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2016 Solvency Funding Relief Measures for Private Sector Pension Plans - Frequently Asked Questions (FAQs)

The following FAQs relate to the amendments to [Regulation 909](#) (Regulation) regarding the [2016 Solvency Funding Relief Measures](#) that came into force on July 1, 2016 pursuant to [O. Reg. 161/16](#).

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Filing Deadlines and Elections

Q1. The plan administrator made an election under the 2012 solvency funding relief measures. Does the administrator have to file a new election with the Superintendent of Financial Services (Superintendent) to take advantage of the 2016 solvency funding relief measures?

A1. Yes. To take advantage of the 2016 solvency funding relief measures, a new election must be filed with the Superintendent. -06/2017

Q2. How should a plan administrator file a 2016 solvency funding relief election with the Superintendent? What information should be included in the election?

A2. The plan administrator must file the notice of election in writing. The notice may only be made once and cannot be rescinded. It can take one of two forms:

- a separate letter to the Superintendent; or
- part of the cover letter that accompanies the solvency relief report filed with the Superintendent.

The election must be filed on or before the filing of the first valuation report under section 13 or 14 with a valuation date on or after December 31, 2015 and before December 31, 2018.

The notice of election should be signed by either the plan administrator or an individual authorized to sign on the administrator's behalf. It must include the following:

- name of the pension plan
- plan registration number
- a statement that an election is being made to implement [insert description of the option(s) elected)], and is effective as of [insert effective date of implementation]. -06/2017

Q3. The option to defer for up to one year the start of special payments required to liquidate any new going concern unfunded liability or new solvency deficiency (option 1 under the 2009 solvency funding relief measures) was made automatic in 2012. Since a special election to use this option is no longer required, how should the plan administrator inform FSCO if they use it?

A3. If a plan chooses to use the automatic deferral period of one year, it must be disclosed in the pension plan's valuation report. -06/2017

Q4. If the first valuation report is required as a result of a plan amendment, can a plan administrator make an election related to the temporary solvency relief options at the same time?

A4. Yes, but only if the plan administrator files a full valuation report under section 14 as a result of the plan amendment. An election can only be made in conjunction with the plan's first valuation report filed by the administrator under section 13 or section 14. A report filed under section 3 is not considered to be a solvency relief report and cannot support an election of solvency relief options. The solvency relief election must be submitted to the Superintendent in writing on or before the date the section 14 report is filed. -06/2017

Q5. If the plan administrator does not wish to make an election for the plan's first filed report, can they make an election in a subsequent valuation report?

A5. No. You can only make an election for the plan's first valuation report filed under section 13 or 14 with a valuation date on or after December 31, 2015 and before December 31, 2018. -06/2017

Q6. The plan administrator elected options under the 2009 and 2012 rules. Are there any restrictions on the options the plan administrator can elect under the 2016 solvency relief measures?

A6. The plan administrator is eligible to make an election under the 2016 solvency relief measures if:

1. the plan is not an excluded plan; and
2. the plan has either a new and/or an existing solvency deficiency in the first valuation report filed by the administrator under section 13 or 14 with a valuation date on or after December 31, 2015 and before December 31, 2018. The administrator can make an election under option 7 for a new solvency deficiency, or under option 6 for an existing solvency deficiency.

Please note that the election under option 6 does not apply to:

- any special payments that were extended to a maximum of 10 years under option 3 in the 2009 measures and option 5 in the 2012 measures, or
- to any special payments required on a plan wind-up (under section 75 of the PBA).

In addition, the election under option 7 is only available if the administrator complies with the notice requirements described in the Regulation and the plan administrator has satisfied the consent requirements specified in the Regulation (section 5.7). -06/2017

Q7. If the plan administrator elects a 2016 solvency relief option for a pension plan, is s/he required to provide notice to plan members?

A7. Yes. If option 6 or 7 has been elected, the plan administrator must provide notice to eligible members, eligible former members, eligible retired members (as defined in section 5.5.3 of the Regulation) and a union, if applicable. This notice must be provided on or before the later of:

- the 60th day after the first day a special payment is required to be made in respect of the new solvency deficiency or the new going concern unfunded liability; and
- the 60th day after the applicable solvency relief report is required to be filed. -06/2017

Q8. Is the plan administrator required to obtain member consent to elect a 2016 solvency relief option?

A8. The plan administrator must obtain member consent to elect option 7 but not for option 6. The consent to option 7 must be obtained from eligible members, eligible former members, eligible retired members (as defined in section 5.5.3 of the Regulation) and a union, if applicable. -06/2017

Q9. For option 7, what information does the plan administrator have to provide and to whom to obtain member consent?

A9. The plan administrator must provide an information statement and a notice of objection to all persons specified under subsection 5.7(2) of the Regulation. The information required to be included in these documents is specified under subsections 5.7(3) to 5.7(6). Among other information, the notice of objection must include the date of the final day the plan administrator will accept receipt of notices of objection (not earlier than 45 days after the information statement is mailed by the plan administrator). -06/2017

Q10. What level of consent is required for the plan administrator to proceed to elect option 7? Is there any other requirement the plan administrator must follow?

A10. If no more than one third of the persons who were eligible members, eligible former members, eligible retired members (as defined in section 5.5.3 of the Regulation), nor any union (if applicable) object(s) to the extension, the plan administrator can proceed to file a solvency relief report electing option 7. The plan administrator is also required to file a certificate of consent with the Superintendent containing the information required under section 5.8 of the Regulation. The certificate must be filed not more than 60 days after the solvency relief report is filed with FSCO. -06/2017

Q11. If option 7 has been elected in a solvency relief report, does the plan administrator have to provide any other information to plan members?

A11. Yes. The plan administrator must provide an annual progress report to all eligible members, eligible former members, eligible retired members (as defined in section 5.5.3 of the Regulation) and union(s), if applicable. The report must contain the information specified under subsection 5.10(4) of the Regulation and must be provided annually until the new solvency deficiency has been liquidated. A progress report must be sent not more than six months after the end of each fiscal year of the plan. Progress reports may be included in annual statements or biennial statements as applicable. -06/2017

Q12. The solvency relief measures do not apply to “excluded plans,” as defined under subsection 5.6.2(8). Paragraph 12 of this subsection describes an excluded plan as one “to which not all of the contributions set out in reports filed under section 3, 13 or 14 that were required to be made before the valuation date of the solvency relief report under this section have been made in accordance with the Act and the regulations.” What does this mean?

A12. Subsection 4(4) of the Regulation requires employee and employer contributions to be remitted to the pension fund within 30 days after the month for which contributions are payable. Section 5 of the Regulation requires special payments to be remitted by monthly installments beginning on the valuation date of the report in which the special payment was determined over the period of 15 years for going concern and five years for solvency, taking into account the automatic one-year deferral under 5(1.0.1) of the Regulation.

If a plan does not remit contributions (normal cost and special payments) in accordance with the timeframes set out in the Regulation, the pension plan is said to be an excluded plan as described under paragraph 12 of subsection 5.6.2(8). It would therefore not be eligible to elect option 6 or 7 of the 2016 solvency relief. -06/2017

Q13. What special payments can be consolidated in the solvency relief report under option 6?

A13. The report can consolidate only the present value of any remaining unpaid solvency special payments related to solvency deficiencies that arose before the valuation date of the solvency relief report. Pre-existing special payments related to going concern unfunded liabilities and special payments required under section 75 of the PBA are not included. If solvency special payments were previously consolidated under option 2 of the 2009 rules and under option 4 of the 2012 rules, they can be reconfigured into a new five-year schedule. However, solvency special payments subject to the 2009 and 2012 extended funding rules (options 3 and 5) cannot be consolidated. -06/2017

Q14. When do the accelerated funding rules for plan amendments end if the administrator elects option 6, 7 or both?

A14. If the plan administrator elects option 6, 7 or both and the plan is later amended to increase benefits, any increase in the going concern unfunded liability must be liquidated over five years. The only exception is if the plan amendment has 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 five years.

For example, a plan administrator files a 2016 solvency relief report with a valuation date of January 1, 2017. The administrator elected option 6, 7 or both (with the maximum extension). The new solvency special payments are scheduled to end on December 31, 2026 and the consolidated prior solvency deficiency payments are scheduled to end on December 31, 2021. Note that the accelerated funding rules would not apply if the effective date of the benefit improvement is later than December 31, 2026.

Member/Former Member Questions

Q15. Who is an eligible member?

A15. In relation to the pension plan, an “eligible member” is a member whose pension benefit includes a defined benefit. It does not include a member who no longer has an entitlement to any payments from the plan or a member for whom a notice of death has been received by the plan administrator. -06/2017

Q16. Who is an eligible former member?

A16. In relation to the pension plan, an “eligible former member” is a former member whose deferred pension or pension benefit includes a defined benefit. It does not include a former member for whom a notice of death has been received by the plan administrator. -06/2017

Q17. Who is an eligible retired member?

A17. In relation to the pension plan, an “eligible retired member” is a retired member whose pension or pension benefit includes a defined benefit. It does not include a retired member whom a notice of death has been received by the plan administrator. -06/2017

Q18. Is the plan administrator required to obtain member consent to elect option 6 solvency relief?

A18. Solvency relief option 6 is the consolidation of the 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. Member consent is not required for the plan administrator to use this option. -06/2017

Q19. Is the plan administrator required to obtain member consent to elect option 7 solvency relief?

A19. Solvency relief option 7 is the extension of the period for liquidating the new solvency deficiency from five years to a maximum of 10 years. To use this option, the plan administrator

must provide an information statement and a notice of objection to eligible members, eligible former members, eligible retired members and to a union, if applicable. If no more than one third of those who were provided with the notice of objection objected, including any eligible members on whose behalf an objection was submitted by a union representing them, the plan administrator may proceed to elect option 7. -06/2017

Q20. I received an information statement and a notice of objection from my plan administrator about option 7 solvency relief. How long do I have to make my decision?

A20. You have 45 days to consider and make a decision. Included in the notice of objection is the date of the final day the plan administrator will accept receipt of notices of objection. -06/2017

Q21. Will I receive notice if my pension plan has elected a solvency relief option?

A21. Yes. A plan administrator who makes an election is required to provide notice to all eligible members, eligible former members, eligible retired members and the union, if applicable. Depending on what option is elected, the plan administrator is also required to provide annual progress reports. -06/2017

Q22. As a widow(er) of a former/retired member of a pension plan I am a beneficiary under the plan. Am I entitled to receive notice if the plan makes an election under the solvency relief amendments?

A22. No. Only eligible members, eligible former members, and eligible retired members are entitled to receive notice. -06/2017

Q23. I am an eligible member of a pension plan and previously gave my consent for the administrator to elect option 5. I was recently asked to provide my consent to allow the administrator to elect option 7 under the 2016 solvency relief measures. If I agree, will I now receive separate enhanced notices and progress reports for both elections?

A23. Yes. However, the administrator may provide the information for both elections in a single document. The document will clearly identify the information for the election under option 5 and the election under option 7. -06/2017

Q24. I am an eligible retired member of a pension plan and a union member. I have been asked to provide my consent to allow the administrator to elect option 7. Can the union exercise my vote?

A24. No. The union can only vote on behalf of individuals who were eligible members for whom the union acts as collective bargaining agent on the valuation date of the solvency relief report. If you retired after the date of the solvency relief report, the union may vote on your behalf. If you retired on or before the date of the solvency relief report, you must vote directly. -06/2017

Q25. I am an eligible member of a pension plan that covers both union and non-union members. I am not a member of a union. I have been asked to provide my consent to allow the administrator to elect option 7 (the extension of the new solvency deficiency funding period from five years to not more than 10 years). Can the union exercise my vote?

A25. No. The union can only vote on behalf of individuals who were eligible members for whom the union acts as collective bargaining agent on the valuation date of the solvency relief report.
-06/2017