferred pension or pension is the same as their commuted value as determined for section 49 of the Act if, on or before the family law valuation date, the administrator has approved the application for the withdrawal but the commuted value of the pension benefits, deferred pension or pension has not been withdrawn from the pension fund.

Special circumstances (defined benefits) — wind up or partial wind up of pension plan

12. (1) If the pension plan is being wound up in whole and if the effective date of the wind up is on or before the family law valuation date, the preliminary value of pension benefits, a deferred pension or a pension is the same as their commuted value as of the effective date of the wind up, accumulated with interest from the effective date of the wind up to the family law valuation date.

(2) If the pension plan is being wound up in part, if the member, former member or retired member is affected by the partial wind up and if the effective date of the partial wind up is on or before the family law valuation date, the preliminary value of pension benefits, a deferred pension or a pension is the same as their commuted value as of the effective date of the partial wind up accumulated with interest from the effective date of the partial wind up to the family law valuation date.

(3) However, if the effective date of the wind up or partial wind up is after the family law valuation date, the preliminary value of the pension benefits, deferred pension or pension is determined without reference to the wind up or partial wind up.

(4) For the purposes of subsections (1) and (2), the interest to be accumulated is calculated at the same interest rate used in calculating the commuted value of the pension benefits, deferred pension or pension on the effective date of the wind up or partial wind up.

Special circumstances (defined benefits) — entitlement to surplus

13. (1) If the Superintendent's consent is required for payment of surplus out of a pension fund to a member, former member or retired member, and if the following conditions are satisfied, the value of the surplus is added to the preliminary value of the pension benefits, deferred pension or pension as otherwise determined:

1. The Superintendent consents on or before the family law valuation date to the payment of surplus.

2. The surplus has not been paid to the member, former member or retired member on or before the family law valuation date.

(2) If the Superintendent's consent is not required for payment of surplus out of a pension fund to a member, former member or retired member, and if the following conditions are satisfied, the value of the surplus is added to the preliminary value of his or her pension benefits, deferred pension or pension as otherwise determined:

1. On or before the family law valuation date, the terms of the pension plan were amended to permit the payment of surplus to a member, former member or retired member.

2. On or before the family law valuation date, the member, former member or retired member is entitled to payment of a specified amount of the surplus.

3. The surplus has not been paid to the member, former member or retired member on or before the family law valuation date.

(3) In any other case, for the purposes of a preliminary valuation of pension benefits, deferred pension or pension, the value of the surplus to which a member, former member or retired member may be entitled is nil.

IMPUTED VALUE FOR FAMILY LAW PURPOSES
(SUBSECTION 67.2 (5) OF THE ACT)

Overview re imputed value

14. For the purposes of subsection 67.2 (5) of the Act, the imputed value, for family law purposes, of each spouse's pension benefits, deferred pension or pension, as the case may be, is determined in accordance with sections 15 to 17 of this Regulation.

"Starting date" for the imputed value

15. (1) If the imputed value is being determined for the period described in clause 67.2 (5) (a) of the Act, for the purposes of an order under Part I (Family Property) of the *Family Law Act*, a reference in section 16 of this Regulation to the "starting date" for the imputed value means the date of the spouses' marriage.

(2) If the imputed value is being determined for the period described in clause 67.2 (5) (b) of the Act, for the purposes of a family arbitration award or domestic contract, a reference in section 16 of this Regulation to the "starting date" for the imputed value means the following date:

1. If Part I (Family Property) of the *Family Law Act* applies with respect to the spouses,

    i. a date chosen jointly by the spouses, which cannot be earlier than the date on which their cohabitation began or later than the date of their marriage, or

    ii. if the spouses do not jointly choose a date described in subparagraph i, the date of their marriage.

2. In any other case,

    i. a date chosen jointly by the spouses, which cannot be earlier the date on which the spouses' cohabitation began, or

    ii. if the spouses do not jointly choose a date described in subparagraph i, the date on which their cohabitation began.

Imputed value of pension benefits, etc.

16. The imputed value of a member's pension benefits, a former member's deferred pension or a retired member's pension is the amount calculated using the formula,

$$D \times E/F$$

in which,

“D” is the preliminary value of his or her pension benefits, deferred pension or pension,

“E” is that portion of his or her period of employment or membership that is credited under the pension plan for the purpose of calculating the pension benefits, deferred pension or pension and that falls within the period that begins on the starting date for the imputed value and ends on the family law valuation date, and

“F” is the entire period of his or her employment or membership that is credited under the pension plan for the purpose of calculating the pension benefits, deferred pension or pension as of the family law valuation date.

Imputed value of spouse’s survivor benefit

17. The imputed value of the pension payable to the spouse of a retired member of a pension plan upon the death of the retired member is equal to the preliminary value of that pension.

STATEMENT OF IMPUTED VALUE
(SUBSECTIONS 67.2 (6) TO (9) OF THE ACT)

Application for statement of imputed value

18. (1) An application under subsection 67.2 (6) of the Act for a statement of imputed value must be made on a form approved by the Superintendent and must be accompanied by the material that is specified in the form.

(2) The application form must require the applicant to provide the following information and material:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and contact information of the applicant and of his or her spouse. The application must also indicate which spouse is the member, former member or retired member of the pension plan and, if applicable, which spouse is entitled to a pension payable on the death of the retired member.

3. Each spouse’s date of birth. Proof of the date of birth must be provided.

4. The spouses’ date of marriage, if applicable. Proof of the date of marriage must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to their date of marriage, a certified copy of their marriage certificate or a certified copy of a domestic contract indicating their date of marriage.

5. The date on which the spouses' cohabitation began, if the starting date for determining the imputed value is not their date of marriage, if any. Proof of the date on which their cohabitation began must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to that date or a certified copy of a domestic contract indicating that date.

6. The date, if any, chosen jointly by the spouses as the starting date for determining the imputed value, if it is not their date of marriage, if any, or the date on which their cohabitation began. Proof of the jointly-chosen date must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to that date or a certified copy of a domestic contract indicating that date.

7. The spouses' family law valuation date. Proof of the family law valuation date must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to their family law valuation date or a certified copy of a domestic contract indicting their family law valuation date.

Maximum fee payable for application

19. The following is the maximum fee that may be imposed by an administrator for an application for a statement of imputed value:

1. $200, if the pension plan provides defined contribution benefits to the member, former member or retired member.

2. $500, if the pension plan provides defined benefits to the member, former member or retired member.

Statement of imputed value — form and contents

20. (1) A statement of imputed value, to be provided under subsection 67.2 (9) of the Act, must be set out on a form approved by the Superintendent.

(2) Background information: The following background information must be included in the statement:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and date of birth of each spouse. The statement must also indicate which spouse is the member, former member or retired member of the pension plan and, if applicable, which spouse is entitled to a pension payable on the death of the retired member.

3. The employment and membership status, for the purposes of the pension plan, of the spouse who is the member, former member or retired member. The statement must

also indicate when he or she became a member and, if applicable, when he or she became a former member and retired member, respectively.

4. The starting date used for determining the imputed value of the pension benefits, deferred pension or pension. The statement must indicate whether the starting date is the spouses' date of marriage, the date on which their cohabitation began or another date chosen jointly by the spouses.

5. The spouses' family law valuation date.

(3) Preliminary valuation: The preliminary value for family law purposes of the pension benefits, deferred pension or pension and the particulars of the information used and assumptions relied upon to determine the preliminary value must be set out in the statement.

(4) Imputed value: The imputed value of the pension benefits, deferred pension or pension must be set out in the statement.

(5) Related financial matters: The following additional information about related matters must be included in the statement:

1. The accumulated amount of any additional voluntary contributions made by the member or former member on or before the family law valuation date, including interest on those contributions. The dates on which additional voluntary contributions were made must also be indicated.

2. The amount of any lump sum payable to the former member or retired member under subsection 39 (4) of the Act, determined as of the family law valuation date.

(6) Options for spouse: The following information about the options available in the circumstances to the former spouse of a member, former member or retired member must be included in the statement:

1. If applicable, a description of the options available to the former spouse under subsection 67.3 (2) of the Act for transferring a lump sum from the pension plan. The statement must also indicate how the former spouse applies for a transfer and indicate the information that he or she will be required to provide in such an application.

2. If applicable, a description of the option available to the former spouse under subsection 67.4 (10) of the Act to request payment of a single pension instead of payment of a share of the retired member's pension and payment of a pension on the death of the retired member. The statement must also indicate how the former spouse applies for payment of a single pension and indicate the information that he or she will be required to provide in such an application.

(7) General information: The following general information about the pension plan must be included in the statement:

1. An explanation of the provisions of the plan that apply to the member, former member or retired member or to a spouse entitled to a pension payable on the death of the retired member.

2. The transfer ratio of the plan as of the valuation date of the most recent report under section 3 or 14 of the General Pension Regulation that was filed with the Superintendent before the family law valuation date.

3. If applicable, particulars relating to the wind up of the pension plan if the effective date of the wind up is on or before the date of the statement of imputed value.

4. If applicable, particulars relating to a partial wind up of the pension plan if the member, former member or retired member is affected by the partial wind up and if the effective date of the partial wind up is on or before the date of the statement of imputed value.

5. If applicable, particulars of any application to the Superintendent on or before the family law valuation date for payment of surplus out of the pension fund to a class of employees that may include the member, former member or retired member, if the Superintendent has not consented to the application on or before the family law valuation date.

(8) A certificate of the administrator — certifying that the information in the statement is accurate, based on the information provided by the applicant and the information contained in the records of the pension plan — must be included in the statement.

Deadline for providing statement

21. The statement of imputed value must be given to both spouses under subsection 67.2 (9) of the Act within 60 days after the administrator receives the completed application for the statement, accompanied by the required documents and the application fee, if any.

TRANSFER OF A LUMP SUM FOR CERTAIN FAMILY LAW PURPOSES
(SECTION 67.3 OF THE ACT)

Application for transfer of lump sum

22. (1) An application under subsection 67.3 (2) of the Act by an eligible spouse for the transfer of a lump sum must be made on a form approved by the Superintendent and must be accompanied by the material that is specified in the form.

(2) The application form must require the applicant to provide the following information and material:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and contact information of the applicant and of his or her spouse.

3. The applicant's date of birth. Proof of the date of birth must be provided.

4. The applicant's direction to the administrator to make a transfer described in subsection 67.3 (2) of the Act, specifying the type of transfer under that subsection, and the particulars required to enable the administrator to make the transfer.

5. A certified copy of a domestic contract, family arbitration award or court order setting out the information described in paragraphs 4 and 5 of subsection 67.3 (1) of the Act concerning the applicant's entitlement to the transfer and the amount to be transferred. In the case of a family arbitration award or court order, the applicant must also certify that the award or court order is final and is not subject to appeal or review by a court.

Transfers to prescribed retirement savings arrangements

23. The following types of retirement savings arrangements are prescribed for the purposes of paragraph 2 of subsection 67.3 (2) of the Act as the prescribed retirement savings arrangements into which a lump sum may be transferred:

1. A life income fund that is governed by Schedule 1.1 of the General Pension Regulation.

2. A locked-in retirement account.

Restrictions on transfer of lump sum

24. (1) The restrictions set out in this section are prescribed for the purposes of subsection 67.3 (3) of the Act as restrictions that apply with respect to the transfer of a lump sum under section 67.3 of the Act.

(2) The administrator is not required to make the transfer if, after the administrator gave the statement of imputed value to the spouses but before the eligible spouse gave the administrator the completed application for transfer, the member's pension benefits or the former member's deferred pension, as the case may be, ceased to be available for apportionment for family law purposes as a result of a transfer or otherwise.

(3) The following restrictions apply if the transfer relates to pension benefits that are defined benefits or if the transfer relates to a deferred pension provided with respect to defined benefits:

1. The same restrictions that apply under subsections 19 (2), (3) and (6) to (7.2) of the General Pension Regulation with respect to the transfer of the commuted value of the member's pension benefits or the former member's deferred pension, as the case may

be, also apply with necessary modifications with respect to the transfer of a lump sum under section 67.3 of the Act.

2. For the purposes of applying the restrictions under those subsections of the General Pension Regulation to the transfer of the lump sum, a reference to “commuted value” in those subsections means that portion of the imputed value to which the eligible spouse is entitled.

(4) If the pension plan is being wound up in whole and if the administrator receives the application for the transfer before any assets attributable to the member or former member are distributed,

(a) the transfer of the lump sum is subject to the same restrictions on the wind up of the pension plan as the distribution of the member’s pension benefits or the former member’s deferred pension, as the case may be; and

(b) the maximum lump sum that may be transferred is 50 per cent of the member’s or former member’s entitlement on the wind up, including any amount guaranteed by the Guarantee Fund.

(5) Subsection (4) applies with necessary modifications if the pension plan is being wound up in part, if the member or former member is affected by the wind up and if administrator receives the application for the transfer before any assets attributable to the member or former member are distributed.

Deadline for making the transfer

25. (1) The lump sum must be transferred under subsection 67.3 (4) of the Act within 60 days after the administrator receives the completed application for the transfer, accompanied by the required documents.

(2) Despite subsection (1), if the transfer is subject to a restriction described in subsection 24 (3) of this Regulation, the deadline for transferring the remaining portion of the lump sum is the same as the applicable deadline in subsection 19 (7) of the General Pension Regulation.

(3) Despite subsection (1), if the transfer is subject to a restriction described in clause 24 (4) (a) of this Regulation on the wind up of the pension plan, the deadline for transferring the lump sum is the same as the deadline under section 72 of the Act for making other transfers in respect of the wind up.

Updating the imputed value re maximum percentage for transfer

26. (1) The imputed value of pension benefits or a deferred pension must be updated in accordance with this section for the purposes of subsection 67.3 (6) of the Act.

(2) The imputed value of pension benefits or a deferred pension accumulates interest from the family law valuation date to the beginning of the month in which the lump sum is to be transferred under section 67.3 of the Act.

(3) The rate of interest is calculated in accordance with the following rules:

1. If the pension benefits are defined contribution benefits, or if the deferred pension is provided with respect to defined contribution benefits, the rate of interest is calculated as the average, over a reasonably recent period that does not exceed 12 months, of the yields of five-year personal fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management System (CANSIM) series V122515 compiled by Statistics Canada and available on the website maintained by the Bank of Canada.

2. If the pension benefits are defined benefits, or if the deferred pension is provided with respect to defined benefits, the rate of interest is the same as the rate of interest used to calculate the preliminary value of the pension benefits or deferred pension.

Overview re adjustment of benefits, etc., following transfer of lump sum

27. For the purposes of subsection 67.3 (8) of the Act, the benefits and entitlements of a member or former member are to be adjusted in accordance with sections 28 to 30 of this Regulation upon the transfer of a lump sum under section 67.3 of the Act.

Adjustment of pension benefits or deferred pension (defined contribution benefits)

28. If the member's pension benefits are defined contribution benefits, or if the former member's deferred pension is provided with respect to defined contribution benefits, the adjusted amount of his or her pension benefits or deferred pension upon the transfer of the lump sum is determined using the formula,

$$G - H$$

in which,

"G" is the total amount of contributions, and interest on the contributions, paid by or for the credit of the member or former member and determined on an individual account basis immediately before the transfer of the lump sum, and

"H" is the amount of the lump sum that was transferred.

Adjustment of member's pension benefits (defined benefits)

29. (1) If the member's pension benefits are defined benefits, the adjusted amount of his or her pension benefits is determined in accordance with this section.

(2) All calculations required by this section are to be made as of the date on which the member terminates employment or membership, except where otherwise indicated.

(3) The adjusted amount of the member's accrued pension benefits, other than bridging benefits, if any, is determined in accordance with the following rules:

1. Transferred portion: As of the date of the transfer of the lump sum, calculate an amount representing the transferred portion of the member's accrued pension benefits (other than bridging benefits, if any) using the formula,

$$J \times (E/F) \times (K/L)$$

in which,

"E" has the same meaning as in section 16,

"F" has the same meaning as in section 16,

"J" is the amount of the member's accrued pension benefits as of the family law valuation date, excluding any bridging benefits,

"K" is the amount of the lump sum that was transferred, and

"L" is the imputed value of the member's accrued pension benefits as updated under section 26.

2. Indexation of transferred portion: If the terms of the pension plan, as they read on the family law valuation date, provide for the indexation of a deferred pension, increase the amount of the transferred portion as calculated under paragraph 1 for indexation on the same basis as a deferred pension of a former member who terminated employment or membership as of the family law valuation date, for the period beginning on the family law valuation date and ending on the date on which the member terminates employment or membership.

3. Pre-adjustment amount of the member's accrued pension benefits: Calculate the amount of the accrued pension benefits (other than bridging benefits, if any) to which the member is entitled on the date on which he or she terminates employment or membership.

4. Adjusted amount: Calculate the adjusted amount of his or her accrued pension benefits (other than bridging benefits, if any) using the formula,

$$M - N$$

in which,

“M” is the pre-adjustment amount of the member’s accrued pension benefits (other than bridging benefits, if any) as calculated under paragraph 3, and

“N” is the amount of the transferred portion as calculated under paragraph 1 or 2, whichever applies.

(4) The adjusted amount of the member’s accrued bridging benefits, if any, is determined in accordance with the following rules:

1. Transferred portion: As of the date of the transfer of the lump sum, calculate an amount representing the transferred portion of the member’s accrued bridging benefits, if any, using the formula,

$$P \times (E/F) \times (K/L)$$

in which,

“E” has the same meaning as in section 16,

“F” has the same meaning as in section 16,

“K” has the same meaning as in paragraph 1 of subsection (3),

“L” has the same meaning as in paragraph 1 of subsection (3), and

“P” is the amount of the member’s accrued bridging benefits, if any, as of the family law valuation date.

2. Pre-adjustment amount of the member’s accrued bridging benefits: Calculate the amount of the accrued bridging benefits to which the member is entitled on the date on which he or she terminates employment or membership.

3. Adjusted amount: Calculate the adjusted amount of the member’s accrued bridging benefits, if any, using the formula,

$$Q - R$$

in which,

“Q” is the pre-adjustment amount of the member’s accrued bridging benefits as calculated under paragraph 2, and

“R” is the amount of the transferred portion as calculated under paragraph 1.

(5) For greater certainty, the period of employment credited under the pension plan to the member is not reduced by an adjustment under this section.

Adjustment of former member’s deferred pension (defined benefits)

30. (1) If the former member’s deferred pension is provided with respect to defined benefits, the adjusted amount of his or her deferred pension is determined in accordance with this section.

(2) All calculations required by this section are to be made as of the transfer of the lump sum, except where otherwise indicated.

(3) The adjusted amount of the former member’s deferred pension, other than bridging benefits, if any, is determined in accordance with the following rules:

1. Pre-adjustment amount: Calculate the amount of the former member’s deferred pension (other than bridging benefits, if any) as of the family law valuation date, increased for any indexation provided by the terms of the pension plan for the period from the date on which he or she terminated employment or membership to the family law valuation date.

2. Transferred portion: Calculate an amount representing the transferred portion of the former member’s deferred pension (other than bridging benefits, if any) using the formula,

$$S \times (E/F) \times (U/V)$$

in which,

“E” has the same meaning as in section 16,

“F” has the same meaning as in section 16,

“S” is the pre-adjustment amount of the former member’s deferred pension (other than bridging benefits, if any) as calculated under paragraph 1,

“U” is the amount of the lump sum that was transferred, and

"V" is the imputed value of the former member's deferred pension as updated under section 26.

3. Adjusted amount: Calculate the adjusted amount of the former member's deferred pension (other than bridging benefits, if any) using the formula,

$$S - W$$

in which,

"S" is the pre-adjustment amount of the former member's deferred pension (other than bridging benefits, if any) as calculated under paragraph 1, and

"W" is the amount of the transferred portion as calculated under paragraph 2.

(4) The adjusted amount of the former member's bridging benefits, if any, is determined in accordance with the following rules:

1. Pre-adjustment amount: Calculate the amount of any bridging benefit to which the former member was entitled as of the family law valuation date.

2. Transferred portion: Calculate an amount representing the transferred portion of the former member's bridging benefits using the formula,

$$X \times (E/F) \times (U/V)$$

in which,

"E" has the same meaning as in section 16,

"F" has the same meaning as in section 16,

"U" has the same meaning as in paragraph 2 of subsection (3),

"V" has the same meaning as in paragraph 2 of subsection (3), and

"X" is the pre-adjustment amount of the former member's bridging benefits as calculated under paragraph 1.

3. Adjusted amount: Calculate the adjusted amount of the former member's bridging benefits using the formula,

$$X - Y$$

in which,

“X” is the pre-adjustment amount of the former member’s bridging benefits as calculated under paragraph 1, and

“Y” is the amount of the transferred portion as calculated under paragraph 2.

(4) For greater certainty, the period of employment credited under the pension plan to the former member is not reduced by an adjustment under this section.

DIVISION OF A PENSION FOR CERTAIN FAMILY LAW PURPOSES (SECTION 67.4 OF THE ACT)

Application for division of pension

31. (1) An application under subsection 67.4 (2) of the Act by an eligible spouse for the division of a pension must be made on a form approved by the Superintendent and must be accompanied by the material that is specified in the form.

(2) The application form must require the applicant to provide the following information and material:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and contact information of the applicant and of his or her spouse.

3. The applicant’s date of birth. Proof of the date of birth must be provided.

4. The applicant’s direction to the administrator to divide the retired member’s pension under section 67.4 of the Act and the particulars required to enable the administrator to implement the direction.

5. A certified copy of a domestic contract, family arbitration award or court order setting out the information described in paragraphs 4 and 5 of subsection 67.4 (1) of the Act concerning the applicant’s entitlement to the division and to payment of the share of the pension. In the case of a family arbitration award or court order, the applicant must also certify that the award or court order is final and is not subject to appeal or review by a court.

(3) The application may include a written waiver under subsection 67.4 (8) of the Act, in a form approved by the Superintendent, that the eligible spouse waives his or her entitlement to a pension payable upon the death of the retired member.

(4) The application may include the applicant’s request under subsection 67.4 (10) of the Act for payment of a single pension from the pension plan instead of payment of a share of the retired member’s pension and payment of a pension upon the death of the retired member.

Restrictions on division of pension

32. (1) The restrictions set out in this section are prescribed for the purposes of subsection 67.4 (3) of the Act as restrictions that apply with respect to the division of a pension under section 67.4 of the Act and the payment of the eligible spouse’s share under that section.

(2) The administrator is not required to divide the pension and pay the eligible spouse’s share to the applicant if, after the administrator gave the statement of imputed value to the spouses but before the eligible spouse gave the administrator the completed application for division of the pension, the retired member’s pension ceased to be available, as a result of a transfer or otherwise, for division and payment.

(3) If the pension plan is being wound up in whole and if, before any assets attributable to the retired member are distributed, the administrator receives the application for division of the pension and payment of the eligible spouse’s share,

(a) payment of the eligible spouse’s share to the applicant is subject to the same restrictions on the wind up of the pension plan as the payment of the retired member’s pension; and

(b) the maximum share of the retired member’s pension that is payable to the eligible spouse is 50 per cent of the retired member’s pension entitlement on the wind up, including any amount guaranteed by the Guarantee Fund.

(4) Subsection (3) applies with necessary modifications if the pension plan is being wound up in part, if the retired member is affected by the wind up and if, before any assets attributable to the retired member are distributed, the administrator receives the application for division of the pension and payment of the eligible spouse’s share.

Deadline to begin payments to eligible spouse

33. Payment of the eligible spouse’s share of the pension under subsection 67.4 (4) of the Act must begin within 60 days after the administrator receives the completed application for division and payment, accompanied by the required documents.

Overview of division and revaluation, etc.

34. (1) For the purposes of subsection 67.4 (4) of the Act, a retired member’s pension is to be divided and revalued in accordance with section 35 of this Regulation.

(2) For the purposes of subsection 67.4 (10) of the Act, the single pension payable to an eligible spouse is to be determined in accordance with section 36 of this Regulation.

(3) The calculations required by sections 35 and 36 must be done using methods and assumptions that are consistent with section 3500 of the *Canadian Institute of Actuaries Standards of Practice*.

(4) For the purposes of the calculations required by sections 35 and 36, the rate of interest is calculated as the average, over a reasonably recent period that does not exceed 12 months, of the yields of five-year personal fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management System (CANSIM) series V122515 compiled by Statistics Canada and available on the website maintained by the Bank of Canada.

Division and revaluation of retired member's pension

35. (1) The following rules govern the division and revaluation of the retired member's pension:

1. Retired member's initial (notional) pension: Determine the amount of the pension instalment payable to the retired member immediately before the family law valuation date.

2. Eligible spouse's initial (notional) share: Determine the amount of the pension instalment payable to the eligible spouse, under the order, family arbitration award or domestic contract referred to in subsection 67.4 (1) of the Act, as of the family law valuation date.

3. Retired member's revalued (notional) pension: Subtract the eligible spouse's pension instalment, as determined in paragraph 2, from the retired member's pension instalment, as determined in paragraph 1.

4. Lump sum arrears in eligible spouse's (notional) share: Determine the total of the pension instalments, with interest, payable to the eligible spouse from the family law valuation date to the date as of which the retired member's pension is divided under subsection section 67.4 (4) of the Act.

5. Arrears expressed as pension instalments: Determine the amount of a pension instalment payable for the life of the retired member, commencing as of the payment date that falls on or immediately after the date as of which the retired member's pension is divided, such that the commuted value of this pension is equal to the amount determined in paragraph 4.

6. Eligible spouse's share of the pension: Add the amount of the pension instalment as determined under paragraph 5 to the amount of the pension instalment as determined under paragraph 2. This is the eligible spouse's share of the retired member's pension.

7. Retired member’s revalued pension: Subtract the amount of the pension instalment as determined under paragraph 5 from the amount of the pension instalment as determined under paragraph 3. This is the retired member’s revalued pension.

(2) The eligible spouse’s share of the retired member’s pension, as determined in paragraph 6 of subsection (1), is payable as of the payment date that falls on or immediately after the date on which the retired member’s pension is divided under subsection 67.4 (4) of the Act, and is payable for the life of the retired member.

(3) The retired member’s revalued pension, as determined in paragraph 7 of subsection (1), is payable as of the payment date that falls on or immediately after the date on which the retired member’s pension is divided under subsection 67.4 (4) of the Act, and is payable for the life of the retired member.

Combining payments into a single pension

36. (1) If an eligible spouse requests payment of a single pension under subsection 67.4 (10) of the Act, and if the pension plan permits payment of a single pension to the spouse in the circumstances, the amount of the single pension is determined in accordance with the following rules:

1. Eligible spouse’s share of the retired member’s pension: Determine the eligible spouse’s share of the retired member’s pension in accordance with section 35.

2. Commuted value of eligible spouse’s share: Determine the commuted value of the eligible spouse’s share of the retired member’s pension.

3. Commuted value of eligible spouse’s survivor benefit: Determine the commuted value of the pension payable to the eligible spouse upon the death of the retired member.

4. Total commuted value of both: Add the commuted values determined under paragraphs 2 and 3.

5. Eligible spouse’s single pension: Determine the amount of a pension instalment payable for the life of the eligible spouse, commencing as of the payment date that falls on or immediately after the date as of which the retired member’s pension is divided, such that the commuted value of this pension is equal to the amount determined in paragraph 4. This is the single pension payable to the eligible spouse under subsection 67.4 (10) of the Act.

6. The commuted values referred to in paragraphs 2, 3 and 5 are to be determined as of the date on which the retired member’s pension is being divided.

(2) The single pension payable to the eligible spouse under subsection 67.4 (10) of the Act, as determined in paragraph 5 of subsection (1), is payable as of the payment date that falls on or immediately after the date on which the retired member's pension is divided under subsection 67.4 (4) of the Act, and is payable for the life of the eligible spouse.

OTHER TRANSITIONAL MATTERS
(SECTION 67.6 OF THE ACT)

Calculation re maximum percentage

37. (1) For the purposes of subsection 67.6 (4) of the Act, the pension benefits accrued during the period a member, former member or retired member had a spouse shall be determined as if the member terminated employment at the valuation date in accordance with the terms of the plan at that date and without consideration of future salary, benefits or changes to the plan but with consideration for the possibility of future vesting.

(2) In this section,

"valuation date" means the valuation date as defined in subsection 4 (1) of the *Family Law Act*.

Notice re spouse's entitlement to options

38. (1) This section applies if the administrator is given a certified copy of a court order, family arbitration award or domestic contract described in subsection 67.6 (1) of the Act that was made before the date on which that subsection of the Act comes into force and that entitles the spouse of a member to a payment under section 5 of the *Family Law Act*.

(2) If the member named in the court order, award or contract terminates employment, the administrator shall give the following information and documents to the spouse within 30 days after receiving notice of the termination:

1. Notice that the member has terminated employment.

2. A copy of the statement given to the member by the administrator.

3. Information about the options available to the spouse under subsection 67.6 (7) and section 42 of the Act.

MISCELLANEOUS MATTERS

Inspection of administrator's records

39. (1) The administrator of a pension plan is required by clause 29 (1) (c.1) of the Act to make the prescribed records available for inspection without charge by a former spouse, within the meaning of sections 67.1 to 67.6 of the Act, of a member, former member or retired member,

(a) if the former spouse has applied under subsection 67.2 (6) of the Act for a statement of imputed value; or

(b) if his or her spouse has applied under subsection 67.2 (6) of the Act for a statement of imputed value.

(2) However, the administrator is not required to make the prescribed records available to the former spouse after the earlier of,

(a) one year after the date on which the administrator gives the statement of imputed value to the former spouse or to the member, former member or retired member, as the case may be, under subsection 67.2 (9) of the Act; and

(b) the date on which the administrator transfers a lump sum to the former spouse under subsection 67.3 (4) of the Act or begins payment of a share of the retired member's pension to the former spouse under subsection 67.4 (4) of the Act.

Details of Temporary Solvency Funding Relief for Certain Pension Plans in the Broader Public Sector

(Pension Benefits Act Regulation 909)

Overview

In June 2009, the Lieutenant Governor in Council enacted an amendment to the regulation under the *Pension Benefits Act* (PBA) to provide temporary solvency funding relief for defined benefit (DB) pension plans in Ontario. The measures apply to the first scheduled valuation report dated on or after September 30, 2008 and before September 30, 2011.

The relief measures include three options:

- Defer for up to one year the start of new special payments. This deferral applies to both the going concern special payments and solvency special payments.
- Consolidate any remaining solvency special payments from previous valuations into a new 5-year payment schedule.
- Amortize the new solvency deficiency over a period of up to 10 years, instead of the usual 5 years, with the consent of plan members. Consent is provided if no more than 1/3 of all active, deferred and retired members indicate that they do not consent.

Since the introduction of the 2009 solvency funding relief measures, many single-employer defined benefit pension plan sponsors and sponsors of defined contribution pension plans with minimum guaranteed benefits (hybrid pension plans) in the public sector and broader public sector (BPS), including universities, have approached the government seeking additional solvency funding relief.

In an effort to support sustainable public sector and BPS pension plans, the Minister of Finance announced in the 2010 Budget that the government is considering providing additional temporary solvency funding relief to certain single employer, DB or hybrid pension plans in the public sector and BPS, including Ontario university pension plans.

In exchange for the relief, plan sponsors would be expected to adopt plan changes that would make their plans more sustainable in the long term. Plan changes, as indicated in the 2010 Budget, could include (but are not limited to) the following:

- converting to joint sponsorship for future service;

- more equitable sharing of the normal cost of providing benefits between employers and members;
- linking some future benefits, such as inflation protection, to plan performance; and
- enhancing cost certainty and affordability through benefit adjustments that make plans more sustainable.

This process could include discussions with collective bargaining agents (CBAs).

Although the exemption from the requirement to fund on a solvency basis applies only to existing JSPPs, plans that convert to JSPPs in the future could be considered for relief from future solvency deficiencies. Existing solvency deficiencies would still need to be addressed.

Consideration would be given to the need for agreement between the plan sponsor and the representatives of plan members on issues such as the plan's governance structure, sharing of gains and losses, funding policies and contribution rate stabilization reserves, and the way in which accrued benefits are addressed in the event of a plan wind up.

There would be no additional funding from the province to finance pension deficits.

Further details were provided through separate announcements on August 5, 2010 and August 24, 2010. Links to these announcements on the Ministry of Finance website are provided at the end of this document.

Details of the relief measures, including eligibility criteria and additional conditions, would be outlined in an amendment to the regulations under the PBA, which is expected to come into effect by mid-May, 2011. Examples of steps that eligible pension plans could take and the measurement of financial impacts that are outlined in the "Savings Target" section below are not part of the amendment to the regulation. Rather, this is information that the Ministry of Finance would rely on in considering whether a pension plan has been made more sustainable in the long term. The Lieutenant Governor in Council will make the final decision on the regulation.

The proposed measures would provide temporary solvency funding relief in two stages with eligibility criteria attached to each stage. Details of the proposed relief measures and requirements for application are provided in the sections below.

If accepted into Stage 1, plan sponsors would file a valuation report with the Financial Services Commission of Ontario (FSCO) in accordance with the proposed regulation. Plan sponsors would have three years (3-year period) from the valuation date of this report to determine plan changes, a process that may include discussions with CBAs or other means in accordance with the plan's governance requirements. They would be required to make minimum payments during this 3-year period to ensure the solvency shortfall does not increase.

At the end of the 3-year period, plan sponsors would be required to prepare another valuation and submit a report (Stage 1 progress report) to the Ministry of Finance to demonstrate progress in meeting their funding plan targets. This report would be submitted to the Ministry of Finance no later than 6 months after the end of the 3-year period.

The results revealed in this report would be measured against established savings targets as detailed in the "Savings Targets" section, which outlines the conditions a pension plan would be required to meet in order to qualify for Stage 2 relief.

If substantial progress has been made in meeting the targets, it is contemplated that Ministry of Finance would recommend further funding relief to be provided to eligible plans (Stage 2 relief). Otherwise, the normal PBA funding provisions effective at the time would apply.

Plan changes identified during the 3-year period should be fully adopted no more than 5 years from the effective date of the Stage 1 progress report.

Please note that while the details of the proposed temporary solvency funding relief are anticipated to form a part of the proposed regulation, the savings targets would likely not form part of the proposed regulation.

Details of the Proposed Temporary Solvency Funding Relief as Proposed in the Draft Amendment to the Regulation

<u>Eligibility to Enter Stage 1</u>

It is contemplated that the Ministry of Finance would recommend that single employer, public sector and BPS pension plans qualify for Stage 1 of the proposed two-stage relief if they meet certain criteria as outlined in the 2010 Budget and subsequent announcements:

- the pension plan provides defined benefits;
- the pension plan is not a multi-employer pension plan;
- the pension plan is not a jointly-sponsored pension plan;
- the pension plan is sponsored by a public sector employer as defined in the regulation;

- members continue to accrue defined benefits under the pension plan (i.e., it is not a closed plan with past service benefits only or a plan with predominantly retired members);

- eligibility for Stage 1 relief would be based on the first valuation report (Stage 1 valuation report) dated on or after December 31, 2009 and filed after the regulation is made [expected by mid-May, 2011];

- the Stage 1 valuation report indicates that, as of the valuation date, either:

    - the ratio of the market value of the plan assets to the going concern liabilities is less than 0.9; or

    - the ratio of the solvency assets to the solvency liabilities, as defined under the *Pension Benefits Act*, is less than 0.9.

- a *funding* plan shall be submitted to the Ministry of Finance indicating estimated savings targets and possible steps to make the pension plan more sustainable in the long term;

- steps could include, among other things, prospective benefit adjustments, an increase in the portion of the normal cost paid by employees (up to 50% of the total), linking some future benefits to plan investment performance, or converting to joint sponsorship for future service.

<u>Stage 1 Relief</u>

During the three years of the Stage 1 relief period, the following provisions would apply:

- Annual filings of actuarial valuations would not be required, irrespective of whether the plan has solvency concerns as described in the regulations under the PBA;

- The prior year credit balance would be set to zero at the onset of Stage 1 relief;

- Commencement of new going concern special payments may be deferred by up to one year from the date of the Stage 1 valuation report;

- Going concern payment schedules established in valuation reports prior to the date of Stage 1 valuation report would continue;

- Solvency payment schedules established in valuation reports prior to the Stage 1 valuation would be suspended. Instead, during the <u>four</u> years following the date of Stage 1 valuation report, the annual minimum solvency special payments would be the greater of (a) and (b) below, less the going concern special payments due for the year:

a. The amount of the annual interest charge on the solvency deficiency identified in the Stage 1 valuation report, excluding any solvency asset adjustment and solvency liability adjustment; and

b. 50% of the special payments that are required to amortize the excess, if any, of 80% of the solvency liability over the solvency assets, as determined in the Stage 1 valuation report, over a four year period commencing at the date of Stage 1 valuation report.

- Limits on contribution holidays and accelerated funding requirements for benefit improvements during the 4-year period as detailed in the “Additional Conditions: Limits on Contribution Holidays and Benefit Improvements” section below would apply;

- Additional disclosure requirements to members and retirees. This could be accomplished through including such information in annual statements or issuing special notices.

<u>Exit Stage 1 Relief</u>

For plans which are not able to make substantial progress in meeting the savings targets and therefore not able to enter the Stage 2 relief, it is anticipated that the following provisions would apply no more than 3 years from the date of the Stage 1 valuation report (Stage 1 exit date).

- The plan should prepare an actuarial valuation report as of the Stage 1 exit date under s. 3 or s.14.

- This report should be filed with the FSCO no later than one year after the valuation date.

- Any solvency deficiency identified in this report must be amortized over a period of no more than 5 years with the first payment starting no later than 12 months after the valuation date.

- Going concern special payment schedules established in valuation reports prior to this report would continue.

- Any new going concern unfunded liability identified in this report would be amortized over a period of no more than 15 years, with the first payment starting no later than 12 months after the date of the valuation report.

- Limits on contribution holidays and accelerated funding requirements on benefit improvements detailed in “Additional Conditions: Limits on contribution holidays and benefit improvements” below would remain in effect until the earlier of 10 years from the Stage 1 exit date or the date the second of two consecutive valuations are filed with FSCO where the transfer ratio is greater than or equal to 1.0.

- Disclosure to members and retirees about the plan’s exiting from the Stage 1 relief regime. This could be accomplished through including such information in annual statements or issuing special notices.

Stage 2 Relief

For plans that are able to demonstrate that substantial progress has been made in meeting savings targets, the following provisions would apply if the proposed regulation is made:

- The plan would prepare an actuarial valuation report as of the Stage 1 exit date (Stage 2 valuation report).

- The Stage 2 valuation report would be filed with FSCO no later than one year after the valuation date.

- Any solvency deficiency identified in the Stage 2 valuation report would be amortized over a period of no more than 10 years with the first payment starting no later than 12 months after the date of the Stage 2 valuation report.

- Solvency asset adjustment would include the present value of going concern special payments payable from the date of the Stage 2 valuation report to the end of the period this solvency deficiency is fully liquidated.

- Going concern special payment schedules established in valuation reports prior to the Stage 2 valuation report would continue.

- Any new going concern unfunded liability identified in the Stage 2 valuation report would be amortized over a period of no more than 15 years with the first payment starting no later than 12 months after the date the Stage 2 valuation report.

- Filing of subsequent valuation reports would be in accordance with the requirements of the PBA and regulations in effect at the time.

- Funding of any additional going concern unfunded liability in a valuation report subsequent to the Stage 2 valuation report would be in accordance with the PBA and regulations in effect at the time.

- Any additional solvency deficiency revealed in a report subsequent to the Stage 2 valuation report would be amortized over a period that is the longer of 5 years or the remaining period from the valuation date to the end of the 10 year period the solvency deficiency identified in the Stage 2 valuation report is fully liquidated.

- The solvency asset adjustment would include present value of going concern special payments and solvency special payments payable over the same period.

- Limits on contribution holidays and accelerated funding requirements on benefit improvements detailed in the "Additional Conditions: Limits on Contribution Holidays and Benefit Improvements" section below would remain in effect until the earlier of 15 years starting from the effective date of the Stage 2 valuation report, or the date the second of two consecutive valuations filed with FSCO, where the transfer ratio is greater than or equal to 1.0.

<u>Additional Conditions: Limits on Contribution Holidays and Benefit Improvements</u>

Proposed regulations under Bill 120 would prescribe conditions for contribution holidays and require accelerated funding of benefit improvements under certain situations. All pension plans registered under the PBA would be subject to Bill 120 and its related regulations once those regulations are made. It is proposed that plans seeking temporary solvency funding relief under this regime would be subject to additional conditions and limits, as follows:

- The transfer ratio of the plan shall not fall below 1.10 after the application of the contribution holidays;

- To the extent that a going concern unfunded liability is created or increased due to plan amendments that increase pension benefits or ancillary benefits, such an unfunded liability shall be amortized over a period of no more than 5 years with the first payment commencing in accordance with the funding requirements under the PBA and regulation in effect at the time.

- To the extent that the transfer ratio of the plan is reduced to below 0.90 due to plan amendments that increase pension benefits or ancillary benefits, a lump sum special payment should be made immediately to restore the transfer ratio to at least 0.90. The balance of the increase in the going concern unfunded liability shall be amortized over a period of 5 years as stated above.

Savings Targets

Almost all pension plans experienced significant investment losses during the great recession of 2008 - 2009. These investment losses, together with declining interest rates, have resulted in significant funding deficits in most pension plans. These funding deficits could be viewed as cyclical, structural or a combination of both to some degree.

If a plan experiences funding difficulties regardless of the economic environment, the funding deficit is considered to be more structural than cyclical in nature. The savings targets attempt to approximate the size of structural deficits. Under this proposed regime, a pension plan that has had structural funding challenges over the past decade would have higher savings targets.

Additionally, the savings targets will also serve as a measurement tool for the Ministry of Finance to consider whether steps taken towards sustainability were commensurate with the structural funding challenges faced by those plans seeking Stage 2 funding relief. It will also serve to guide plans with various funding challenges towards more equitable sharing of risk between members and employers in the long term.

The savings target is defined as:

savings target = 1 - Minimum (A, B) where:

> A is the average ratio of the market value of plan assets to going concern liabilities, up to 1.00, determined in the last three valuations filed and in the Stage 1 valuation
>
> B is the average ratio of solvency assets to solvency liabilities, up to 1.00, determined in the last three valuations filed and in the Stage 1 valuation

<u>Terms</u>

Stage 1 valuation = 1^{st} valuation on or after December 31, 2009 and filed after the regulation is made

Stage 1 progress valuation = valuation performed no more than 3 years after the Stage 1 valuation date to qualify for Stage 2 funding relief

The present value of future service benefits and future normal costs shall be determined using an aggregate actuarial cost method calculated on a going concern basis.

All present values of future service benefit, normal cost and liabilities are determined as of the Stage 1 progress valuation date and should be calculated using the same actuarial assumptions used in the Stage 1 valuation.

PVFB(o) = present value of future service benefits under plan provisions as at the Stage 1 valuation date, excluding amendments made within the last five years leading up to the Stage 1 valuation date or plan amendments made prior to this period that are scheduled to come into effect during this period which may have enhanced the sustainability of the plan. Amendments to increase pension benefits or ancillary benefits that were made during this five-year period or scheduled to come into effect during this period should not be excluded.

PVFNC(o) = present value of future normal cost under the same plan provisions in calculating PVFB(o), expressed as a dollar amount and as a percentage of the present value of future pensionable earnings.

PVFB(n) = present value of future service benefits under plan provisions as at the Stage 1 progress valuation date, including plan amendments excluded from PFVB(o) and amendments adopted or to be adopted no later than 5 years after the Stage 1 progress valuation date.

PVFNC(n) = present value of future normal cost under the same plan provision in calculating PVFB(n), expressed as a dollar amount and as a percentage of present value of future pensionable earnings.

Accrued Liability(o) = accrued liability for active members under the same plan provisions in calculating PVFB(o).

Accrued Liability(n) = accrued liability for active members under the same plan provision in calculating PVFB(n).

Savings Targets for a DB Plan:

- The plan should determine a normal cost contribution rate as at the Stage 1 progress valuation date such that the present value of future normal cost contributions would at least equal the present value of future service benefits under the same plan provision in calculating PVFB(n). That is:

  PVFNC(n) = PVFB(n) and where PVFB(n) <= PVFB(o);

- The employer's share of the normal cost should not exceed its share under the same plan provisions in calculating PVFB(o). That is:

$$\frac{\text{ER PVFNC(n)}}{\text{EE PVFNC(n)}} <= \frac{\text{ER PVFNC(o)}}{\text{EE PVFNC(o)}}$$

- The plan should demonstrate that it has achieved one or both of the following:

  - Employer and members share more equally in the normal cost going forward

  - Adjustment to pension benefits / ancillary benefits in respect of future service and / or realignment of employer and employee normal cost going forward would satisfy the savings target. That is:

$$\left(\frac{[PVFB(o) - EE\ PVFNC(o)] - [PVFB(n) - EE\ PVFNC(n)] + [\text{Accrued Liability}(o) - \text{Accrued Liability}(n)]}{PVFB(o)}\right) >= \text{savings target}$$

<u>Savings Targets for a Hybrid Plan:</u>

If retaining the plan structure as a hybrid plan, or if the plan has converted to provide defined contribution benefits only for future service but retains the practice of converting a defined contribution benefit into a defined benefit within the plan at retirement, then the plan should demonstrate the following:

- PVFB(n) <= PVFB(o), where the present value of future service benefits includes benefits under both the defined contribution provision and the minimum guarantee benefit provision.

- The employer's share of the total normal cost, i.e., employer normal cost contribution to the defined contribution provision and to the minimum guarantee benefit provision, should not exceed its share under the same plan provision in calculating PVFB(o). That is:

$$\frac{ER\ PVFNC(n)}{EE\ PVFNC(n)} <= \frac{ER\ PVFNC(o)}{EE\ PVFNC(o)}$$

  (for purposes of this calculation, the present value of future benefits and contributions includes benefits and contributions under the defined contribution provision, as applicable)

- Actions that have been taken to reduce the plan's risk resulting from a review of the conversion process, excess investment return indexing provision and non-reduction guarantee provision, and the financial impact as a result of taking such actions.

- The aggregate financial impact from all actions taken would produce a saving to the plan that would meet the savings target below:

$$\left(\frac{[PVFB\ (o) - EE\ PVFNC\ (o)] - [PVFB(n) - EE\ PVFNC(n)] + [\ Accrued\ Liability\ (o) - Accrued\ Liability\ (n)]}{PVFB(o) + Accrued\ Liability\ (o)}\right)$$

$>=$ savings target

For purposes of demonstrating the financial impact of actions taken to reduce the plan's risks, such as revision of the conversion process and/or other post-retirement benefit adjustment provisions, those actions could be modeled for inclusion in the determination of whether the savings target has been achieved.

Also, for the purposes of this calculation, the present value of future service benefits, contributions, accrued liabilities include benefits, contributions and accrued liabilities under both the defined contribution provision and the minimum guarantee benefits provision, as applicable.

If the plan has been converted to a "pure" defined benefit plan, the plan should demonstrate that:

- The future service benefit accrual rate should not exceed the current minimum guarantee benefit level.

- The plan should determine a normal cost contribution rate as at the Stage 1 progress valuation date such that present valuation of future contributions would at least equal the present value of future benefits under the same plan provisions in calculating PVFB(n). That is:

  PVFNC(n) = PVFB(n) and where PVFB(n) <= PVFB(o);

- The employer's share of the normal cost should not exceed its share under the same plan provision in calculating PVFB(o). That is:

$$\frac{ER\ \ PVFNC(n)}{EE\ PVFNC(n)} <= \frac{ER\ \ PVFNC(o)}{EE\ PVFNC(o)}$$

  (for this calculation, present value of contributions includes contributions to defined contribution provision as applicable)

- Actions that have been taken to reduce the plan's risk resulting from a review of the conversion process, excess investment return indexing provision and non-reduction guarantee provision for benefits accrued up to the effective date of conversion and the financial impact as a result of taking such action.

- The plan should demonstrate that it has achieved one or both of the following:

  - Employer and members share more equally in the normal cost going forward;

  - The aggregate financial impact from all actions taken would produce a saving to the plan that would meet the savings target outlined in the DB section. That is:

$$\left(\frac{[PVFB(o) - EE\ PVFNC(o)] - [PVFB(n) - EE\ PVFNC(n)] + [Accrued\ Liability(o) - Accrued\ Liability(n)]}{PVFB(o)}\right)$$

$>=$ savings target

For purposes of demonstrating the financial impact of actions taken to reduce the plan's risks, such as a revision of the conversion process and/or other post-retirement benefit adjustment provisions, those actions could be modeled for inclusion in the determination of whether the savings target has been achieved.

Also, for purposes of this calculation, the present value of future service benefits, contributions and accrued liabilities include benefits, contributions and accrued liabilities under both the defined contribution provision and the minimum guarantee benefits provision, as applicable.

Application and Process

Plans which intend to apply for the 2-stage solvency funding relief should apply by submitting an application to the Ministry of Finance prior to filing the Stage 1 valuation report in order to be considered by the Ministry for solvency relief. The application should be sent to:

Public Sector Pension Plan Solvency Relief Application
Pension Policy Branch
Ministry of Finance
5th Floor, Frost Bldg S.
7 Queen's Park Crescent
Toronto ON M 7A 1Y7

There will be a number of windows of opportunity to apply.

The first window is from the date of posting of this document to March 23, 2011. Eligible pension plans with a valuation date as at December 31, 2009 or with a valuation date in 2010 could apply during this window.

Other windows of opportunity for eligible pension plans with valuation dates in 2011 and 2012 will be announced at a future date.

The application should include, at a minimum, the following documents:

- The estimated savings target of the pension plan in accordance with the “Savings Targets” section above;

- A detailed *funding plan* showing how the pension plan could be modified such that its provisions are consistent with the intent of the relief regime;

- The *funding plan* should identify prospective plan changes which could be introduced or discussed with CBAs during the 3-year period under the Stage 1 relief and would become effective no later than 5 years after the end of Stage 1 relief. Such prospective plan changes could include changes to benefits, contributions, or both.

    - To the extent possible, when identifying examples of prospective plan changes that could measurably reduce future costs, include rough estimates of potential savings, expressed in dollars as well as a percentage of present value of future pensionable earnings and future liabilities on a going concern basis, using the assumptions in the Stage 1 valuation report.

- An indication that this *funding plan* has been shared with plan members and their representatives / collective bargaining agents (CBAs) and will be shared with retirees;

- Identification of the CBAs representing members of the pension plan (if any), the number of members represented by each CBA (and those not represented) at the valuation date, and the date(s) at which collective bargaining agreements expire.

- Identification of amendments to the pension plan which have already been made in the last five years leading up to the date of Stage 1 valuation report or plan amendments made prior to this period that are scheduled to come into effect during this period which may have enhanced the sustainability of the pension plan.

- Identification of amendments made prior to entering Stage 1 that are scheduled to come into effect after entering Stage 1 that may have increased the cost of the pension plan.

- Copies of plan documents, amendments and valuation reports filed since December 31, 1999.

The Ministry of Finance will consider whether the application satisfies the criteria for Stage 1 relief. If the plan is considered to have satisfied the criteria, the Ministry will make a recommendation to the government that a regulation be made to provide the described funding relief.

A pension plan that is provided with funding relief through the proposed regulation would have up to three years from the Stage 1 valuation date to determine pension plan changes, a process that may include discussions with CBAs, that are consistent with the intent of this proposed solvency funding relief regime.

The administrator of the plan would be required to provide the Ministry of Finance with a report (Stage 1 progress report) within 6 months after the end of the 3-year period of Stage 1 relief. The report should detail all pension plan changes that have been identified or discussed with the CBAs and are to be fully adopted not later than 5 years after the end of the 3-year period under Stage 1 relief (See "Savings Targets" above for details).

If a pension plan is considered to have made substantial progress in meeting the savings target, the Ministry would consider recommending to the government that a regulation be made to provide the Stage 2 funding relief.

It is proposed that pension plans whose sponsors do not successfully adopt sufficient plan modifications during the 3-year period under Stage 1 relief (including decisions taken previously) would not receive extended solvency relief and would be transitioned back to the normal funding rules in place at the time (see "Exit Stage 1 Relief" above for details)

Whether or not a pension plan would receive the extended solvency relief (Stage 2 relief), an actuarial valuation report should be filed with FSCO no more than 12 months after the end of the 3-year period under Stage 1 relief.

Applying for this two-stage solvency funding relief would not preclude eligible sponsors from electing Option 1 under the 2009 temporary solvency funding relief (i.e., the deferral of up to 12 months of the start of new going concern special payments).

It is contemplated that the regulations will name those pension plans that receive solvency relief in 2011.

<u>Links to Previous Announcements</u>:

August 5, 2010

http://www.news.ontario.ca/tcu/en/2010/08/putting-university-pension-plans-on-a-sustainable-track.html

August 24, 2010

http://news.ontario.ca/mof/en/2010/08/mcguinty-government-taking-additional-steps-to-strengthen-ontarios-pension-system.html

Previous Consultations and Legislative Proposals

This page provides links to 2005, 2006, 2008, 2009 and 2010 consultation papers and proposed legislation related to the regulation of Ontario pension plans under the *Pension Benefits Act* and related legislation. Links to the consultation papers and proposed legislation of other jurisdictions are provided for your convenience.

2010

Prince Edward Island government tables bill to protect private sector pension plans

Prince Edward Island introduced the new Pension Benefits Act for first reading on December 2, 2010. An extensive consultation with stakeholders will take place throughout the upcoming months before being brought forth for second reading.

Bill 135 - Helping Ontario Families and Managing Responsibly Act, 2010

On November 18, 2010, the Ontario government introduced for first reading Bill 135.
Schedule 8 of the bill contains an amendment to the Financial Services Commission of Ontario (FSCO) Act, 1997 which allows the Superintendent to delegate to FSCO employees the exercise of powers and performance of duties that are delegated to the Superintendent in an agreement under section 100 of the Pension Benefits Act (PBA). Section 100 deals with the new multi lateral pension plan agreement.
Schedule 15 of the bill contains a proposed amendment to the PBA to repeal clause 42(1)(c), which enables a former member of a pension plan to transfer the commuted value of his or her deferred pension for the purchase of a life annuity on June 30, 2011. A related amendment to section 42 of the PBA provides that if the commuted value of the former member's deferred pension is greater than the amount that the Income Tax Act permits to be used to purchase the former member's life annuity, the excess amount is payable to the former member.

Bill 120 - Securing Pension Benefits Now and in the Future Act, 2010

On October 19, the Ontario Government introduced Bill 120 and gave it first reading. This Bill implements changes announced by the minister on August 24, 2010. The changes to the Ontario Pension Benefits Act include changes to types of benefits and pension plans, funding requirements, entitlement to surplus, Pension Benefit Guarantee Fund, administration of pension plans, regulatory oversight and enforcement, other technical and complementary amendments and a review of the PBA and regulations.

Ontario Government news release - Further Strengthening Pensions

On August 24, 2010 the Ontario Government issued a news release and a technical backgrounder providing further information about the additional steps being taken to strengthen Ontario's pension system. The documents include information about the broad package of reforms that Ontario will propose this fall.

CAPSA Consultation Update– Draft guideline on Fund Holder Arrangements

In response to stakeholder requests, CAPSA has extended the comment period for the draft guideline on Fund Holder Arrangements to September 15, 2010. Stakeholders are encouraged to participate in this consultation process. A copy of the draft guideline, guideline table and letter to stakeholders are available on the CAPSA website (www.capsa-acor.org).

Federal Government released draft regulations

On May 3, 2010, the federal government released draft regulations, which propose changes to the defined benefit plan funding provisions and the federal investment rules. The proposed changes will affect pension plans that are registered under the Pension Benefits Standards Act, 1985 with the Office of the Superintendent of Financial Institutions.

Please note: Ontario has adopted the federal investment rules as they read on December 31, 1999 for the investment of pension fund assets. The draft regulations propose the removal of the quantitative limits which previously applied to the real estate and resource property investments. For the proposed changes to be effective for pension plans registered in Ontario they would have to be specifically adopted by the Ontario government.

CAPSA Consultation - Draft guideline on Fund Holder Arrangements

On May 4, 2010, CAPSA released a draft Guideline on Fund Holder Arrangements for stakeholders' review and comment. A copy of the Guideline, Guideline Table and Letter to stakeholders are available for download or printing on the CAPSA website (www.capsa-acor.org). The deadline for submissions is July 30, 2010.

Amendments to the Pension Benefits Standards Act, 1985 (PBSA)

On March 29, 2010, the federal Government tabled Bill C-9, An Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010 and other measures. Part 9 of the Bill contains most of the proposed changes to the PBSA announced by the Government on October 27, 2009.

Manitoba News Release - Province Overhauls Pension Benefits Act

On March 26, 2010, Manitoba released changes to its Pension Benefits Act and regulations that would strengthen and update the legislation.

Changes to the Pension Benefits Act, R.S.O. 1990 (PBA)

On March 25, 2010, Bill 16 passed first reading. The Bill implements the 2010 budget measures and enacts or amends various Acts including the PBA.

2010 Ontario Budget Delivered

On March 25, 2010, the Ontario Budget was delivered. The budget proposes changes to Ontario's tax and pension systems. For pension related matters, see chapter III of the budget (or pages 151, 167-174 in PDF format).

Alberta Starts Pension Consultation

Alberta has launched a public consultation on how to strengthen the province's retirement income system and how to expand pension coverage for those not covered by a workplace pension. The deadline for feedback is April 16, 2010.

Nova Scotia Consultation

The Nova Scotia Department of Labour and Workforce Development released a discussion paper on March 5, 2010 to gather more input from employers, employees, unions and industry about private-sector pension-plan management. The deadline for submission is April 15, 2010.

British Columbia Consultation - Ways to strengthen the pension system and expand pension coverage

On February 2, 2010, the British Columbia government released an online consultation to seek public input on ways to strengthen the pension system and expand pension coverage. The deadline for submission is April 1, 2010.

CAPSA Consultation Update– Prudence Standard in Pension Plan Funding and Investment

The comment period for the consultation paper The Prudence Standard and the Roles of the Plan Sponsor and Plan Administrator in *Pension Plan Funding and Investment* has been extended to **April 30, 2010** to provide stakeholders with more opportunity to participate in the consultation process**.** The consultation paper is available for download or printing on the CAPSA website (www.capsa-acor.org).

2009

Changes to the Pension Benefits Act, R.S.O. 1990

On December 9, 2009, Bill 236 - Pension Benefits Amendment Act, 2009 passed first reading. The Bill amends the Pension Benefits Act in connection with several matters, including: benefits for members and others who are entitled to payments out of pension plans; asset transfers between pension plans; partial wind ups of pension plans; surplus-sharing agreements; the administration of pension plans; the powers of the Superintendent; and certain terminology used in the Act. Further information is available from the Ministry of Finance.

CAPSA Consultation – Prudence Standard in Pension Plan Funding and Investment

The Canadian Association of Pension Supervisory Authorities (CAPSA) released a consultation paper The Prudence Standard and the Roles of the Plan Sponsor and Plan Administrator in Pension Plan Funding and Investment on November 30, 2009.

CAPSA is interested in receiving feedback on the paper, and has included specific questions in the paper to guide comments. The deadline for submissions has been extended to April 30, 2010. The consultation paper is available for download or printing on the CAPSA website (www.capsa-acor.org).

Federal Pension Proposals Released

On October 27, 2009, the federal government released pension reform proposals aimed at improving the federal private pension legislative and regulatory framework. Other technical amendments are also proposed.

Manitoba releases Proposed Pension Regulations

Manitoba has released proposed amendments to the regulations that result from 2005 changes to its Pension Benefits Act. Comments on the proposed regulations may be submitted until August 15, 2009.

Call for Retirement Summit

An August 6, 2009 news release includes a call from the premiers for a national summit on retirement income.

Ontario Budget 2009 Delivered

On March 26, 2009, the Ontario budget was delivered. The budget proposes changes to Ontario's tax and pension systems.

Nova Scotia Pension Review Panel releases Final Report

On January 27, 2009, the Nova Scotia Pension Review Panel released its final report.

Law Commission of Ontario's final report on division of pensions upon marriage breakdown

The Law Commission of Ontario has released its final report on the division of pensions upon marriage breakdown.

Consultation on Pension Plans Regulated by the Office of the Superintendent of Financial Institutions (OSFI)

January 9, 2009 - The Financial Division of the Department of Finance has released a discussion paper - Strengthening the Legislative and Regulatory Framework for Private Pension Plans Subject to the *Pension Benefits Standards Act, 1985* (PBSA).

The consultation includes, in part, a request for comments on ways to improve the regulatory framework governing pension investment. Ontario has, by reference in the Pension Benefits Act (PBA), adopted the federal investment rules, and this portion of the consultation may be of special interest to pension plans which are subject to the PBA. Comments are to be provided by interested parties by March 16, 2009.

2008

Ontario Solvency Funding Relief

December 16, 2008 - The Ontario government is proposing to introduce legislation this spring to provide pension plans with temporary solvency funding relief.

Consultation on Locked-In Accounts

December 1, 2008 - Ontario Ministry of Finance initiates consultation on regulatory changes for locked-in accounts.

Alberta and British Columbia release report of Joint Expert Panel on Pension Standards

November 28, 2008 - The Alberta and British Columbia governments have released the report of the Joint Expert Panel on Pension Standards.

Family Law Reforms and Pensions

On November 24, 2008, Bill 133 - Family Statute Law Amendment Act passed first reading. Bill 133 includes provisions concerning the division of pensions on marriage breakdown.

Expert commission on pensions delivers final report

On November 20, 2008, the Ontario government announced receipt of A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules, the final report from the Expert Commission on Pensions. The province is seeking feedback on the report from Ontarians, with a written comment period ending February 27, 2009.

CAPSA Releases Report on Regulatory Principles for a Model Law

On October 31, 2008, CAPSA released the final report on its work on Regulatory Principles for a Model Pension Law. The report is available for download or printing on the CAPSA website (www.capsa-acor.org).

CAPSA In-Person Consultation in Ontario

The CAPSA Secretariat has confirmed the dates for the in-person consultation sessions across Canada. The Ontario consultation is scheduled for Monday December 1, 2008. Further details and registration information are available on the CAPSA website, or from Daniel Padro by calling 416-590-7034.

CAPSA Consultation - Multi-Jurisdictional Pension Plans

The Canadian Association of Pension Supervisory Authorities (CAPSA) released a proposed Agreement Respecting Multi-Jurisdictional Pension Plans on October 21, 2008.

CAPSA is interested in receiving feedback on the proposed Agreement, in particular on its practical application. The deadline for submissions is January 30, 2009. The consultation paper is available for download or printing on the CAPSA website (www.capsa-acor.org).

Nova Scotia Pension Review Panel releases Interim Position Paper

On October 17, 2008, the Nova Scotia Pension Review Panel released an Interim Position Paper providing tentative answers to the questions posed in their Discussion Paper, and seeking further comments from interested stakeholders.

2007

No consultations or legislative proposals were posted in 2007.

2006

Pension Sector Cost Recovery Proposal

FSCO is proposing to implement an assessment process, commencing with its 2007/08 fiscal year, to ensure that FSCO's expenditures for the pension sector are fully recovered. This new process will replace the current Annual Information Return (AIR) fee.

The proposed new cost recovery process retains the structure of the current AIR fee as a base assessment for each plan. The only noteworthy changes are to have an assessment adjustment assigning shortfalls/surpluses on a pro rata basis to the base assessment, and to have the new assessment collected through an invoice instead of with the AIR.

Comments on FSCO's Pension Sector Cost Recovery Proposal Size: 29 kb may be made by **August 18, 2006** to the attention of:

Gino Marandola
Senior Manager, Operations
Financial Services Commission of Ontario

5160 Yonge St., 4th Floor, Box 85
Toronto, ON M2N 6L9

Tel: 416 226-7820
Fax: 416 226-7777

Email: gino.marandola@fsco.gov.on.ca

Expert Commission Established

On November 9, 2006, the government of Ontario announced the appointment of an expert commission to carry out province wide consultations on possible changes to the Pension Benefits Act. The commission is to be chaired by Harry Arthurs, a noted academic and labour lawyer. Other commission members are Ian Markham, Kathryn Bush, Bob Baldwin and Murray Gold. The commission is expected to report back in the summer of 2008.

The commission's areas of focus will include:

- pension plan funding and surplus;
- the Pension Benefits Guarantee Fund;
- full and partial plan wind ups, plan splits and mergers;
- asset transfers between pension plans; and
- funding of defined benefit multi-employer pension plans.

Information about the commission, its terms of reference and contact information is available at www.pensionreview.on.ca.

Surplus Sharing Regulation Extended

On November 9, 2006, the regulation to extend subsections 8 (1) and (2) of Regulation 909 to December 31, 2009 was filed as O. Reg. 509/06. The regulation will be published in The Ontario Gazette on November 25, 2006.

2005

Mandatory Retirement

In June 2005, the Ontario Minister of Labour introduced Bill 211, *An Act to amend the Human Rights Code and certain other Acts to end mandatory retirement*. The Act received Royal Assent on December 12, 2005, to take effect one year after this date (except for section 7 which amended the *Workplace Safety and Insurance Act, 1997*).

Current Consultations and Proposed Legislation

Canadian Association of Pension Supervisory Authorities CAPSA

Guideline on Fund Holder Arrangements

Prepared by the Canadian Association of Pension Supervisory Authorities (CAPSA)
May 4, 2010

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INTRODUCTION

In October 2004, the Canadian Association of Pension Supervisory Authorities (CAPSA) released *Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire* to assist pension plan administrators in meeting their governance responsibilities, by achieving and maintaining good governance practices.

Good pension plan governance requires control mechanisms that encourage good decision making, proper and efficient practices, clear accountability, and regular review and evaluation. It contributes to positive pension plan performance and demonstrates due diligence by the plan administrator. This *Guideline on Fund Holder Arrangements* highlights good governance practices related to fund holder arrangements of the pension plan and pension fund.

Please note that this draft guideline has been prepared to contribute to the consistent development and maintenance of fund holder agreements in all Canadian jurisdictions. The draft guideline does not reflect the official position of any provincial or federal government or agency.

PURPOSE

One of the major participants in the operation of a pension fund is the fund holder. There are two basic types of fund holder arrangements: trusts and insurance contracts. However, both types of arrangements have changed significantly since the 1960s, when pension legislation first appeared and details of fund holder arrangements tended to become more complicated. This paper arises from the need to clarify the nature of fund holder arrangements and their related responsibilities.

This guideline focuses on fund holder arrangements by:

- Expanding on *Guideline No. 4* by highlighting the governance principles related to fund holder arrangements.
- Identifying the permitted types of fund holder arrangements.
- Discussing the respective roles and responsibilities of key players.
- Providing stakeholders with information on what the regulator looks for when examining fund holder arrangements.

FUND HOLDER PRINCIPLES

When dealing with the pension fund's assets and fund holder arrangements, the plan administrator should abide by the following principles:

1. Hold the pension fund's assets – regardless of investment type – exclusively for the pension plan.
2. Keep the pension fund's assets separate and apart from the employer's assets.
3. Ensure that the pension fund's assets are held separate and apart from the fund holder's assets, except when permitted by applicable pension legislation.
4. Act in a fiduciary role in relation to the pension fund. If a function is delegated to a third party, that party also needs to act in a fiduciary role as required by the appropriate legislation in respect to the delegated function.

5. Ensure that the respective roles, duties, responsibilities and obligations of all parties providing services related to operation of the pension fund are clearly defined and understood.

KEY PLAYERS IN FUND HOLDER ARRANGEMENTS

The key players in fund holder arrangements are the:

- **administrator** – the individual, group, body or entity that is ultimately responsible for the oversight, management and administration of the pension plan and its pension fund, as well as the investment of the pension fund. This function includes, but is not limited to, selecting and monitoring the activities of third-party service providers.
- **fund holder** – the financial institution or party that is retained by the administrator to hold the pension fund's assets in accordance with the terms of the fund holder agreement(s), the requirements of legislation (including the Income Tax Act) and the terms of the pension plan.
- **custodian** – the financial institution that holds some or all of the pension fund's assets pursuant to an agreement with the fund holder. (Although the custodian is not a fund holder, the fund holder may also be a custodian.)

Other important players in various aspects of administering, investing and managing the pension fund's assets include:

- **employer** – a business or party that employs plan members for remuneration and who is required to make contributions to the pension plan on behalf of plan members, collect contributions (if any) from plan members and remit them to the pension fund.
- **plan sponsor** – the individual or entit(y)ies that is responsible for designing the pension plan, setting the benefit structure for various classes of plan members, and for establishing, amending or terminating the pension plan.
- **third-party service provider** – the entity (or entities) or individual(s) that is/are retained by the administrator to perform some or all of the delegated duties (that the administrator is required to perform) associated with the pension plan and pension fund.

Note: Any one of the players listed above may act in more than one role. Therefore, it is important to know in *which role* each player is acting when decisions are being made.

- **regulator** – the provincial or federal jurisdiction in which pension plans are registered, and that oversees the application of pension legislation (provincial or federal) to pension plans.
- **Canada Revenue Agency** – the agency that administers the provisions of the Income Tax Act (Canada), (ITA) that require compliance by pension plans and fund holder arrangements.

RESPONSIBILITIES RELATED TO THE PENSION FUND'S ASSETS

All parties that are involved in the administration and investment of the pension fund have an obligation and duty to perform their functions with prudence and due diligence.

The primary purpose of this section is to expand on Principle No. 5, by outlining the responsibilities of various parties in relation to the pension fund's assets. This discussion will clarify the manner in which each party, who is involved with the pension plan's assets, has a role and responsibility of adhering to the five principles that are outlined in this guideline.

2.1 Responsibilities of the Employer

With respect to the pension fund's assets, the employer's responsibility is to remit contributions to the pension fund, within the time periods and in the amounts required by applicable pension legislation, the terms of the pension plan and the relevant terms of any collective agreements. By fulfilling this responsibility, the employer meets its funding obligation and helps ensure that the pension fund's assets are held separate and apart from its own assets (Principle No. 1). The employer is also responsible for keeping accurate and up-to-date records on each plan member's length of service and earnings, and any other information that is required by the administrator. In addition, the employer must provide this information to the administrator in a timely manner.

Note: For matters such as establishing, amending or terminating the pension plan, and determining plan provisions, the employer is entitled to act in its own best interests, subject to the terms of the pension plan, applicable legislation and any relevant collective agreement.

2.2 Responsibilities of the Plan Sponsor

The plan sponsor is the individual or entity that is responsible for establishing the pension plan, and for ensuring that it always has an administrator. The plan sponsor is also responsible for making amendments to the pension plan and deciding if it should be wound up. If the pension plan is wound up, the administrator is responsible for ensuring that it is wound up in accordance with the requirements of applicable pension legislation and pension plan documents.

Note: The plan sponsor is entitled to make decisions about the pension plan (e.g., pension plan amendments, whether to continue the pension plan, etc.) that are in the business' best interests, subject to the terms of the pension plan, applicable legislation and any relevant collective agreement. While the plan sponsor will often be the employer, other parties may take on this role (e.g., the plan sponsor is the corporate parent of the employer or a union). In these circumstances, it is appropriate for the plan sponsor's actions to reflect its responsibilities – and not those of the employer.

2.3 Responsibilities of the Administrator

The administrator is responsible for the overall administration of the pension plan, and the administration and investment of the pension fund. The pension plan and pension fund must be administered and invested in accordance with applicable pension legislation, the ITA and pension plan documents. (For a concise list of requirements for each jurisdiction, see Table 1 – Who is the Administrator.)

When acting as an administrator, a party is held to a fiduciary standard of care (Principle No. 4). (For a concise list of requirements for each jurisdiction, see Table 1 – Role of the Administrator as a Fiduciary.) In this fiduciary role, the administrator must carry out its duties in a manner that:

- Treats plan members and beneficiaries fairly and in an even-handed manner.
- Conforms to the fiduciary standard of care, as set out in applicable legislation (i.e., the standard of care, skill and diligence of a prudent person).

- Interprets the pension plan's terms fairly, impartially and in good faith.
- Prevents personal interests from being in conflict with those of plan members and beneficiaries.
- Ensures that plan members and beneficiaries receive the benefits that were promised to them (within the scope of the administrator's authority).

Note: For the purpose of this guideline, the term "fiduciary" is understood to include "trustee" and signifies a legal relationship in which a high standard of care must be exercised when dealing with the interests of another person.

2.3.1 Responsibilities Regarding the Pension Fund and Fund Holder

One of the administrator's primary duties is to select one or more fund holders to manage the pension fund, and to ensure that the pension fund is administered and invested in accordance with relevant pension plan documents, applicable pension legislation and the ITA. The administrator's duties in relation to the pension fund and the fund holder also include, but are not limited to:

- Ensuring that the pension fund's assets (when held by a fund holder), are held under an agreement that complies with applicable pension legislation. (This includes abiding by Principle No. 3, which requires the pension fund's assets to be held separate and apart from the fund holder's assets.) (For a concise list of requirements for each jurisdiction, see Table 1 – Who Can Hold Funds and Type of Agreement/Contract.)
- Making sure that the duties, roles and expectations of all relevant parties are clearly set out in the fund holder agreement (Principle No. 5).
- Monitoring and supervising the fund holder's activities relating to the delegated functions
- Filing true copies of the fund holder agreement, and all amendments or replacements, with the Canada Revenue Agency and the regulator on a timely basis.
- Remitting or ensuring proper remittance of contributions to the pension fund.
- Providing investment direction to the fund holder – if the fund holder is also responsible for investing some or all of the pension fund's assets – through provisions in the pension plan's Statement of Investment Policies and Procedures (SIP&P).
- Giving investment direction to an investment manager – if the investment manager is responsible for making investment choices for some or all of the pension fund's assets – through provisions in the SIP&P.
- Ensuring that the administrator, or a third-party service provider that acts on its behalf, has a process in place to monitor the pension fund's overall investments for compliance with the legislative requirements, the SIP&P and any other policies established by the administrator.
- Making sure that the pension fund's investments comply with applicable pension legislation and the ITA.
- Monitoring the activities of the fund holder to ensure that the pension fund's assets are administered in accordance with the fund holder agreement, the SIP&P and applicable pension legislation.

- Ensuring that the fund holder has sufficient information regarding contribution remittances to perform its duties as required by pension legislation (e.g., contribution reporting is required in Alberta and Ontario).
- Directing the fund holder regarding payments that need to be made from the pension fund.
- Executing the fund holder agreement(s).

This list indicates that a high level of conduct is required by an administrator. (For a concise list of requirements for each jurisdiction, see Table 1 – Administrator duties relevant to the fund holder responsibilities.)

2.3.2 Delegation of Duties by the Administrator

Although the administrator may delegate some or all of its functions to third-party service providers, it is ultimately responsible for monitoring them, to ensure that the delegated duties are being performed accurately and in a timely manner. The administrator is also responsible for making sure that all of its actions, and those of any service providers to which it has delegated functions, meet the appropriate standard of care and compliance requirements. Further, a third-party administrator, where required by applicable legislation, may be required to act in a fiduciary capacity when performing delegated duties. (For more information on this topic, refer to *Governance Guideline No. 4,* which outlines certain expectations about how administrators should conduct themselves from a governance perspective.)

2.3.3 Governance Matters Regarding the Pension Fund

The administrator should comply with the governance principles that are outlined in Governance *Guideline No. 4* and summarized below:

- Have clear documentation for each action that is taken.
- Ensure that appropriate records are kept by the fund holder.
- Conduct a regular review of performance measures.
- Maintain written policies on documentation, recordkeeping, costing and pension fund investment.
- Monitor and assess fees to make sure they are reasonable and competitive.

For single-employer pension plans, the same party often takes on multiple roles (i.e., the roles of the administrator, employer and plan sponsor). For multi-employer pension plans, the same party often acts in the roles of administrator and fund holder, while Quebec-registered pension plans require the same party to act in the roles of the administrator and fund holder. Although the same party is acting in multiple roles, it has different duties and obligations when it acts in each of these capacities.

For example, when this party acts as the administrator, it is a fiduciary that must conform to a high standard of care when dealing with the interests of plan members and beneficiaries. While acting in the role of the employer or plan sponsor, it is not acting as a fiduciary. In these situations, it is important and sometimes difficult to clearly distinguish between the two roles.

A number of possible scenarios regarding these duties are set out below.

Example 2.3.3

The list below provides examples of situations where a party has more than one role regarding the pension plan.

1. In a single-employer pension plan, the employer may also be the plan sponsor and administrator.
2. A single-employer pension plan may include a number of related employers where one employer acts as the plan sponsor and administrator on behalf of all of the employers.
3. In a multi-employer pension plan, the board of trustees often acts as both the administrator and fund holder (trustee). In addition, the plan sponsor may be the union.
4. In Quebec, the pension committee acts as both the administrator and trustee. Therefore, it also acts as the fund holder. However, the employer will generally still have the plan sponsor role.
5. In Ontario, a pension committee may act as the administrator, but not the trustee. Therefore, it cannot act as the fund holder. When the pension committee acts as the administrator, it would enter into an agreement with the fund holder.

2.4 Responsibilities of the Fund Holder

The fund holder is the financial institution or party that is retained by the administrator to hold all or part of the pension fund's assets exclusively for the pension plan. If the fund holder is a trustee, any investment from the pension fund that can be registered, must be registered in the name of the trust for the pension plan. If an investment cannot be registered, it must be invested in a name that clearly indicates it is held in trust for the pension plan. If the fund holder is not a trustee, any investments of the pension fund must be held by a financial institution, in a name that clearly indicates they are held on behalf of the pension plan.

The fund holder is responsible for:

- Holding funds in a manner that is required by applicable pension legislation and the ITA. Typically, the fund holder must be a trust company, an insurance company, or another entity that is permitted by applicable legislation. (For a concise list of requirements for each jurisdiction, see Table 1 – Who Can Hold Funds and Type of Agreement/Contract.)
- Acting under the terms of a fund holder agreement that meets the requirements of applicable pension legislation. Typically, the agreement must be a trust agreement or an insurance contract. (For a concise list of requirements for each jurisdiction, see Table 1 – Who Can Hold Funds and Type of Agreement/Contract.)
- Reporting omissions or delays in contribution remittances to the regulator, as required by applicable pension legislation. (For a concise list of requirements for each jurisdiction, see Table 1 – Fund Holder Duties.)
- Meeting the reporting and recordkeeping responsibilities that are set out in the fund holder agreement.
- Providing direction on the investment of the pension fund's assets, unless this duty is delegated under the agreement, in accordance with the pension plan's SIP&P, applicable pension legislation and the ITA.

- Ensuring that the pension fund's assets are held separate and apart from the employer's and fund holder's assets – except if it is permitted under applicable pension legislation (Principles No. 2 and 3).
- Ensuring that the pension plan's funds are held exclusively for the pension plan (Principle No. 1) and that the fund holder has clear, accurate and up-to-date records that reflect this requirement.

If the administrator has delegated fund holder functions that involve his/her own fiduciary duties, the fund holder is obligated to conduct itself as a fiduciary.

Example 2.4

In a typical defined contribution pension plan where the fund holder agreement is an insurance contract (e.g., a group annuity policy), the fund holder arrangement would be made up of one or more documents and involve:

- An insurance contract – that is issued to the administrator (typically the plan sponsor) by an insurance company – *and provides* underlying guaranteed and market-based (segregated fund) investment options.
- A services agreement between the administrator and the insurance company, that sets out the recordkeeping and reporting duties of the insurance company, and the fees associated with those duties.

2.5 The Custodian

The fund holder may perform custodial duties for the pension fund, or may delegate some or all of those duties to a custodian.

The custodian holds the pension fund's assets pursuant to a contract between (a) the custodian and the fund holder, or (b) the custodian and a trustee, board of trustees, or pension committee acting as the fund holder. The custodian must maintain records that indicate the ownership of an investment, so it can be traced back to the pension plan that owns the investment.

Note: When a custodian is retained by a board of trustees for a multi-employer pension plan or a pension committee for a Quebec-registered pension plan, its role of fund holder should be clearly documented in the fund holder arrangement.

2.5.1 Responsibilities of the Custodian

The custodian's responsibilities are generally solely related to the safekeeping and servicing of the pension fund's assets. The custodian is responsible for holding these assets in accordance with the terms of the custodial agreement, and must be capable of segregating the pension plan's assets (Principles No. 2 and 3), and meeting the reporting and recordkeeping requirements of the custodial agreement. A custodian does not have legal title to assets and does not have the same tax reporting obligations. In addition, the custodian is retained through a contract and only owes duties to the party that retained its services.

Example 2.5.1

If a board of trustees (or a Quebec pension committee) is the administrator, it may also perform the role of fund holder (trustee), and will usually enter into a custodial agreement with a financial institution. In this case, the custodial agreement will often resemble an agreement between the administrator and fund holder, as described in section 2.4. As the custodian, the financial institution must follow the directions of the board of trustees – who is acting in this case, in the role of fund holder, although, the board of trustees will carry out many other responsibilities in the role of administrator.

2.6 The Third-Party Service Provider

The third-party service provider is an entity or individual that is retained by the administrator and to whom the administrator delegates the responsibility to perform some or all of the delegated duties of the administrator that are associated with the operation of the pension plan and pension fund. Third-party service providers may include insurance companies, consulting firms, recordkeepers, investment managers and any other entities that provide services to the administrator.

2.7 The Regulator

The regulator is the agency or entity that was set up pursuant to provincial or federal pension legislation, to regulate pensions in a particular jurisdiction in accordance with applicable pension legislation.

2.8 Canada Revenue Agency

Canada Revenue Agency is the agency that administers the provisions of the ITA that require compliance by pension plans and pension funds – including requirements that apply to the fund holder and investments of the pension fund.

3.0 Roles and Responsibilities of Multiple Fund Holders

The administrator may retain multiple fund holders for one pension plan. In this situation, the administrator is required to negotiate fund holder agreements with each fund holder, which take into account the duties and obligations that are included in applicable pension legislation.

Multiple fund holders are most frequently retained by pension plans that offer benefits under a defined benefit *and* defined contribution provision. In this case, the administrator will often engage one fund holder for the defined benefit portion (most often a trust company) and a second fund holder for the defined contribution portion (generally an insurance company). Larger or more complex pension plans may also have multiple fund holders.

Example 3.0

A fund holder arrangement for a pension plan that offers benefits under both a defined benefit and defined contribution provision can be structured in the following ways:

Fund Holder Agreement Options

a) The administrator establishes a contract or trust with each fund holder.

b) The administrator and trustee establish a trust agreement that sets out the trustee's duties regarding the trust fund. Both the defined benefit and defined contribution components of the pension fund are held in the trust fund.

c) A trust agreement between the administrator and trustee sets out the trustee's duties regarding the trust fund. The defined benefit component of the pension fund is held in the trust fund and the defined contribution component is held by the trustee – through an insurance contract that was issued to the trustee by an insurance company– as an asset of the trust fund. This insurance contract has underlying guaranteed and market-based (segregated fund) investment options.

Services Agreement Options

a) A services agreement is made between the insurance company, administrator and trustee. It sets out the insurer's information reporting duties to the trustee and the administrator's right to provide instructions to the insurance company.

b) A services agreement is made between the plan sponsor and insurance company. It sets out the insurer's recordkeeping and reporting duties regarding plan members, for the defined contribution component of the pension plan and the fees associated with those duties.

In all of these situations, the administrator, insurance company and trustee will want to ensure that their roles and responsibilities are clearly defined and understood.

A pension plan may have multiple fund holders for other reasons, such as a merger of pension plans, or transferring a group of plan members from another pension plan. If fund holder arrangements become very complex, the administrator must ensure that all fund holders are performing all duties that are required by applicable legislation, and that the pension fund, as a whole, is being invested in accordance with legislative requirements.

REGULATOR EXAMINATIONS AND REVIEW OF FUND HOLDER ARRANGEMENTS

When a regulator examines a pension plan's fund holder arrangements, the focus is on compliance with relevant legislation and sound governance processes. This examination will vary based on the circumstances giving rise to the review. During the course of its review activities, the regulator will consider some or all of the compliance criteria, as well as other relevant issues when it:

- Examines fund holder arrangement documentation to determine the type of arrangement and to confirm that there are appropriate documents to support the arrangements whether it is:
    - a trust, governed under the appropriate jurisdiction;
    - an insurance contract; or
    - another permitted fund holder arrangement.

- Verifies that the administrator has undertaken due diligence in the selection and monitoring of fund holders and third party service providers.
- Verifies that the administrator has a process in place to monitor the investment of assets for compliance with legislative requirements and that the process is being followed.
- Examines the custodial documentation.
- Looks for written documentation that specifies which responsibilities have been delegated, who made the delegations and who received the delegated responsibilities.
- Examines any related party transactions to confirm if they are permitted.
- Considers what records have been created to document the retention of service providers and their respective duties.
- Confirms if there are documents that provide direction for internal employees who are engaged in the fund holder selection process.
- Determines the type of agreements and committee mandates that are in place for service providers and employees.
- Establishes how service provider payments and performance are documented.
- Verifies if the administrator regularly reports back to the plan sponsor's board of directors, or the delegated body (if required), regarding agents, consultants and other service providers that are being used.
- Establishes if the plan sponsor's board of directors or delegated body has an overall policy on the retention of agents, consultants and other service providers.
- Determines whether a conflict of interest policy has been considered and if the resulting decision is documented.
- Confirms if the conflict of interest policy is being followed.
- Considers whether documents are easy to access and if they are stored in one central location.
- Contemplates to what extent plan documents are being reviewed, updated and followed.

GLOSSARY OF TERMS

administrator – the individual, group, body or entity that is ultimately responsible for the oversight, management and administration of the pension plan and its pension fund. This function includes, but is not limited to, selecting and monitoring the activities of third-party service providers.

Canada Revenue Agency (CRA) – the agency that oversees the provisions of the Income Tax Act (ITA) that require compliance by pension plans and fund holder arrangements.

custodian – the financial institution that holds some or all of the pension fund's assets pursuant to an agreement with the fund holder. (Although the custodian is not a fund holder, the fund holder may also be a custodian.)

employer – a business or party that employs plan members for remuneration and who is required to make contributions to the pension plan on behalf of plan members, collect contributions (if any) from plan members and remit them to the pension fund.

fund holder – the financial institution or party that is retained by the administrator to hold the pension fund's assets in accordance with the terms of the fund holder agreement(s), the requirements of legislation (including the Income Tax Act) and the terms of the pension plan.

fund holder agreement – a written agreement (or agreements) between the administrator and the fund holder that sets out the services that will be provided by the fund holder, to support the administration and investment of the pension fund's assets.

fund holder arrangements – arrangements that are made for the administration and investment of the pension fund. They include, but are not limited to, the fund holder agreement(s), custodial agreement, third-party services agreements, and other services agreements.

Income Tax Act (ITA) – refers to Canada's Income Tax Act (1985, c.1 (5th Supp.)) and includes its regulations.

pension fund – the total amount of assets that are held in trust by one or more fund holders, or in an insured arrangement to support the benefits of a pension plan.

plan members/beneficiaries – the individuals that participate in the pension plan and have an immediate or deferred benefit entitlement under the pension plan.

plan sponsor – the individual or entity that is responsible for designing the pension plan, setting the benefit structure for various classes of plan members, and for establishing, amending or terminating the pension plan.

regulator – the provincial or federal jurisdiction in which pension plans are registered, and that administers the application of pension legislation (provincial or federal).

third-party service provider – the entity (or entities) or individual(s) that is/are retained by the administrator to perform some or all of the delegated duties (that the administrator is required to perform) associated with the pension plan and pension fund.

APPENDIX A

This appendix provides an overview of who may be the administrator, funder holder or custodian, and therefore hold a position in the management and administration of a pension fund.

A. Administrator

Depending on the requirements of applicable pension legislation and the ITA, the administrator may be any one of the following:

a) the plan sponsor;

b) a board of trustees (most common in multi-employer pension plans);

c) the employer;

d) a pension committee;

e) a separate party appointed by the plan sponsor to be the administrator;

f) an insurance company (in the case of a "simplified" pension plan or contract);

g) the party that is appointed by the regulator or government (whichever is applicable) to be the administrator;

h) the entity that is named the administrator, pursuant to applicable pension legislation and the ITA; or

i) any other party that is named the administrator, as permitted by applicable pension legislation.

To learn about the requirements for each jurisdiction, regarding who can be the administrator of a pension plan, see Table 1 – Who is the Administrator.

B. Fund Holder

Pension legislation and the ITA dictate that the pension fund must be held in the name of the pension plan by one of the following:

a) an insurance company licensed to do business in Canada under an insurance contract;

b) a trust – that is governed by a written trust agreement – with a trust corporation in Canada;

c) a group of individual trustees where there are:

- o three or more individuals, and
- o at least three of these trustees reside in Canada, and
- o at least one trustee is not a connected person, or a partner of the employer, or a proprietor of the employer's business (note: this type of fund holder must have a custodian to hold the pension fund's assets); or

d) any other party that is permitted by pension legislation.

To learn about the requirements for each jurisdiction, regarding who can be the fund holder of a pension plan, see Table 1 - Who can hold funds and type of agreement/contract.

C. Custodian

Pension legislation requires that the pension fund be held separate and apart from the employer's and fund holder's assets, and be in the name of the pension plan.

The custodian is a financial institution that holds some or all of the pension fund's assets, pursuant to a custodial services agreement with the fund holder.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
Federal	**Act 7(1)** CB MEPP • a board of trustees Non-CB MEPP • a pension committee Single employer • the employer or if CB, board of trustees – if agreements require it Simplified Pension Plan • a financial institution	**Act 8(3)** Shall administer the plan and fund as a trustee for the employer, and the members/former members/others entitled to benefits. **Act 8(4)** Standard of care – prudent person. **Act 8(5)** Shall invest assets – prudent person. Includes provisions to deal with: • special knowledge and skills • ability to rely on professionals • conflict of interest	**Act 7.4** Shall, in accordance with the Act and Regs., administer the plan and fund and file required documents. **Act 8(5)** Shall invest assets – prudent person. **Act 9.1(1)** Advise fund holder of expected remittance. **Act 9.1(2)** If the administrator is not the employer, advise the Superintendent of late/non-remittance. **Reg. 7 and 7.1** Maintain record of investments and establish/maintain SIPP. **Reg. 10** Is liable for late contributions with interest.	**Act 8(1)** Deemed trust **Reg. 11(1)(a)** Insurance contract or trust agreement.	**Act 9.1(2)** If the administrator is not the employer, advise the Superintendent of late/non-remittance.	**Act 8(1) and(2)** • Money in the pension fund and contributions deducted/due but not yet remitted **5(4) of the Solvency Funding Relief Regs. 2009** • Difference in payments if using smoothing in excess of 110%. Applies in bankruptcy and is ongoing.	**Act 10 and Reg. 11 (1)(a)**
Alberta	**Act 10, 11 and 12** CB MEPP • a board of trustees Non-CB MEPP • a board of trustees or employer delegated under the agreement	**Act 13 (5)** Stand in a fiduciary capacity in relation to members, former members and others entitled to benefits.	**Act 13(1), (2), (3), (4) and (6)** • Administer the plan. • Administer the plan in compliance with the Act. • Ensure that all plan documents are in compliance with the Act. • Have actuarial valuations of DB provisions performed as required by the Act.	**Act 49(1)** Held by: (a) an insurance company under a contract for insurance; (b) a trust in Canada governed by a written trust agreement under which the trustees are: (i) a trust corporation or corporation incorporated by or under a statute of	**Act 50(3)** Notify superintendent of non-remittance.	**Act 51** Contributions are deducted and due but not yet remitted **Act 52 and 53** Security interest on bankruptcy of the employer	**Act 19(1)(a)(iii)**

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	Single employer • the employer or a board of trustees		**Act 14** File all documents that are required by the Act **Act 15** Comply with disclosure requirements **Act 76(3)** Wind-up the plan **Reg. 51** Establish and maintain a SIPP	Parliament or of the Legislature of a province or territory to provide pensions to employees, or (ii) subject to subsection (1.1), 3 or more individuals at least 3 of whom reside in Canada and at least one of whom is not a significant shareholder, partner or employee of the employer or a proprietor of the business of the employer. (c) a society established under the Pension Fund Societies Act; (d) a person pursuant to the Government Annuities Act (Canada);or (e) a combination of the persons referred to in 2 or more of the above categories. 1.1 A fund holder consisting of a trust to which subsection 1(b)(ii) applies. Must hold the pension fund through a Custodian.			
British Columbia	**Act 1(1) and 7** MEPP • a board of trustees Single employer • a board of trustees or	**Act 8(5)** • Stand in a fiduciary capacity in relation to members, former members and others entitled to benefits. • Prudent person • Ultimate responsibility for	**Act 8** • Administer the plan. • Administer the plan in compliance with the Act. • Ensure that all plan documents are in compliance with the Act.	**Act 42(1)** Held by: a) an insurance company under a contract for insurance; b) a trust agreement under which the trustee is:	**Reg. 43(5)** Notify superintendent of non-remittance	**Act 43.1** Contributions deducted and due but not yet remitted	**Act 14(2)(a)(iii)**

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	the employer	administration (even if some duties are delegated). • No conflict of interest.	• Have actuarial valuations of DB provisions performed as required by the Act. **Act 9** • Filing requirements. **Act 10** • Disclosure requirements. **Act 14** • Plan registration **Act 15** • Plan amendments **Act Part 4** • Terminate the plan.	• a trust company, or • a board of trustees; c) a society under Pension Fund Societies Act; d) a person pursuant to the Government Annuities Act; e) the B.C Pension Corporation with respect to public sector pension plans.			
Saskatchewan	**Act 2(1)(b)** "administrator" means: (i) in the case of a specified multi-employer plan, a board of individuals who are trustees of the plan; (ii) in the case of a plan that is not a specified multi-employer plan, either: (A) the employer; or (B) where it is specified in the plan that the employer is not to be the administrator, a board of trustees or a similar body	**Act 11(2)** While acting in the capacity of administrator, the administrator of a plan: (a) stands in a fiduciary relationship to members, former members and any other persons entitled to benefits pursuant to the plan; (b) holds in trust for the benefit of members, former members and other persons entitled to benefits pursuant to the plan, any fund established or contract arising pursuant to the plan; (c) shall act in good faith and in the best interests of members, former members and other persons entitled	**Act 11** • Administer plan in accordance with the Act. • File required documents. **Act 13** Disclosure **Act 16** Registration of plan **Act 17** Amendment of plan **Act 53 and 56** Plan termination	**Act 41** Held by: (a) an insurance company under a contract for insurance; (b) a trust agreement under which the trustee is: • a trust company, or • a board of trustees; (c) a society under the *Pension* Fund Societies Act; (d) a fund holder as permitted by the Income Tax Act (Canada).	**Act 42(3)** Notify the Superintendent of non-remittance.	**Act 43** Contributions are deducted and due, but not yet remitted.	**Act 16(1)(a)(iii)**

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	constituted in accordance with the terms of the plan; or (iii) a person who has been appointed administrator of a plan by the superintendent pursuant to section 58.	to benefits pursuant to the plan; and (d) shall not prefer the interests of one person entitled to benefits pursuant to the plan over the interests of any other person so entitled.					
Manitoba	**Act 28.1(1)-(1.2)** The administrator may be: (a) a pension committee (for plans with > 50 members); (b) the employer; (c) a trustee; (d) a member of a board of trustees of the plan; (e) the insurer (for SMPPPs); or (f) a person appointed by an Order.	**Act 28.1(2)-(11)** (a) The administrator of a pension plan shall exercise the care, diligence and skill in the administration of the plan and in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person; (b) The administrator of a pension plan shall invest the assets of the pension fund, and manage those investments, in accordance with the regulations and in a manner that a reasonable and prudent person would apply in investing and managing a portfolio of investments of a pension fund; (c) Unless a pension plan otherwise provides, an administrator who uses a non-financial criterion to formulate an investment policy or to make an investment decision does not thereby commit a breach of trust or contravene this Act if, in formulating the policy or making	**Act 18(2)** File documents required under the Act and regulations **Act 21-25** Ensure the plan's documentation complies with the Act and regulations. **Act 26** Ensure • investments are made and administered • funding of benefits according to the Act and regulation. **Act 26(4)-(4)** If terminated, ensure wind-up is according to Act and regulations. **Act 29-30** Provide required disclosure to members, other beneficiaries and stakeholders.	**Reg 3.19** Held by: (a) an insurance company under a contract for insurance between the company and the administrator; (b) a trust company incorporated under the laws of Canada or of a province or territory of Canada; (c) a trust under a written trust agreement under which there are three or more trustees: (i) each of whom is an individual, (ii) at least 3 of whom reside in Canada, and (iii) at least one whom is none of the following: (A) the employer, (B) a significant shareholder of the employer, (C) if the employer is a partnership, a member of that partnership, (D) an officer or	**Act 28(6)** Notify superintendent of non-remittance.	**Act 28** Hold contributions deducted and due in trust for payment into the pension plan.	**Reg 2.3(2)(a)** All supporting documents of the plan. i.e. trust deed or agreement, insurance contract.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		the decision, he or she has complied with subsections the Act; (d) The administrator of a pension plan shall use in the administration of the plan and in the administration and investment of the pension fund all relevant knowledge and skill that the administrator possesses or, by reason of the administrator's profession, business or calling, ought to possess; (e) An administrator of a pension plan shall not knowingly permit the administrator's interest to conflict with the administrator's duties and powers in respect of the plan and the pension fund; (f) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ or appoint one or more agents to carry out any act required to be done in the administration of the plan and in the administration and investment of the pension fund; (g) An administrator of a pension plan who employs or appoints an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed or appointed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable;		employee of the employer; (d) a corporation established by an Act of Parliament or of the Legislature of a province or territory of Canada to administer one or more public sector pension plans; (e) a pension fund society under the Pension Fund Societies Act (Canada); (f) the Government Annuities Act (Canada).			

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		(h) An employee or agent of an administrator is also subject to the standards that apply to the administrator; (i) The administrator of a pension plan is not entitled to any benefit from the pension plan other than pension benefits, ancillary benefits, a refund of contributions, and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan; (j) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.					
Ontario	**Act 8** The administrator may be: (a) the employer ; (b) a pension committee with representatives of both employer(s) and members; (c) a pension committee with only member representatives; (d) the insurance company if it guarantees all plan benefits; (e) for multi-employer pension plans, a board of trustees where at	**Act 22 (1)(2)(3)(4)** • Exercise the same care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. • Use all relevant knowledge and skills that the administrator possesses, or ought to possess, by reason of profession or business, in the administration and investment of the pension	**Act 22 (5)(7)** The administrator may employ agents(s) to carry out duties of the administrator where reasonable and prudent to do so, be satisfied of the agent's suitability and shall supervise agents. **Act 19** Ensure the pension plan and pension fund are administered; • in compliance with the Act and Regs; • in accordance with filed documents acknowledged by the Superintendent.	**Act 22(6) Reg. 54** Specifies that a pension fund trustee be one or a combination of the following: (a) a government; (b) an insurance company; (c) a trust in Canada governed by written agreement under which the trustees are: (i) a trust company (Loan and Trust Corporations Act), or (ii) 3 or more individual trustees, minimum 3 Canadian residents, minimum 1 independent	**Act 22(8)** Fund holder duties are the duties that the administrator delegates to the fund holder in its capacity as agent of the administrator. **Act 56.1** Notify the Superintendent of non-remittance of contributions when due, or non-receipt of summary of	**Act 57** • The administrator has a lien on the employer's assets equal to amounts deemed to be held in trust by the employer, including: (a) Employee contributions received by the employer and not yet paid into the fund. (b) Employer contributions	**Act 9(2)** The administrator files a certified copy of the documents that create and support the pension fund. **Act 12(3)** The administrator files a certified copy of each document and changing documents that

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	least 50% of members and majority of member representatives are Cdn. citizens or landed immigrants; (f) a corporation, board, agency or commission given plan administration responsibility by Act of Legislature; (g) a person appointed by the Superintendent as the administrator for plan wind up (see also Act 71); or (h) a prescribed person or entity.	fund. This specifically applies to members of the pension committee, the board of trustees, or a board, agency or commission given plan administration responsibility by the Act of Legislature. • Shall not knowingly permit the administrator's interests to conflict with the administrator's duties and powers in respect to the pension fund. This specifically applies to members of the pension committee, or the board of trustees. **Act 22(9)** Clarifies that prohibition against the administrator receiving benefits from the plan other than benefits under plan terms (or fees permitted by common law or plan terms) applies equally to members of the pension committee or the board of trustees. **Act 22 (8)** Standards for the administrator also apply to agents and employees.	**Act 9, 12, 20, 21 & Regulation** File: • initial registration documents including fund holder documents and amendments to the documents; • regular filings, including annual information returns, investment information summary, actuarial reports and actuarial information summary, financial statements (including audited financial statements); • reciprocal transfer agreements and other information as required by the PBA and Regulation. **Act 25, 26, 27, 28 and 29** Provide information to members and access to plan and fund documents. **Act 56, 56.1** Ensure all plan contributions are paid when due; notify the Superintendent of non-payment; provide the fund holder a summary of contributions that are required to be made to the plan. **Act S. 62** Ensure investments are in accordance with the Act and Regulations. **Reg. 76** File year end financial statements	of contributing employer (enumerated as not significant shareholder, not partner etc.), or (iii) a corporate pension society (Pension Funds Society Act); (d) instruments under the Government Annuities Act; (e) a board, agency, commission or corporation given plan administration responsibility by the Act of Legislature.	contributions required to be made to the plan.	due and not yet paid into the fund. (c) On windup, employer contributions are accrued to the windup date, but not yet due.	create and support the pension fund.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
			and the audited statement if the pension fund has more than $3 million in assets. **Reg. 78** Establish a SIP&P.				
Quebec	**Act 147** A pension committee	**Act 150** The pension committee acts in the capacity of a trustee. **Act 151** • Standard of prudence, diligence and skill that a reasonable person would exercise in similar circumstances. • The administrator must act with honesty and loyalty in the best interest of the members or beneficiaries. **Act 158** The administrator may not exercise his powers in his own interest, or in the interest of a third person, nor may he place himself in a situation of conflict between his personal interest and the duties of his office. **Act 151.1** Presumed to have acted with prudence where it acted in good faith on the basis of an expert's opinion. **Act 154** If the pension committee chooses carefully, provides clear	**Civil code 1306** • Preserve the fund and make it productive. • Increase the patrimony. **Civil Code 1308** Comply with the obligations imposed on him by law or by the text of the plan. **Examples:** • Act. 161 – Transmit the Régie annual statement drawn up • Act. 166 – Call an annual meeting • Act. 169 – Establish and adopt a written investment policy • Act. 112-113 – Provide statements to members and beneficiaries • Act. 111 – Provide a summary of the pension plan • Act. 26 - Transmit notice of amendment to plan members • Act. 19 – Ask for registration of the amendment • Act. 119 – Ask an actuary to prepare the actuarial valuation and transmit the valuation to the Régie	**Act 6** Except in the case of an insured plan, contributions and derived income are held in a pension fund.(This fund is a trust patrimony.) **Civil Code 1261** The trust patrimony, consisting of the property transferred in trust, constitutes a patrimony by appropriation, autonomous and distinct from that of the settler, trustee or beneficiary and in which none of them has any real right.	**Act 51** The pension committee notifies the Superintendent of non-remittance.	**Act 49** Contributions and accrued interest are due, but not yet remitted.	

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		instructions and supervises his work, he is not responsible for the error or omission on the part of the delegate or service providers and representatives who exercise a discretionary power.					
New Brunswick	**Act 1** • The administrator is the person who administers the plan.	**Act 14(1) and (2)** Shall ensure the pension plan and fund are administered in accordance with the Act, Regs. and filed documents. **Act 17(1)** Standard of care for administration and investment – prudent person. **Act 17 and 18** Includes provisions to deal with: • special knowledge and skill • ability to rely on professionals • conflict of interest	**Act 14(1) and (2)** Shall ensure the pension plan and fund are administered in accordance with the Act, Regs. and filed documents. **Act 10(1) and 11(1)** File for registration of the plan and amendments. **Act 15** File AIRs. **Act 23** Disclosure of information requirements. **Act 49** • Take all necessary steps to ensure contributions are made to fund. • Advise the Superintendent of non-remittance of contributions. **Act 53** May commence court proceedings to obtain payment of contributions that are due. **Reg. 9** Ensure that actuarial valuations	**Reg. 11** The pension fund shall be administered by one or a combination of the following: (a) an insurance company (b) a trust agreement under which the trustee is • a trust company • a board of trustees • a society under the Pension Fund Societies Act (c) a person, board, agency, commission or other body made responsible by an Act of the Legislature.	**Act 49(7)** Notify the Superintendent of non-remittance.	**Act 51** • Money received from an employee is deemed to be held in trust for the employee until it is paid into the pension fund. • Money withheld through payroll deductions is deemed to be money received from employee. • The employer is deemed to hold in trust for beneficiaries of the plan, an amount equal to employer contributions due by not paid into fund. • If the plan is wound-up, the employer is deemed to hold in trust an amount equal to contributions accrued but not yet	**Act 10(2)** An application for registration of a pension plan must include certified copies of the documents that create and support the pension fund.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
			are performed. **Reg. 44** Establish, adopt and follow an SIPG.			due. • The administrator has a lien and charge on the employer's assets for amounts deemed to be held in trust. **Act 51(6)** Deemed trust provisions apply whether or not money is kept separate and apart from the employer's other money.	
Nova Scotia	**Act (1)** The administrator is the person who administers the plan. **Act 14** The administrator must be: (a) the employer, (b) a pension committee, (c) an insurance company for guaranteed benefits, (d) a board of trustees for a MEPP, or (e) a person appointed by the Superintendent.	**Act 29** • Act with care, diligence, knowledge and skill. • Must exercise the same care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. • Use all relevant knowledge and skill that the administrator possesses, or ought to possess, in the administration of the pension plan and the administration and investment of the pension fund. • Shall not knowingly permit the administrator's interest	**Act 15** Apply for registration of the plan. **Act 18(1) and (3)** Apply for registration of plan amendments and file a copy of each document that changes the documents that support the plan and the fund. **Act 26** • To ensure the pension plan and pension fund are administered in accordance with the Act and regulations. • To ensure the plan is administered in accordance with the filed plan documents. **Act 27** File Annual Information Returns and additional reports (Reg. 12	**Act 29(4A)** The pension fund trustee may only be as prescribed. **Reg. 55** The fund must be administered by one or more of: (a) a government; (b) an Insurance company; (c) a trust agreement under which the trustee is: • a trust company • a board of trustees • a corporation under the Pension Fund Societies Act (d) the Canadian Government Annuities Act; (e) an agency that is responsible under an Act of Legislation.	**Act 45** Notify the Superintendent of non-remittance. **Act 67** Every person engaged in the investment of the fund shall ensure the money is invested in accordance with the Act and regulations.	**Act 46 – Not deemed trust** Requires unremitted contributions to be held in trust.	**Act 16(i) and (j)** Plan documents must set out a mechanism for establishing and maintaining the pension fund, and a mechanism for paying for the cost of administering of the pension plan and pension fund.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		to conflict with the administrator's duties and powers in respect of the pension fund. **Act 67** Every person engaged in the investment of the fund shall ensure the money is invested in accordance with the Act and regulations.	and 13 for actuarial valuation reports). **Act 28** File reciprocal transfer agreements. **Act 29** May hire agents. **Act 31, 32, 33, 34 and 35** Comply with requirements for disclosure to members. **Act 45** Provide notice to the Superintendent of non-remittance. **Act 46** • Contributions are to be held in trust. • The administrator has a lien on the employer's assets for unremitted contributions. **Act 64** Commence proceedings in court for non-remittance. **Act 73** The administrator must provide notice of wind-up. **Act 75** The administrator must file a wind-up report. **Act 77** The administrator must provide statements on wind-up.				

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
			Schedule I – Regulations The administrator must establish, review, amend and distribute a statement of investment policies and procedures. **Schedule III** The administrator must comply with restrictions regarding investment of the pension fund.				
Newfoundland	**Act 12(1)** Administrator Single employer • the employer; • a pension committee; • an insurance company; • a board, agency, commission or other body responsible for the administration of the plan. **Act 12(2)** • A pension committee for plans > than 49 members **Act 13 – MEPP** • a pension committee • a board of trustees	**Act 14** Administer the pension plan and fund as a trustee for the employer, members and former members.	**Act 14** (i) Administer the plan. (ii) Administer the plan in compliance with the Act. (iii) If employer is not the administrator of the plan, provide the administrator with information that is required in order to comply with the terms of the plan. (iv) Inform the Superintendent of Pensions of any changes to administration. **Reg. 4 (1) and (2)** File reciprocal transfer agreements. ‘ **Reg. (5)** Reporting as per DB provision.	**Act 15** Maintained by: (a) a government; (b) an insurance company; (c) a trust agreement under which the trustee is: (i) a trust company (ii) 3 or more individuals (iii) a corporate pension society under the Pension Fund Societies Act (d) a board, agency, commission or corporation responsible under an Act of the Legislature.	**Act 31** Notify the Superintendent of non-remittance. **Reg. 39(3)** Maintain current records identifying the plan's investments and the investments' names.	**Act 32 (1), (2) and (3)** (1) money in the pension fund; (2) contributions deducted and other amounts that are due but have not been remitted; (3) applies to ongoing, bankruptcy and termination.	**Act 16** **Act 31** **Directive No. 1 (2)(b)**
ITA/R	**ITA147.1(6)** • a person; • a body of persons; or • a majority of persons	Ultimate responsibility for the overall operation of the plan and compliance with the legislation	**ITA147.1(7)** • Administer in accordance with the terms of the plan as registered.	**ITR8502(g) and 6(e) under IC72-13R8** • an insurance company; • a trust in Canada;	• Ensure proper accounting of plan funds. • Ensure	• No such provision for registered pension plans	• Trust agreement or insurer contract

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	must reside in Canada, unless permitted **in writing** by the Minister to be a non-resident administrator.		• Notify the Minister of the name and address of the administrator and changes thereto.	• a pension corporation; • arrangement administered by the Gov. of Canada or Gov. of a province; • any combination of the above.	information returns required by the ITA/R are filed, if applicable.	exists.	(including application). • T3P form to be filled out with respect to a trust agreement.

May 4, 2010

Dear Pension Industry Stakeholder:

Re: CAPSA Consultation on the Draft Guideline on Fund Holder Arrangements

On behalf of the Canadian Association of Pension Supervisory Authorities (CAPSA), we are pleased to release the enclosed draft *Guideline on Fund Holder Arrangements* for your review and comment.

This consultation is part of CAPSA's strategic initiative to identify emerging issues and coordinate efforts to address such issues. One such issue is fund holder arrangements.

As a result, CAPSA set up the Fund Holder Arrangements Committee to:

(i) review existing legislative requirements regarding who can hold pension funds and what the fund holder agreements must contain,
(ii) compare these requirements with what is currently in use, and
(iii) clarify the roles and responsibilities related to fund holder arrangements.

After reviewing various legislative requirements, and in discussions with representatives from fund holder agencies, it became apparent that there is an opportunity to clarify the types of documents that may be used as fund holder agreements and the roles and responsibilities of the key players in a pension plan with respect to fund holder arrangements.

Building on CAPSA Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire, the Fund Holder Arrangements Committee prepared a draft guideline to provide guidance to pension plans of all types and sizes, in all jurisdictions of Canada, with their fund holder arrangements. The Guideline on Fund Holder Arrangements is intended to promote compliance and consistency in establishing and maintaining pension plan fund holder arrangements

CAPSA would appreciate your comments on the draft guideline.

Please forward your written comments on the CAPSA draft Guideline on Fund Holder Arrangements to:

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Electronic copies of submissions would be preferred. We look forward to receiving your comments by July 30, 2010. Questions arising from this consultation may be directed to the CAPSA Secretariat.

Please note that this draft guideline has been prepared to contribute to the consistent development and maintenance of fund holder arrangements in all Canadian jurisdictions. The draft guideline does not reflect the official position of any provincial or federal government or agency.

Yours very truly,

Mario Marchand
Chair, CAPSA
Régie des rentes du Québec

Mark Prefontaine
Chair, Fund Holder Arrangements Committee
Deputy Superintendent of Pensions
Alberta Finance and Enterprise

Appendix B
Members of CAPSA Fund Holder Arrangements Committee

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THE COUNCIL
OF THE FEDERATION

**PREMIERS AGREE ON EI REFORMS
AND CALL FOR A RETIREMENT INCOME SUMMIT**

REGINA, August 6, 2009 – Premiers agreed on the urgent need to modernize the Employment Insurance system to support a modern workforce in a modern economy and called for a national summit on retirement income.

Modern Employment Insurance Program

Premiers agreed that the following principles should be used to modernize the EI system:

1. EI should build a temporary bridge to get workers through these challenging economic times. A renewed emphasis on training should be a critical component of the reform. The federal government must increase its allocation to training, other active employment measures and maternity benefits, under the *Employment Insurance Act.*

2. EI should provide Canadians with equitable support regardless of where they live.

3. The program should be simplified and streamlined to have fewer than the current 58 EI regions.

4. Reforms must not reduce access or benefits from the current standards.

5. The program must be affordable and sustainable and financed through a stand-alone and independent fund.

National Summit on Retirement Income

Premiers called for urgent attention to the issue of how private and public retirement plans can better meet the needs of Canadians as they retire. They called on the federal government to host a national summit on retirement income.
Finance Ministers have established a Research Working Group on Pension Coverage and Retirement Incomes. Premiers welcomed this as a good first step. However, due to the urgent nature of this issue, Premiers directed Finance Ministers to report on possible options for reform by the private sector and governments by the end of the year.

The national summit should be conducted by 2010 and should bring together provinces and territories, the federal government and interested stakeholders and experts to discuss possible options to improve saving options for Canadians and to encourage greater saving.

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For more information:

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PENSION SECTOR
COST RECOVERY PROPOSAL

PROPOSAL

The Financial Services Commission of Ontario (FSCO) is proposing to implement an assessment process to ensure FSCO's expenditures for the pension sector are fully recovered.

GENERAL BACKGROUND

FSCO was established in July 1998 under the *Financial Services Commission of Ontario Act, 1997* (FSCO Act). FSCO is committed to improving regulatory effectiveness and efficiency of resource utilization. One of FSCO's objectives is to have full cost recovery from each of the regulated sectors. FSCO's operations and branches are divided into "cost centres" for financial and administrative purposes. For cost centres whose time and budgets are dedicated 100% to a given sector, their entire costs are assigned to that sector. Where cost centres perform activities that relate to more than one sector, the costs are allocated to the appropriate sectors.

Section 25 of the FSCO Act states that the Lieutenant Governor in Council may assess the FSCO regulated sectors with respect to all expenses and expenditures that the Ministry, the Commission and the Tribunal have incurred and made in respect to that sector.

FSCO's Current Pension Sector Cost Recovery

Currently, the cost of regulating the pension sector in Ontario is recovered solely through fees set by the Minister of Finance and published in the Minister's Schedule of Fees under the *Pension Benefits Act*. At the present time, most of the fees are generated by the Annual Information Return (AIR) fee, however, there is no certainty that these fees would cover the entire cost of the sector in any given year since AIR fees are based on a flat rate per member and former member. As a result of the fixed nature of these fees, costs may be over- or under-recovered in any given year. FSCO has no authority to credit pension plans with any amounts collected through fees in excess of costs. Conversely, no means exists for collecting under-recovered amounts from pension plans. Shortfalls are made up from the Consolidated Revenue Fund of the Government while surpluses are paid into it.

Proposed Pension Sector Cost Recovery Process

The proposed new assessment process would ensure that FSCO generates neither a surplus nor a shortfall with respect to pension sector costs.

In order to determine pension sector costs, FSCO proposes calculating the full expenditures for the sector, then subtracting the fees and charging the remaining amount through an assessment.

FSCO is accountable to the Government through a number of mechanisms that are described later in this paper.

The proposed new cost recovery process retains the current AIR fee structure as a base assessment for each plan based on the current AIR fees. **The only noteworthy changes to the current process are to collect the current AIR fees through an assessment rather than the AIR and to have an assessment adjustment assigning shortfalls/ surpluses on a pro rata basis to the base assessment.**

This paper describes the proposed new process and invites comments from pension stakeholders on the proposal.

Comments may be made by **August 18, 2006** to the attention of:

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FSCO's COST RECOVERY PRINCIPLES

The proposed pension cost recovery process has been developed in accordance with the following FSCO cost recovery principles:

Cost recovery will not exceed forecasted expenditures for each sector and FSCO will be accountable for the efficiency and quality of the services delivered.

Cost recovery will be fair and reflect the use of FSCO resources.

Cost recovery will enable reasonable predictability of regulatory costs.

Cost recovery will be simple to administer.

Cost recovery will be flexible and easily modified.

Accountability

Each year, FSCO must obtain its spending authority through the Government budgetary process. Spending authority is granted based on closely monitored organizational needs and Government priorities.

FSCO also reports quarterly to the Government on the status of its spending.

Under Section 14 of the FSCO Act, the Office of the Auditor General shall examine annually the accounts and financial transactions of the Commission. The audited financial statements are published in FSCO's annual report.

Finally, each year FSCO must send to the Minister of Finance and publish in the Ontario Gazette a Statement of Priorities for the coming year. As part of that document, FSCO provides its stakeholders with a Report Back on the initiatives and projects for the previous year.

PROPOSED NEW COST RECOVERY PROCESS

The AIR fee structure, based on plan membership with a rate of $6.15 per member and $4.25 per former member, coupled with a minimum charge of $250 per pension plan and a maximum charge of $75,000 per pension plan, has proven to be fair and reflects the use of FSCO resources. FSCO allocates about 80-85% of its pension resources to defined benefit (DB) plans and approximately 15-20% to defined contribution (DC) plans. These percentages generally correspond to the amount of fees generated by DB plans (about 80%) and DC plans (about 20%).

Furthermore, the AIR fee structure based on plan membership has proven to be a good proxy for a user-pay system. This is because there is a strong, positive correlation between membership, activity based transactions, and fees. Generally, plans with a higher membership generate more transactions, and the higher the plan membership, the higher the AIR fees (assessments).

FSCO would be using the same membership data as appeared on the latest AIR prepared by the pension plan administrator.

Under the proposed assessment process, pension plans would continue to file their AIR six months following the end of the plan's fiscal year for DC plans, and nine months following the end of the fiscal year for DB plans.

The total amount to be assessed would be the pension sector cost for FSCO's previous fiscal year less the aggregate of all fees (e.g. plan registration fees) collected during the fiscal year. This is the net pension sector cost.

The assessment as proposed would be done in two parts. First, FSCO would calculate a base assessment at the rate of $6.15 per member plus $4.25 per former member, subject to a minimum of $250 and a maximum of $75,000 (the pension plan membership would be taken from the latest AIR). FSCO would then compare the amount calculated by the base assessment with the net pension sector cost. If the net pension sector cost is greater or less than the base assessment, an assessment adjustment would be used to calculate the additional amount to be recovered or credited. The adjustment would be based on each plan's pro rata share of the base assessment.

Beginning in **September 2008**, FSCO proposes sending to each pension plan administrator an assessment that would be payable within 30 days. The assessment for each plan would indicate the base assessment and the assessment adjustment. The assessment would be for FSCO's costs in the previous fiscal year.

Example

For both DB and DC plans, the assessment would be calculated as follows, based on the following assumptions for a given fiscal year:

The net pension sector cost is $9.9 million.
The base assessment raises $9 million from the pension sector.
There is a shortfall of $900,000 ($9.9 million - $9 million).
The % shortfall is 10% ($900,000/$9 million). Therefore each plan would be required to pay an assessment adjustment of 10% over their base assessment.

If Plan A, based on its membership, is assessed the minimum base assessment of $250, then Plan A's total assessment would be $275 ($250 plus an assessment adjustment of $25).

If Plan B, based on its membership, is assessed the base assessment of $17,500, then Plan B's total assessment would be $19,250 (17,500 plus an assessment adjustment of $1,750).

If Plan C, based on its membership, is assessed the maximum base assessment of $75,000, then Plan C's total assessment would be $82,500 ($75,000 plus an assessment adjustment of $7,500)

Similarly, if it is assumed that the pension sector cost was only $8.1 million, the base assessment would generate a surplus of $900,000 or 10%.

Then Plan A's total assessment would be $225 ($250 minus an assessment adjustment of $25).
Then Plan B's total assessment would be $15,750 (17,500 minus an assessment adjustment of $1,750).
Then Plan C's total assessment would be $67,500 ($75,000 minus an assessment adjustment of $7,500).

TRANSITION

The proposed process would begin with FSCO's 2007-08 fiscal year. That would mean that pension plans with a fiscal year end after March 31, 2007 would no longer remit an AIR fee with their AIR return.

If implemented, the transition to the cost recovery process will be communicated to the pension sector and will be posted on FSCO's website.

Next Steps

Following the close of the comment period, FSCO will evaluate all submissions.

Following this evaluation, if FSCO determines to proceed with the proposal, FSCO will seek Government approval to implement this assessment process.