

January 2010

## 1

### Federal Minister of Finance proposes pension reform

Federal Finance Minister, Mr. Jim Flaherty, announced on October 27, 2009 that the *Pension Benefits Standards Act, 1985* (PBSA) and the Regulations would be amended to reform federal pension framework. The proposed changes are aimed at federally regulated private pension plans, which represent about 7% of pension plans in Canada.

In addition, there is one proposed change that will impact the *Income Tax Act*: an increase in the pension surplus threshold from 10% to 25% before employer contributions under defined benefit (DB) pension plans are suspended. This proposal will apply to both federally and provincially regulated DB pension plans.

#### The proposals have five main objectives:

1. Enhance protections for plan members;
2. Reduce funding volatility for DB plans;
3. Make it easier for participants to negotiate changes to their pension arrangements;
4. Improve the framework for defined contributions (DC) plans and negotiated contribution plans;
5. Modernize the rules for investments made by pension funds.

#### Proposals specifically applicable to DC pension plans

It has been announced that measures specifically pertaining to DC pension plans will be clearly articulated in the PBSA and the Regulations. This is a positive change considering that the PBSA and the Regulations are currently written solely for DB pension plans.

The PBSA and the Regulations will be revised to provide clarity on the responsibilities and accountabilities of the parties involved in the administration and management of DC pension plans. They will also be revised to eliminate the requirement for a Statement of Investment Policy and Procedures for a DC pension plan that provides investment options for its members.

DC pension plans will have the option to permit members to receive Life Income Fund (LIF) style retirement benefit payments directly from the plan fund.

### Other proposals

There are many other proposals included in the Federal Minister of Finance's reform plan. For example, it is proposed that the vesting of accrued benefits be immediate instead of the current two-year vesting period.

Disclosure requirements will also be enhanced, affecting the annual member statements. Electronic provision of disclosure requirements will also be permitted on a positive consent basis.

Several proposals cover funding rules applicable to DB pension plans, such as the proposal to increase the pension surplus threshold from 10% to 25% and the introduction of a new standard for establishing minimum funding requirements on a solvency basis that will use average – rather than current – solvency ratios to determine minimum funding requirements.

Other proposals tackle the resolution of plan specific problems, such as insolvent plan sponsors and investment rules. For example, it is proposed, among other things, to amend the 10% pension fund concentration limit to a maximum of 10% of the market value of assets of the pension fund (rather than the book value) in any one entity. An exception to this rule will exist for pooled investments over which the employer does not exercise direct control, such as mutual fund investments. In addition, direct self-investment will be prohibited (e.g., an employer would no longer be permitted to invest any amount of its pension fund in its own debt or shares).

It is expected that legislation will be introduced in the coming months.

## 2

## Ontario Minister of Finance also proposes pension reform

The Ontario Finance Minister, Mr. Dwight Duncan, announced on October 28, 2009 that Ontario would move ahead with the first part of its pension reform in November as it seeks to get the province's plans on more solid footing.

The province's reforms would come in two stages – the first in November and the second sometime in 2010. Mr. Duncan said the plan would be based largely on recommendations made by Harry Arthurs, former president of York University in Toronto, who headed the Ontario Expert Pension Commission.

Finally, the Ontario finance minister presented the first part of its pension reform on December 9, 2009 with Bill 236, *An Act to amend the Pension Benefits Act*.

Bill 236 would:

**1. Clarify the benefits of plan members affected by lay-offs and eliminate partial wind-ups**

(e.g., A partial wind-up occurs when only part of a pension plan is closed. All accrued pension benefits, past and future, would be vested immediately.)

**2. Facilitate the restructuring of pension plans affected by corporate reorganizations, while protecting benefit security for plan members and pensioners**

(e.g., If the transaction involves the transfer of a portion of the membership from one employer's plan to another employer's plan, plan administrators could agree to give individual plan members the option of transferring or not transferring their pension benefit to the successor plan. A prescribed portion of any surplus related to the assets being transferred from the previous employer's plan would be transferred to the successor plan.)

**3. Increase transparency and access to information for plan members and pensioners**

(e.g., Plan administrators and the regulator would be required to provide copies of specified documents, electronically or by mail, on written request. All pension plans would be required to provide members, retired members, and former members with notice of all plan amendments before they are registered with the regulator, with some prescribed exceptions.)

**4. Enhance regulatory oversight**

(e.g., The Superintendent would be granted the power to make interim orders in specified circumstances, for example, to order special valuations when there is evidence that a plan is at risk. The Superintendent would be granted the necessary power to approve arrangements as provided for under the federal Companies' Creditors Arrangement Act and Bankruptcy and Insolvency Act, subject to prescribed conditions.)

**5. Improve plan administration and reduce compliance costs**

(e.g., The filing of specified documents could be waived for prescribed classes of pension plans and the existing time limit for refunding employer pension contributions made in error would be extended. Members would also receive the right in specified circumstances to transfer certain pension monies, for example, excess contributions and small pension payouts to a registered retirement savings plan or a registered retirement income fund.)

The following additional measures are also proposed:

- The implementation of surplus-sharing agreements on full wind-up of a pension plan would be facilitated where written agreements reached by employers, members, and pensioners comply with the existing prescribed rules. If such an agreement is reached, no review of historical plan documents, such as plan texts and trust agreements, would be required.
- Pension plans would be permitted to offer phased retirement.

The second part of the Ontario pension reform, through another bill, is planned to be introduced in 2010.

# 3

## News from CAPSA

On November 30, 2009, the Canadian Association of Pension Supervisory Authorities (CAPSA) released two documents:

- The Revised Version of Commentary Guide for the Proposed Agreement Respecting Multi-Jurisdictional Pension Plans; and
- The Consultation Paper on the Prudence Standard and the Roles of the Plan Sponsor and Plan Administrator in Pension Plan Funding and Investment.

### **The Revised Version of Commentary Guide for the Proposed Agreement Respecting Multi-Jurisdictional Pension Plans**

The Commentary Guide for the Proposed Agreement contains the text of each provision in the Proposed Agreement, followed by explanatory notes for each respective provision, as well as examples where necessary. The purpose of the Commentary Guide for the Proposed Agreement is to aid in the understanding and application of the Proposed Agreement.

On June 30, 2009, CAPSA released the revised version of the Proposed Agreement after reviewing all comments made by stakeholders and making modifications to the original Proposed Agreement.

Now, the revised version of the Proposed Agreement will be submitted for the consideration of governments all across Canada who have pension legislation in force.

If adopted by pension standards regulators across Canada, the Proposed Agreement would replace the current agreement – i.e., the Memorandum of Reciprocal Agreement initiated in 1968 and signed by the provincial pension regulators (except P.E.I.) – and bilateral agreements between pension regulators.

The Proposed Agreement is essentially intended to provide a clear framework for the regulation of pension plans with members in more than one province, or with members who have worked in more than one province for the same employer.

### **The Consultation Paper on the Prudence Standard and the Roles of the Plan Sponsor and Plan Administrator in Pension Plan Funding and Investment**

As part of CAPSA's strategic initiative to promote consistency in the governance of pension funds and funding, the purpose of the Consultation Paper is to provide guidance on funding and investment activities to pension plans of all types and sizes, in all jurisdictions of Canada.

The Consultation Paper is built on CAPSA *Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire* and primarily focuses on DB pension plans. However, the Consultation Paper is intended to also apply to all types of pension plans, including DC pension plans.

For example, under the section entitled “*Developing a Funding Policy*”, it is stated that “*Defined contribution pension plans may face funding issues because employee and employer contributions may or may not be adequate to produce the post-retirement income level that was initially intended. Therefore, plan sponsors are advised to periodically review the adequacy of the contributions, to determine if they will meet the target income levels*”.

Another example: under the section entitled “*Investment Review Process*”, it is stated that “*Defined contribution pension plan administrators need to:*

- *Evaluate the available investment options to determine if they are suitable.*
- *Re-evaluate periodically, if it is beneficial to offer different investment options, or more or less investment choices.*
- *Look at the demographics of plan members and review market conditions, to determine if the investment portfolio or options need to be changed.*
- *Gather information on how members are responding to the investments, to determine if additional information needs to be provided”.*

The Consultation Paper places emphasis on:

- Applying the prudent person rule in pension plan investments.
- Using best practices in pension plan funding.
- Documenting and understanding the roles of the plan sponsor and plan administrator in pension plan funding and investment.

Stakeholders have until January 29, 2010 to provide their comments to CAPSA.

**Note:** Standard Life, through its affiliation with the Canadian Life and Health Insurance Association of Canada, provides commentary on CAPSA proposals and may from time to time assist CAPSA in the development of initiatives. Standard Life worked closely with CAPSA on the development of the CAP Guidelines and has supported the ongoing development of a “model law” proposal.

# 4

## Maximum contributions and benefits for 2010

This fall, the Canada Revenue Agency (CRA) announced the 2010 maximum contributions and benefits for retirement savings plans, as follows:

- DC pension plan – The maximum contribution is increased to \$22,450 from \$22,000 in 2009.
- DPSP - The maximum contribution is increased to \$11,225 from \$11,000 in 2009.
- RRSP – The maximum contribution is increased to \$22,000 from \$21,000 in 2009. The RRSP contribution in 2011 will increase to \$22,450.
- DB pension plan – The maximum benefit per year of credited service is increased to \$2,494.44 from \$2,444.44 in 2009.

For 2010, the Year’s Maximum Pensionable Earnings (YMPE) under the Canada Pension Plan is increased to \$47,200 from \$46,300 in 2009.

### You can contact us

Your feedback is important to us. If you have any comments about our publication, or if you would like us to address a particular issue or subject in a subsequent edition, please feel free to drop us a line at the following address:

[legislation.matters@standardlife.ca](mailto:legislation.matters@standardlife.ca)