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PBSA Update

Issue No. 5

PBSA Update is issued semi-annually (Spring and Fall) by the Pension Benefits Division of the Office of the Superintendent of Financial Institutions. Its purpose is to improve communications between the Office and pension plan sponsors whose plans are supervised by the Office pursuant to the *Pension Benefits Standards Act, 1985* (PBSA).

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1. Amendments to the Pension Benefits Standards Regulations, 1985

We are attaching a copy of the amendments that were approved by Order in Council on June 21, 1990. These amendments increased the fees for pension plans with more than 1,000 members, as described in previous issues of *PBSA Update*. Other important changes include adopting the most recent recommendations of the Canadian Institute of Actuaries for calculating transfer values and including Ontario and Nova Scotia as designated provinces.

The Office intends to propose some additional amendments to the Regulations. The more significant amendments will be:

- Including transitional solvency rules, to lessen the initial strain of the PBSA solvency rules on certain multi-employer pension plans.
- Requiring disclosure of the solvency ratio in the valuation report.
- Exempting benefits that exceed limits prescribed by the *Income Tax Act* or Regulations from the locking-in provisions of the PBSA.
- Including Quebec as a designated province.
- Introducing a dynamic fee schedule to permit full recovery of the Office's costs of administering the PBSA. Costs will reflect both direct expenses and allocations of Office overhead. Unlike the most recent amendment, all pension plans will be affected as the fees will be increased proportionately by the proposed formula. The current fees will be doubled.

In future years, fees will be determined by a dynamic adjustment that will recover costs and reflect cumulative experience as respects fees paid and costs incurred. We are not expecting any growth in staff and are exercising tight control over expenses. As a result, we are not expecting significant adjustments in the future other than those resulting from economic factors.

It is hoped to have this amendment effective at the earliest possible date.

2. Annual Information Return

The blank forms and the instructions for completing them, which we send to administrators prior to plan year end, will be modified to reflect the new fee schedule approved with the June 1990 amendments to the Regulations.

Recent experience with the information return form indicate that the sections relating to the application of gains and adjustments to pensions require clarification. Also, we have a need for additional information respecting the year's contribution base for pension plans funded through certain contribution formulas. Future amendments to the information return will address these points and also reflect amendments to the Regulations, including the proposed dynamic fee schedule.

3. Findings of Office Examiners During Pension Plan Examinations

During on-site examinations of pension plans, our examiners continue to identify significant areas of non-compliance with the PBSA. Most common problem areas include:

- Failure to provide benefit statements to plan members and former members – administrators are reminded that pension plan members and their spouses are entitled to receive an annual statement (triennially until 1992 – first statement due in respect of the year ending in 1989) within six months following the plan year end. Information to be included on the annual statements is specified in subparagraph 28(1)(b) of the PBSA and section 23 of the Regulations.
- A written statement must also be provided to a plan member and to his or her spouse within 30 days immediately following the date of retirement and to terminating members and spouses within 30 days immediately following the cessation of plan membership.
- Late remittances of contributions to the pension fund – again, a reminder that the contributions of plan members must be remitted to the plan administrator within 30 days after the end of the period in respect of which such contributions were deducted. The employer's share of the normal cost, and any special payments required to be made during the plan year, must be remitted on a quarterly basis, with each instalment paid within 30 days of the end of the applicable quarter.
- Accurate benefit calculations – administrators are reminded that they are responsible for establishing a system that ensures accurate and consistent calculation of benefits. The administrator is ultimately responsible for correcting any mistakes and assuming any resulting consequences.

4. Pension Plan Termination Guidelines

The PBSA requires plan sponsors to report to the Superintendent at full or partial plan termination. The information required from terminating plans is quite different from what is required of ongoing plans because certain issues arise only on plan termination.

On termination, we also apply stricter standards of proof and verification, because once the plan has been wound up it is difficult to correct errors. For this reason, we are much more likely to ask for more information about individual members when we review a termination report than when we review a regular funding report.

We are working on plan termination guidelines. There will be more information in the next issue of *PBSA Update*.

5. OSFI Position Regarding the New CICA Standards for Pension Plans

The Canadian Institute of Chartered Accountants (CICA) has recently adopted new accounting standards for pension plan financial statements. This will result in the inclusion of pension obligation information in the financial statements of defined benefit plans. Because of the way obligations will be determined, they are likely to

differ in amount from the liabilities included in actuarial reports. Although the Office is concerned about the possible confusion that could result from the different liability values appearing in the financial statement and in the valuation report, we will accept audit reports prepared in accordance with section 4100 of the CICA Handbook.

However, we will continue to depend on valuation reports containing unqualified actuarial certifications for the pension liability values.

6. Administration of Pension Plan Amendments

Our on-site examiners report cases where benefit changes or other changes to pension plan provisions are being administered for long periods of time before they are officially adopted and before the amendments are filed with the Superintendent.

Except in unusual circumstances, the Office's position is that no effect is to be given to a plan amendment until it is officially adopted.

Paragraph 10(1)(b) of the PBSA requires that a plan amendment be filed with the Superintendent within sixty days after the amendment is adopted.

However, once adopted, a pension plan amendment may be administered without prior approval of the Superintendent if the amendment does not reduce the pension benefit or pension benefit credit of any member or former member and provided the amendment is filed with the Superintendent within 60 days. If the amendment does reduce benefits, the approval of the Superintendent must be obtained before implementation – PBSA, subsection 10(3).

Also, pursuant to subparagraph 28(1)(a)(i) of the PBSA, plan administrators have an obligation to provide plan members with a written explanation of pension plan amendments, within six months of the making of the amendments.

7. Part-time Employees – Eligibility for Plan Membership

The PBSA defines part-time work as work on other than on a full-time basis. Section 15 explains the requirements for eligibility for part-time employees to become pension plan members. This section has led to some confusion among plan administrators; we would like to clarify the requirements.

First, a pension plan text must define the period of “continuous employment.” Typically, it is defined as employment that has not been broken or interrupted for a certain length of time. Second, having defined the term, all employees who complete 24 months of “continuous employment” have met this criterion for plan membership.

An example may clarify. If a seasonal employee works during the months of June through September for two consecutive years and if continuous employment has been defined as employment that has not been broken by more than 10 months at one time, the

employee would be eligible to join the plan if he or she also meets the criterion described in paragraph 15(1)(b), that is, if at least 35 per cent of the YMPE was earned in each of those two consecutive calendar years. The same rules apply to casual and temporary workers.

To reiterate, generally employees who do the same type of work as the employees for whom the pension plan was instituted are eligible for pension plan membership if they meet the criterion of the period of continuous employment, as defined in the plan text, and pass the earnings test.

8. Entitlement to a Deferred Pension

Some plan sponsors are not allowing members who terminate employment in the R-10 period (the 10-year period preceding pensionable or retirement age as defined) to defer the receipt of the pension benefit entitlement until their pensionable age. The Office reminds administrators that the PBSA provides the individual with the right to defer receipt of the pension benefit. All plan sponsors must note that a vested member of a pension plan who terminates employment, for whatever reason, is entitled to defer taking the pension benefit entitlement until pensionable age. The basic benefit of a member is an unreduced pension at pensionable age and unless the member is given a full unreduced pension during the R-10 period, a plan sponsor cannot force a member to take an immediate pension.

9. Location of Beneficiaries and Retention of Records and Liabilities for Unclaimed Amounts

We appreciate that keeping track of former members, members' spouses, ex-spouses, widows and other beneficiaries for purpose of entitlement to deferred annuities can be very difficult. Occasionally young members "forget" they have vested benefits and move without notifying administrators. This problem can be particularly serious when a plan terminates or where the plan records show that a former member has reached retirement age.

To avoid such problems, plan sponsors would be wise to inform all members who choose to leave pension benefit credits in the plan at the time of cessation of membership that it is essential that the administrator be kept informed of all future changes of address.

The Office is of the view that every reasonable step should be taken to keep track of all known potential beneficiaries and to locate them when benefits become payable. This would encompass establishing and regularly updating an adequate beneficiary information data base. Where unclaimed amounts remain once the plan sponsor has explored the various means of locating a beneficiary, administrators seeking to discharge their liability in these circumstances are advised to seek direction from legal counsel.

Failing all reasonable efforts to locate a former member, the Department of National Health and Welfare may be able to provide some assistance. Enquiries should be in

writing and include the person's Social Insurance Number if possible plus the person's full name, maiden name (if applicable), and date of birth. The person's last known address and a brief explanation of the reason for the search should be included.

Based on information received, we are informed that Health and Welfare Canada will try to locate the person by using the various benefit files they have at their disposal. The Department will notify the person by letter explaining the reason they've been contacted. No information will be released to the requestor. The person will be free to act in his or her own best interest; requestors will not be notified if individuals are identified and sent a letter.

Please send your inquiries to:

Director
Data Management and Operational Support Services
Department of National Health and Welfare Canada
Income Security Programs
333 River Road, Tower "A"
8th Floor, Room 834
Vanier, Ontario
K1A 0L1
Fax: (613) 954-8383

Comments?

Again, we invite your comments on the matters covered in *PBSA Update*. If you have any suggestions that you think would improve communications between our Office and the supervised plans, please let us know. Write to us at:

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You may fax the Pension Benefits Standards Division at (613) 990-7394 or e-mail us at penben@osfi-bsif.gc.ca.