Pension e-Bulletin - October 2009 - Volume 18 - Issue 3

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Financial Services Commission of Ontario
5160 Yonge Street
Toronto, ON M2N 6L9
1-800-668-0128
(416) 250-7250

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Commuted Value Transfers-Superintendent's Approval

On June 19, 2009, O. Reg. 239/09 under the *Pension Benefits Act* (PBA) was filed. Included in the amendments to the Regulation 909 were changes to Section 19. These changes require the administrator to seek the prior approval of the Superintendent, using the Request for Approval Form, before transferring any funds under Sections 42 or 43 of the PBA, in situations where the administrator knows or ought to know that the transfer ratio in the most recently filed valuation report has declined by 10% or more.

For additional information and guidance on how to approach the limitations on the transfer of commuted values, please refer to:

- Size: ## kbFSCO's Policy on Commuted Value Transfers
- Frequently-Asked-Questions

Actuarial questions should be referred to:

Mr. Lester Wong, Chief Actuary

Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Tel: (416) 226-7784
Email: Lester.Wong@fsco.gov.on.ca

All other enquiries should be referred to:

Mr. John Graham
Technical Consultant

Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9
Phone: 416-226-7774
e-mail: John.Graham@fsco.gov.on.ca

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Commuted Value Transfers - Q&As

O. Reg. 239/09 made under the PBA, amended Section 19 of the Regulation effective June 19, 2009. These amendments included changes to the treatment of commuted values. Pension plans registered in Ontario with defined benefits must review the plan transfer ratio before transferring a commuted value, if the administrator of a plan knows or ought to know that the transfer ratio has fallen by 10% or more since the most recent determined transfer ratio. In the event the transfer ratio has fallen by 10% or more the administrator **shall not** transfer any part of the commuted value without the prior approval of the Superintendent. FSCO's Policy on Commuted Value Transfers e: ## kbprovides detailed information on the Request for Approval and other requirements.

The following Q&As address a number of issues that have arisen.

Questions currently posted here relate to:

Applications to Sections 48-51 Commuted Value Transfers

Excess Transfer Values

Processing Requests for Approval

Other

Application to Sections 48-51 Commuted Value Transfers

Q3. Do the limitations prescribed in respect of the transfer of funds in sections 19(2) to (7) of the Regulation apply to amounts that are paid under section 48 of the Pension Benefits Act (PBA)?

A3. Yes, the limitations in sections 19(2) to (7) of the Regulation apply to amounts paid under section 48. Section 19(8) of the Regulation, which was amended effective July 1, 2012, does not

exclude amounts that are paid under section 48 of the PBA from the application of sections 19(2) to (7) of the Regulation. - 04/13

Q4. Do sections 19(4) and (5) of the Regulation apply to the marriage breakdown provisions in section 51 of the *Pension Benefits Act* (PBA)?

A4. The new transfer provisions apply to the spouse of a member involved in a marriage breakdown situation. Under section 51(5) of the PBA, where the member terminates employment or ceases to be a member of the pension plan, the former spouse is entitled to any option available in respect of the spouse's interest in the pension benefits as the member named in the domestic contract or order. - 09/09

Excess Transfer Values

Q5. Are amounts payable in excess of the Income Tax Act (ITA) maximum transfer value subject to sections 19(4) and (5) of the Regulation?

A5. Yes. The entire commuted value, including any excess amount, is subject to sections 19(4) and (5) of the Regulation. The established transfer ratio is applied pro rata to both the excess amount to be paid and the amount to be transferred. When transferring the remainder of the commuted value in future years, the amount that represents the maximum transfer value may need to be redetermined for the purposes of the ITA.

For questions about the maximum transfer value, contact the Canada Revenue Agency. - 09/09

Processing Requests for Approval

Q6. What is the expected turnaround time for requests for Superintendent Approval?

A6. The performance standard established for approval of a correctly completed Request for Approval is 5 business days. - 09/09

Q7. What criteria will the Superintendent use in deciding whether or not to approve Requests for Approval?

A7. The criteria to be used by the Superintendent are based on the actuarial information and certification and the proposal for commuted values set out in the Request for Approval form. - 09/09

Q8. Can there be a lag between the determination date and the filing date of the Request for Approval?

A8. The determination date used in a Request for Approval should be within 3 months of the date at which the Request is made. - 09/09

Q9. At the plan's last valuation date of January 1, 2008 the transfer ratio was 0.90. At July 1, 2009 the transfer ratio has fallen to 0.70. If the administrator of the plan files a Request for Approval on August 1, 2009 with a determination date of July 1, 2009 and proposes to use section 19(6)(b), what date should the plan use to determine 5% of assets?

A9: As indicated in Policy T800-402 the date to be used to determine 5% of assets is the date of determination of the most recently filed Request for Approval, which is July 1, 2009 in the described situation. - 09/09

Q10: If an administrator files a Request for Approval, can the plan pay out the commuted value prior to receiving the Superintendent's approval under sections 19(4) or (5) of the Regulation?

A10: No. The administrator must obtain the prior approval of the Superintendent before transferring any funds. - 09/09

Other

Q11. The transfer ratio for my pension plan has dropped from 0.98 in the most recently filed valuation report to a level of 0.85. Can I still transfer the full value of a pension to a terminating member without the approval of the Superintendent?

A11. No, the approval of the Superintendent is required. Section 19 of the Regulation requires that where the administrator of a pension plan knows or ought to know that the transfer ratio of the plan has declined by 10% or more of the most recently determined transfer ratio, the administrator is required to seek the prior approval of the Superintendent before transferring any funds under section 42 or 43 of the PBA. Please see FSCO's Policy on Commuted Value Transfers Size: ## kb. -11/11

Q12. In preparing the Request for Approval form used under section 19(4) or 19(5) of the Regulation, is it necessary to include such items as solvency incremental cost, and the effect of interest rate sensitivity on going concern liabilities, normal cost, and solvency liabilities that are required for "external user reports" under the new CIA standards that became effective on December 31, 2010?

A12. No, as set out in FSCO's Policy on Commuted Value Transfers Size: ## kb, the actuary is only required to provide certification as it relates to the determination of the updated transfer ratio of the plan when preparing the Request for Approval. The additional disclosure items required under the new CIA standard need not be included. -11/11

Q13. How do the new provisions in section 19 of the Regulation apply to a defined contribution plan that has a defined benefit component?

A13. The transfer ratio is determined based solely on the defined benefit portion of the plan. The provisions of s.19 are then applied to the commuted value transfer of those defined benefits. - 09/09

Q14. Are commuted value transfers made under a reciprocal agreement subject to the changes to section 19 of the Regulation?

A14. No. Commuted value transfers made under a reciprocal agreement are exempt pursuant to section 19(8) of the Regulation. - 09/09

Q15. Do sections 19(4) and (5) of the Regulation apply to plans that have been wound up or partially wound up?

A15. No. The settlements of wind up benefits are governed by the specific wind up provisions of the Regulation (in particular, section 29 of the Regulation). - 09/09

Q16. Will there be any exemption under sections 19(4) and (5) of the Regulation for smaller plans?

A16. No. Note that the administrator is required to review the transfer ratio whenever a transfer under sections 42 or 43 of the PBA is made, unless a review has been done in the prior three months. Smaller plans may have fewer terminations and thus a review would not be done as often as a larger plan. - 09/09

Q17. If the transfer ratio in the last filed report as of January 1, 2008 is 0.85, a redetermination has been filed as of July 1, 2009 indicating a transfer ratio of 0.68 and a redetermination is made at September 1, 2009 indicating a transfer ratio of 0.78, can the September 1, 2009 redetermination be filed?

A17. No. Under section 19(5) of the Regulation, the prior approval of the Superintendent for the payment of commuted values must be obtained if the transfer ratio has dropped by 10% or more of the most recently determined transfer ratio. In the described situation, since the transfer ratio at September 1, 2009 is higher than the most recently determined transfer ratio of 0.68 at July 1, 2009, a Request for Approval cannot be filed under section 19(5) of the Regulation. However, a new valuation report under sections 3 or 14 with a valuation date of September 1, 2009 may be filed. - 09/09

Q18. Section 20(2) of the Regulation requires the administrator to comply with an election made under section 42 of the *Pension Benefits Act* within 60 days after receipt of all the information required by the administrator to comply with the direction. What happens if the administrator is required to obtain, but has not yet obtained, the approval of the Superintendent to make commuted value transfers?

A18. The administrator needs to monitor the transfer ratio and submit a Request for Approval as soon as possible once it has been determined that the Superintendent's approval is required. FSCO's performance standard established for approval of a correctly completed Request for Approval is 5 business days. Once the Superintendent's approval has been obtained the administrator has until the end of the 60 day period to comply with the election. If the 60 day period has been exceeded, the administrator should make the transfer immediately after receiving the Superintendent's approval. - 09/09

Q19. If the employer made a contribution over and above the minimum required contributions under the plan prior to the date of a request under s. 19(4) or (5) of the Regulation, can such extra contribution be used to satisfy the transfer deficiencies in respect of commuted value transfers?

A19. The extra payment can be used to satisfy transfer deficiencies in respect of commuted value transfers provided that the extra payment is identified as "transfer deficiency payment" in the pension fund financial statement. - 09/09

Q20. The Actuarial Certification requires the disclosure of the prior year credit balance as of the determination date. How should this balance be determined?

A20. The prior year credit balance (PYCB) should be calculated from the PYCB disclosed in the last filed valuation report, reduced by any amount applied to meet required funding contributions up to the determination date. If contributions over and above the required minimum were made, upward adjustment to the PYCB is neither required nor permitted. Any excess contributions made since the last valuation date can form part of the PYCB only if it is set out in a new report filed under section 3 or 14 of the Regulation. - 09/09

Q21. Can the prior year credit balance be used to fund the deficit portion of the commuted value if the company is proposing to "top up" under section 19(6)(a) of the Regulation?

A21. No. The prior year credit balance cannot be used to meet the transfer deficiency payment since it is not part of the required normal cost or special payments under section 4(2)(b), (c) and (d) of the Regulation. - 09/09

FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

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**

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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.

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Solvency Funding Relief Questions Answered

Archived Content

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

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

Questions posted relate to:

Filing Deadlines and Elections

Member/Former Member Questions

Plan Administrator Questions

Use of Actuarial Gains

Filing Deadlines and Elections

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

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

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

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

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

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

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

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

Use of Actuarial Gains

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

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

Plan Administrator Questions

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

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

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

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

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

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

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

A: No.

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

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

Q: What is a "jointly governed plan"?

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

(a) a jointly sponsored pension plan,

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

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

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

Member/Former Member Questions

Q: Who is an eligible member?

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

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

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

Q: Who is an eligible former member?

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

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

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

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

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

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

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

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

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

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

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

Q: What is the purpose of valuation reports?

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

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

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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

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

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Asset Smoothing for Solvency Valuations

Contribution Holidays

- Timing
- Market Value vs. Market Related Value (Smoothing)
- Preparation of the Cost Certificate
- Filing of a full valuation report at the same date as the effective date of the cost certificate

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

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.

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.