SPEAK NOW: CONSULTATION ON SOLVENCY FUNDING FOR DEFINED BENEFIT (DB) PENSION PLANS

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In the 2016 provincial budget, the Government of Ontario launched a review of the current solvency funding regime for DB pension plans. In its recent consultation paper, Review of Ontario's Solvency Funding Framework for Defined Benefit Pension Plans, the Government proposes several approaches to changing the current DB solvency funding regime.

Comments on the consultation paper are due by September 30, 2016. The Government intends to hold a second public consultation on any proposed funding reforms that arise out of the consultation process in the Fall of 2016. Employers with DB pension plans and DB pension plan sponsors and administrators are encouraged to speak now and submit comments.

Ontario's Current DB Funding Regime

Currently, Ontario registered DB pension plans must be funded on the greater of a going concern or solvency basis. Going concern funding assumes that the pension plan will continue indefinitely. Any deficit determined on a going concern basis must be eliminated through special payments over a period of no more than 15 years. Solvency funding assumes that the pension plan will be wound up on the applicable valuation date. Subject to certain exceptions, any deficit determined on a solvency basis must be eliminated through special payments over a period of no more than 5 years.

Given the current economic climate and prolonged low interest rates, many DB pension plans are in deficit on a solvency basis, requiring many employers to make large special payments within a 5 year period. Many employers have found the solvency funding requirements to be onerous, which led the Government to introduce special temporary funding relief measures in 2009 and 2012 and prompted the consultation process that is underway.

Proposed Changes to Ontario's DB Funding Regime

The consultation paper sets out two approaches to changing the current DB funding rules:

1. **Modify Solvency Funding Regime**

The options suggested under this approach include allowing DB pension plan sponsors to amortize deficits over a longer period of time (for example, 10 years rather than 5 years) and reducing the target for solvency funding from the current 100% to a lower threshold (for example, 80%).

2. Eliminate Solvency Funding Regime

The options suggested under this approach include eliminating the solvency funding regime and enhancing the going concern funding requirements by, for example, requiring a funding cushion (a required amount in excess of the plan's liabilities that must be funded before the plan sponsor can take any action that could potentially weaken the plan's funded position). Alternatively, the Government proposes enhancing the going concern funding requirements by requiring that special payments be amortized over a shorter period than the current 15 year period and requiring that the superintendent set the maximum interest rate that may be used for the purposes of determining the plan's going concern funding requirement.

The consultation paper also proposes a number of other proposed reforms, including increasing employer-paid assessments to the Pension Benefits Guarantee Fund, requiring plan administrators to conduct an annual actuarial valuation report, and requiring plan sponsors to create and implement a written funding policy.

Changes to DB Funding Regimes Across Canada

The review of the solvency funding regime for DB pension plans in Ontario comes in the wake of the introduction of alternative funding regimes in Alberta, British Columbia and Quebec. Significantly, effective January 1, 2016, Quebec eliminated the solvency funding requirements for private sector DB pension plans in exchange for a more robust going-concern funding regime. While DB pension plan funding reform is in its infancy in Ontario, the national trend suggests that changes may occur in the near future.

by Stefanie Di Francesco and Lyndsay Wasser

A Cautionary Notea cautionary note

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.