
Lawyer lauds reforms as 'sweet smelling'

By DONALEE MOULTON

Federally regulated private pension plans have undergone significant amendments which, according to federal Finance Minister Jim Flaherty, will bring them firmly into the 21st century.

Experts agree the new amendments will address many of the issues plans are facing, especially defined benefit packages, which have taken a hit in the wake of the economic downturn. They also note that the govern-

ment has addressed the concerns of both plan members and employers.

"This is a fairly sweet-smelling reform package for everyone," said Mary Picard, a lawyer with Fraser Milner Casgrain LLP in Toronto.

The package focuses on three key changes. First, a new standard will be used that relies on average, rather than current, solvency ratios to determine minimum funding requirements. "It's hoped this will remove some of

the market volatility," said Scott Perkin, president of the Association of Canadian Pension Management, a national organization representing the pension industry, which is based in Toronto.

Stability will be welcome news for employers, a department of finance official told *The Bottom Line*. "Reducing the volatility in annual payments would be beneficial to plan sponsors, who have faced challenges dealing with the often large

swings in required contributions under the (previous) calculation while providing benefit security for plan members."

Ron Sanderson is the Toronto-based director of policyholder taxation and pensions with the Canadian Life and Health Insurance Association, a national trade group for insurers in these sectors.

He noted that "The long-term nature of pension benefits means that using long-term average rates of return in pricing and

valuing plan assets and liabilities makes sense."

There is need for caution, he pointed out.

"But at the same time, smoothing financial results based on such long-term rates can unintentionally hide potential mismatches between real assets and liabilities."

Of particular concern is the impact of the current low interest rate environment. Using average

See Pension on page 21

Pension changes touted as timely by feds

Continued from page 9

solvency ratios will typically lead to lower required contributions in the short term, Sanderson said. “But this may understate some of the risks facing defined benefit pensions and provide an unwarranted degree of confidence in the benefit security provided by such plans.”

The finance minister has also moved to limit contribution holidays. Garnering particular attention is the issue of ‘normal costs,’ a term that refers to funding accrual pension benefits.

Under previous regulations, in situations where the plan was considered fully funded, the employer was not required to remit all or part of that amount, the finance official explained. In that situation, the employer was “considered to be taking a ‘contribution holiday,’” the finance official explained.

The finance official said that, under the new framework to restrict contribution holidays, sponsors will maintain normal contributions until the solvency ratio exceeds 1.05.

The approach is sound, said Picard. “It makes sense to require an employer to be pru-

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according to previous rules, pension investments were governed under what is commonly known as a ‘prudent person’ framework with five specific limits.

Those limits required a plan to hold no more than five per cent of its portfolio in a single parcel of real estate or Canadian resource property; cap the total number of resource properties held in Canada to 15 per cent; and restrict the number of Canadian resource properties and real estate to a maximum of 25 per cent.

The amendments removed these restrictions. The Association of Canadian Pension Management would like to see the government go even further.

“(We) had hoped they would get rid of all the quantitative investment limits and use the prudent person rule,” said Perkin. “We’re going to keep pushing for that.”

Picard would also like to see the government extend the reach



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of regulators to affiliated companies when it comes to pension deficits.

“In the U.S. and the UK, regulation gives plan regulators (authority) to reach beyond assets of the employer to related companies in cases of a deficit. It allows pension regulators to

saddle entities within control of the group with the liability.”

For example, Picard noted, the UK is looking to Nortel Canada to address Nortel pension deficits in Britain. It’s an option that has not been considered here.

“There’s no whisper of this in Canada,” said Picard. “Drafters of legislation have been unaware of what other countries are doing. They are aware of it now.”

Amendments to the *Pension Benefits Standards Regulations, 1985* are targeted at federally regulated pension plans.

That reach is limited, noted Picard. “This (legislation) applies to only approximately seven per cent of pension plans in Canada. It covers 1,350 pension plans.”

Yet, said Perkin, those plans can have an important impact in the marketplace.

“It’s a pretty small percentage, but some of those plans are very large.”

How large plans operate may serve as a barometer for others. National regulations, in turn, often serve as a gauge for the rest of the country.

“A lot of provinces,” noted Perkin, “simply adopt the federal rules as a matter of course.”