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Amendments to Pension Investment Rules, Federal DC Accounts and Federal Disclosure Rules

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On March 25, 2015, the Government of Canada published regulations amending the [Pension Benefits Standards Regulations, 1985](#) (the “PBSR”). The [amendments](#) include changes to the federal investment rules set out in Schedule III of the PBSR (the “Investment Rules”). As the Investment Rules have been adopted by reference in British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Newfoundland and Labrador, the changes extend beyond the federal jurisdiction. The amendments are intended to modernize the Investment Rules.

The amendments to the Investment Rules come into force on July 1, 2016. Highlights from the changes include the following:

Concentration Limit: The 10% Rule

The Investment Rules prohibit plan administrators from investing or lending more than 10% of the plan’s assets in a single entity or affiliated or associated entities. The amendments will change this concentration limit to be based on market value rather than book value. The changes clarify that the 10% limit applies at the time that the investments or loans are made and does not require divestment due to post-transaction growth, meaning that the plan administrator does not need to divest a portion of the plan assets invested in a single entity when an increase in the market value of the assets pushes the value over the 10% limit. The 10% limit will apply separately at the member level for plans with member choice accounts.

Related Party Rules

The Investment Rules continue to prohibit plan administrators from investing in a related party to the plan.

- The amendments eliminate an exception that allowed administrators to purchase securities of a related party through a public exchange. The amendments allow administrators to invest in securities of a related party that are held in an investment fund or segregated fund in which investors other than the administrator and its affiliates may invest and that satisfies quantitative restrictions.
- The amendments also clarify that transactions for the operation or administration of the plan, other than lending or investing plan assets, under terms and conditions no less favourable to

the plan than market terms and conditions are exempt. The exception will be available for non-investment transactions only, such as hiring a related party to act as the day-to-day administrator of the plan, or renting office space for the plan's administration office.

- The exemption for transactions that are nominal or immaterial, including those with a related party, has been retained. The criteria for a "nominal" or "immaterial" transaction have not been defined. Rather, each plan must specify its own threshold of materiality.
- Plan administrators will have five years from the effective date of the rules to divest securities to comply with the new related party rules. Additionally, administrators will have five years from the day of the contravention to comply with the related party rules where non-compliance results from transactions that are not made by the administrator or an entity controlled by the administrator.

Plan administrators should review their investment policies and practices and prepare for the implementation of the new Investment Rules. Statements of investment policies and procedures, investment management agreements and instructions, and compliance systems may need to be updated.

Federally Regulated Plans

In respect of federally regulated pension plans, the amendments to the PBSR support reforms to the *Pension Benefits Standards Act, 1985*, proclaimed into force as of April 1, 2015, that:

- (a) Create a new variable "RRIF-type" benefit option for defined contribution plans, payable from the plan in amounts that vary annually;
- (b) Provide a "safe harbour rule" which deems the administrator of a DC plan to have met the prudent investor standard if the administrator offers DC plan members "investment options of varying degrees of risk and expected return that would allow a reasonable and prudent person to create a portfolio of investments that is well adapted to their retirement needs" and meets prescribed disclosure requirements; and
- (c) Provide for electronic communications.

Some of the highlights affecting federally regulated pension plans include:

- **Disclosure – Member Directed DC Investments:** Plan administrators will now be required to disclose, in an annual written statement, information on a range of investment options to all members. The enhanced disclosure obligations will require administrators to outline some of the key features of each investment option as well as include information on the past performance, risk, and associated fees and charges, among other considerations. These new disclosure requirements come into force on July 1, 2016.

- **Annual Statements:** Annual statements will now be required for retirees and other former pension plan members. As well, existing annual statements will now have to include additional information relating to plan assets, liabilities, solvency and employer contributions. Specific requirements have been introduced for annual statements for negotiated cost plan members and for members receiving variable benefits. The new annual statement rules come into force on July 1, 2016. Annual statements must be given to members within six months after year-end, so for plans with a December 31 year-end, these rules will first apply to 2016 statements due no later than June 30, 2017.
- **Spousal Consent for Benefit Transfers:** Where a pension plan provides portability rights, terminating plan members entitled to receive an immediate pension must now obtain spousal consent via the prescribed form in order to transfer pension benefits to another retirement savings vehicle.

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