

The Federal government published Pooled Registered Pension Plan Regulations

The Canadian parliament passed the *Pooled Registered Pension Plans Act* (Bill C-25), which introduces the federal Pooled Registered Pension Plan (PRPP) framework, and received Royal Assent on June 28, 2012.

Bill C-25 will come into force later on a day to be fixed by proclamation made by the federal government. The next step is to introduce the corresponding regulations.

The federal government pre-published a first tranche of proposed regulations in the Canada Gazette of August 11th for a 30-day public comment period, prior to final consideration by the federal government.

The proposed regulations will address provisions of Bill C-25 with respect to:

- ▶ Licensing
- ▶ Permitted investments
- ▶ Investment choices
- ▶ Permitted inducements
- ▶ Low cost plan
- ▶ 0% contribution rate
- ▶ Rights to information

Licensing

A corporation will be eligible to administer a PRPP if it is the holder of a license issued by the Superintendent of Financial Institutions of Canada.

However, a corporation will have to meet several conditions in order to be eligible for such a license and therefore, to administer a PRPP. The corporation will have to submit, among other things, a five-year business plan and will have to show that it has procedures in place that are sufficient to identify, manage and control risks associated with the PRPP.

Permitted investments

Proposed regulations outline the investments that will be permitted to be made by PRPP administrators with a member's funds as well as the way in which funds in a member's account must be held.

Proposed Regulations will also provide a quantitative limit on holdings to limit concentration risk (i.e., a maximum of 10% of an individual member's assets can be invested in any one entity or associated entities); provide a quantitative limit on control of corporations (i.e., a maximum of 30% on voting rights to elect directors); and, limit administrators' investments in related parties.

Investment choices

A member will have 60 days – i.e., during the same 60 days a member will have to opt out – to make an investment choice. If not, the default investment option chosen by the PRPP administrator will apply to the member's account.

The default investment option chosen by the PRPP administrator will have to be the same for all the PRPPs that it administers, which must be either a balanced fund or a portfolio of investments that takes into account a member's age.

A PRPP will have to provide members with a maximum of five investment funds in addition of the default investment option. These additional investment funds will have to be the same to all PRPP members as well.

If an investment option chosen by a member is no longer available, the PRPP administrator will have to notify the member, and the member will have 60 days after the notification to choose another investment option. If not, the PRPP administrator will have to invest the member's funds in an investment option that is similar to the prior investment option or in the default investment option.

Permitted inducements

Proposed regulations provide details on inducements that will be permitted under the PRPP:

- ▶ The PRPP administrator will be permitted to offer another product or service on more favorable terms if it is for the equal benefit of the employees of that employer that are eligible to be members of the PRPP.
- ▶ The PRPP administrator will also be permitted to provide a payment to the employer that is no greater than the employer's costs associated with the transfer of assets from one PRPP to another.

Low cost plan

Bill C-25 requires that PRPPs must be provided to members at a low cost.

Proposed Regulations set the conditions for determining whether a PRPP is being provided to members at low cost. The costs will have to be at or below those charged to members of defined contribution plans that provide investment options to groups of 500 or more members.

It is unclear as to whether the comparable will be cost based on DC pension plans where the PRPP administrator provides services to a DC pension plan, or if this is an industry average or minimum.

Those costs will also have to be the same for PRPP members.

0% contribution rate

Bill C-25 provides that a member may, after notifying the administrator, set his or her contribution rate to 0%.

Proposed Regulations provide conditions under which a PRPP member will be allowed to set his or her contribution rate to 0%. Members will be entitled to set their contribution rate to 0% at any time after twelve months from when they begin to contribute to their PRPP account. The contribution rate could be set to 0% for between three months and five years. In addition, there will be no limit on the number of times that the contribution rate may be set to 0%.

The PRPP administrator will be responsible for ensuring that the member's contributions are set to 0%, and must provide the plan member with written confirmation of when the contribution rate will be set to 0% and when contributions will resume.

Furthermore, at least 90 days prior to the day on which contributions are to resume, the PRPP administrator must provide the plan member with written notice of the day of resumption and the contribution rate on resumption.

There is a concern that the proposed rules and procedures might be prescriptive and therefore, overcomplicate the management of setting the contribution rate at 0%.

Rights to information

Bill C-25 requires that PRPP members and the Superintendent of Financial Institutions must be provided with information as prescribed by regulation.

Proposed regulations provide information that PRPP administrators must disclose to members, employers and to the Superintendent of Financial Institutions:

- ▶ A summary of plan provisions and of any other information, such as a description of each investment option, a statement of transfer options available to plan members, and a description of any fees, charges or other levies that will be triggered by the actions of the member. Such information will have to be provided on a website and, on a member's request, directly to the member or employer, as the case may be.
- ▶ An annual statement to each PRPP member within 45 days after the end of each year or any longer period specified by the Superintendent of Financial Institutions that will have to show information, such as the investment option in which the member is invested in, account balance information, a summary of transactions, and specific information related to the member's investment option.

- ▶ An annual information return will have to be filed with the Superintendent of Financial Institutions within three months after the end of the year to which the document relates and will have to show information, such as the options offered to members, a breakdown of costs charged to members for each investment option and any fees triggered by the actions of members, total assets under the plan and the default contribution rate set by the administrator.

These regulations will come into force on the day on which they are registered.

We will keep you posted as another tranche of regulations is expected to be released soon.

Important note regarding the VRSP

On August 1, 2012, the Government of Quebec called an election for September 4, 2012. As a result, Bill 80, which created the VRSP, died on the order paper. This means that the new government elected on September 4th will have to re-introduce a new VRSP bill to the National Assembly before implementing the VRSP. We will keep you posted when the new bill introducing the VRSP will be presented at the National Assembly.

The U.S.A. Retirement Funds = A proposed solution to the retirement crisis in the U.S.

In July, the chairman of the U.S. Senate Committee on Health, Education, Labor and Pensions, Senator Tom Harkin from Iowa, released a report entitled “The Retirement Crisis and a Plan to Solve It”, which is proposing universal access to workplace retirement plans, as well as some improvements to Social Security. This report is the result of over two years of hearings on the retirement system held by the Senate Committee on Health, Education, Labor and Pensions.

The problem in the U.S. is identified as a \$6.6 trillion “retirement income deficit” (the difference between current savings and what is needed to maintain a standard of living in retirement). This is described as “enough dollars that, if lined up end to end, they would stretch to the moon and back 1,000 times and still leave enough left over to pay NASA’s budget for the next eight decades”.

The proposed solution is the “Universal, Secure and Adaptable (USA) Retirement Funds”, described as “a new type of private pension plan.... privately-run, hybrid pension plans that incorporate many of the benefits of traditional pensions while substantially reducing the burden on employers”. In fact, it does appear to be a pooled defined contribution pension plan, like the Pooled Registered Pension Plan, but with a target benefit component.

Four principles are set out:

- ▶ **The retirement system should be universal and automatic** – “By ensuring that every American has access to a retirement plan at work and making participation automatic, we can drastically reduce the retirement income deficit and promote retirement security”.
- ▶ **The retirement system should give people certainty** – “It needs to provide people with the opportunity not just to save for retirement but also to secure a predictable stream of income that they cannot outlive.”
- ▶ **Retirement is a shared responsibility** – “Individuals, employers and the government all have a role to play ...”
- ▶ **Retirement assets should be pooled and professionally managed** – “..., it should give everyone access to prudent, professional asset management and allow people to pool their assets with others to reduce costs and risk, including the risk of living longer than expected.”

The U.S.A. Retirement Funds would be cost-effective and portable, and include auto-enrolment, and they would be privately-run, licensed and regulated; each would have a board of trustees with fiduciary responsibilities.

The solutions proposed in this report “are intended to be a starting place in evolving discussion, and over the coming months, the discussion will continue on Capitol Hill, in Iowa, and across the country” (i.e., across the United States).

This report is available on the web.

CAPSA released the draft Defined Contribution Pension Plans Guideline for consultation

On July 13, 2012, the Canadian Association of Pension Supervisory Authorities (CAPSA) released the draft Defined Contribution Pension Plans Guideline for consultation purposes.

This consultation is part of CAPSA's strategic initiative to review current approaches to regulating and supervising defined contribution (DC) pension plans with a view to identifying areas where clearer distinctions between DC and defined benefit plans may be appropriate, and to consider alternative approaches to regulating and supervising DC plans based on those distinctions.

This draft guideline builds on guidelines and documents previously released by CAPSA which contain guidance related to DC pension plans, such as the CAP Guidelines (i.e., CAPSA Guideline No. 3: Guidelines for Capital Accumulations Plans).

The draft Defined Contribution Pension Plans Guideline is intended to supplement the existing CAPSA guidelines related to DC pension plans by:

- ▶ Outlining and clarifying the rights and responsibilities of plan administrators, employers, plan sponsors, members, service providers and fund holders with respect to DC pension plans.
- ▶ Providing DC pension plan administrators with guidance regarding tools and information to provide to members who are in receipt of a pension from a DC pension plan or when they are choosing amongst retirement options.
- ▶ Clarifying what constitutes an adverse amendment for DC pension plans or plans with a DC provision.

As a general comment, this draft Guideline does not provide anything new except with respect to the tools and information to provide to members who are in receipt of a pension from a DC pension plan or when they are choosing amongst retirement options.

For example, plan administrators should provide members with information to help them understand and estimate their plan benefits on retirement. The draft Guideline suggests that plan administrators should consider providing members with the following information on an annual basis:

- ▶ Estimate of accumulated value of the member's account at retirement.
- ▶ Estimate of the benefit that will result from the accumulated value.

Furthermore, the draft Guideline indicates that "Regulators expect that plan administrators and/or third-party service providers will provide mechanisms to help individuals choose between retirement products."

Written comments on the draft Defined Contribution Pension Plans Guideline must be provided to CAPSA by November 1, 2012.

The draft Defined Contribution Pension Plans Guideline is available on the CAPSA web site.