

focus

on

Pensions



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Ontario Pension Plan Sponsors Must Be Careful To Comply With Contribution Rules

The Financial Services Commission of Ontario (“FSCO”) issued a statement to trustees and other funding agents (“funding agents”) of Ontario-registered pension plans on July 29, 2002. The statement is important to funding agents and administrators of pension plans. Typically, the “administrator” is the pension plan sponsor.

The July statement emphasizes that FSCO is serious about the requirement that Ontario contributions to pension plans be made on time. Any administrator who fails to remit contributions on time may be prosecuted. Any funding agent who fails to report delayed contributions to FSCO is also at risk of prosecution. The following are the details of the obligations of funding agents and administrators:

- In each fiscal year of a plan, the administrator must provide the funding agent of the pension plan with a Form 7 Summary of Contributions (“Form 7”) within sixty (60) days of the beginning of the fiscal year.¹ Form 7 sets out the estimated employer and employee contributions that will be made to a pension plan for a particular year.
- The funding agent must inform the Superintendent of Financial Services (the “Superintendent”) within thirty (30) days if the funding agent has not received a Form 7 within the required time frame.²

- Funding agents must notify the Superintendent within sixty (60) days if a contribution is not made when due.³
- If there is a change in the summary of contributions, the administrator must provide the funding agent with a revised Form 7 within sixty (60) days after the administrator becomes aware of the change.⁴

Effective March 3, 2000, the *Pension Benefits Act* (Ontario) (the “PBA”) and Regulation thereunder were amended to create the above-noted new responsibilities for administrators and funding agents of all Ontario-registered pension plans (other than multi-employer pension plans). A few months later, Form 7 was approved by the Superintendent for use by Ontario-registered pension plans.

Administrators have known for some time that they must submit contributions on time. FSCO’s July 29th pronouncement makes it clear that FSCO is determined to monitor compliance. Administrators should be aware that if they delay making contributions to pension plans, they can expect their funding agent to contact FSCO. Failure to comply with the PBA is an offence that could result in significant fines if convicted. The penalty for a first offence is a fine up to \$100,000. Each subsequent conviction results in a fine up to \$200,000.

¹ Subsection 56.1(1) of the *Pension Benefits Act* (Ontario) (“PBA”) along with paragraph 6.2(1)(b) of the Regulation to the PBA.

² Subsection 56.1(2) of the PBA along with subsection 6.2(4) of the Regulation to the PBA.

³ Subsection 56.1(3) of the PBA along with section 6.1 of the Regulation to the PBA.

⁴ Subsection 6.2(2) of the Regulation to the PBA.

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