MERCER

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COMMUNIQUÉ

NEW TEMPORARY FUNDING RELIEF OFFERED IN NOVA SCOTIA

The regulations under the Nova Scotia Pension Benefits Act have been amended, effective 11 February 2013, to make a new round of temporary solvency funding relief available to pension plan sponsors. This Communiqué describes the key features of the new measures.

Temporary Solvency Funding Relief

The new temporary solvency funding relief is available to all defined benefit pension plans, except specified multi-employer pension plans and other pension plans that were recently granted solvency exemptions.

The relief is available for a funding valuation with a review date between January 3, 2011 and January 2, 2014, inclusive, and can be used only once. It can be used for a valuation that has already been filed if a replacement report is filed within one year after the valuation date.

The relief consists of the ability to amortize consolidated solvency deficiencies over 15 years, with the ability to delay the first solvency special payment for up to 12 months after the valuation date. It is subject to member consent and to restrictions on benefit improvements, and there are disclosure obligations while the relief is in effect.

Member consent

An information statement and notice of objection form must be sent to eligible members and their collective bargaining agent (if any), to former members and to retired members. A copy must be provided to the Superintendent. The required content for the information statement includes the amount of the solvency deficiency for which the amortization period would be extended, the plan's transfer ratio, the estimated annual contributions that would be required to fund the normal cost and all special payments if the amortization period is, or is not, extended and an explanation of how benefit security might be affected by the relief.

Consent is deemed to be given if not more than one-third of the members, former members and retired members combined object. Unions can consent on behalf of their membership. The process for objecting must ensure that members remain anonymous.

There is a 45 day objection period after information statements and notices of objection are distributed. A certificate of consent must be filed within 60 days after filing the valuation report.

Amendment restrictions

From the valuation date until 10 years after the extended amortization period begins, plan amendments that increase the cost of benefits, or that create or increase a going concern unfunded liability or solvency deficiency, are not permitted unless the cost of the amendment is fully paid at the time the amendment is made.

Continued disclosure

Notice that the election is in effect is required. Thereafter, progress reports on the financial health of the plan must be sent to eligible members, former members, and retired members and to unions within six months after the end of each fiscal year until the solvency deficiency has been liquidated. Progress reports must contain information such as the transfer ratio from the most recently filed valuation, estimated annual contributions to fund normal cost and all special payments from the most recently filed valuation and an explanation of how benefit security might be affected as a result of the relief.

Annual Filing

The rule requiring annual filing if there are solvency concerns is extended. Now, in addition to universities, plans that use the new temporary solvency relief and plans that have a solvency exemption must file annually if there are solvency concerns. Solvency concern continues to be defined as having a ratio of solvency assets to solvency liabilities less than 0.85.

Revised Rule for Solvency Exempt Plans

Other recent amendments to the regulation granted solvency exemptions to certain pension plans, including those of municipalities, school boards, universities and police, and specified multi-employer plans. The amendment restriction for these plans is now applicable if an amendment creates or increases a going concern unfunded actuarial liability or solvency deficiency. As first enacted, the restriction applied only if the amendment created an unfunded liability or solvency deficiency.

Comment

Extending the standard 5 year solvency amortization to 15 years goes well beyond the typical 10-year relief we have seen to date in Canada. If there is a trend toward increasing the funding period to 10 or 15 years, whether temporarily or permanently, that does not seem to be a surprising policy in light of the continued financial difficulties that pension plans are facing.

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