May 14, 2015

Pension Reform: *Pension Benefits Standards Act* in Force September 30, 2015

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The new *Pension Benefits Standards Act* was passed by the BC Legislature in May of 2012 and amended once in 2014 (the "New Act"). On May 11, 2015 the Regulations to the New Act were released (the "New Regulations"), which provide further detail and rules that support the New Act.

A comprehensive review of the New Regulations is beyond the scope of this announcement. The Pension and Employee Benefits Law Group at Lawson Lundell will be hosting one or more information sessions in the coming weeks to remind sponsors, administrators and advisors of the rules contained in the New Act and to discuss the effect of the New Regulations.

Critical Deadlines

With the release of the New Regulations we also now know that the New Act and New Regulations will be in force on **September 30, 2015**. The Financial Institutions Commission of BC has advised in its Bulletin 15-004 that the deadline for filing amendments to comply with the New Act and New Regulations is **December 31, 2015**. However, despite the three month grace period for amendments, plans must be administered in accordance with the New Act and New Regulations as of **September 30, 2015.**

Additional important deadlines are:

- Governance Policy must be in place by January 1, 2016;

- Funding Policy must be in place by January 1, 2016 if plan includes a benefit formula provision;

- First plan assessment must be complete by the end of the fiscal year of the plan that follows the fiscal year during which the in-force date falls (**September 30, 2015**). For plans with a January-December fiscal year, the first assessment must be complete by **December 31, 2016**. Thereafter, the assessment is required every 3 years; and

- By January 1, 2016 non-collectively bargained multi-employer plans must have compliant participation agreements in place.

Summary of New Regulations

The New Act introduced new plan design and governance structures including target benefit provisions. The New Regulations provide the formula and the tests to be used in administering a target benefit provision, introducing the concept of the "provision for adverse deviation".

The New Act requires that pension plans adopt two new policies, a Governance Policy and a Funding Policy. The New Regulations provide further detail and rules for both Policies, including an explanation of what must be included and the deadline for their adoption. Similarly, the New Act requires administrators to perform compliance assessments of the pension plan and the New Act explains that those assessments will be required triennially.

The New Regulations also provide further detail about the following issues:

- The New Regulations establish the requirements for jointly sponsored plans (s. 5);
- The New Regulations set out how the commuted value of a benefit under a target benefit provision is to be calculated (s. 9);
- The New Regulations change the rules that apply to pension plans for specified individuals that are submitted for registration after the September 30, 2015 in-force date (s. 10) but the rules for plans for connected persons are largely the same as they were under the previous legislation (s. 12);
- The New Regulations specify certain, new matters which must be addressed in the text for a pension plan (s. 13);
- The New Regulations provide that plans with a defined contribution provision must specify who has responsibility for the direction of plan investments (s. 13);
- The New Regulations provide greater clarity on the Superintendent's power to refuse to register an amendment to a pension plan (s. 22);
- The New Regulations provide further detail on the requirements for participation agreements that are required to be signed by participating employers of non-collectively bargained multi-employer plans (s. 28 and s. 53);
- The New Regulations provide greater detail on the member statements that are required and the content of those statements (s. 29 – s. 43);
- The New Regulations include detailed funding rules, including rules for how accessible actuarial excess can be withdrawn from solvency reserve accounts that are established (s. 56 – s. 63);

- The New Regulations set out the conditions for purchasing annuities to eliminate a liability in respect of a deferred or retired member (s. 83);

- The New Regulations clarify that upon termination of a defined benefit component, where there are insufficient assets to meet the liabilities and the employer or employers are or are becoming insolvent, the method of allocating assets must meet the requirements set out in the New Regulations (s. 135);

- The New Regulations provide that multi-employer negotiated cost plans that obtained an exemption from solvency funding under the prior legislation, have until December 31, 2017 to convert the plan to a target benefit plan, which will be exempt from solvency funding. Multi-employer negotiated cost plans that have converted to target benefit for both accrued benefits and future benefits will be exempt from solvency funding (s. 142 and Schedule 5).

Obviously every sponsor and administrator of a pension plan will need to take the time to review the New Regulations as well as the New Act. The immediate requirement will be for pension plans to comply with the new legislation, both in terms of amending the plan text as required but also in terms of developing and implementing the policies required by the new Act. A longer term goal for all plan sponsors and administrators will be to develop a plan to take advantage of the options and flexibility provided by the new legislation.

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