

Pensions and Benefits Bulletin

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Fasken Martineau DuMoulin LLP

Ontario Introduces Solvency Funding Relief for Pensions

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The Ontario Government introduced temporary relief from solvency funding requirements in late June, 2009 for employers with defined benefit pension plans, retroactive to September 30, 2008. The changes were made in response to the sudden and sharp deterioration in solvency funding levels of pension plans at the same time as many employers are themselves experiencing significant business challenges.

The changes are consistent with the Government's announcements in December, 2008 and in the budget earlier this year. Employers can choose one or more of the following three options:

1. *Defer new special payments (going concern and solvency) for up to one year.*

Member consent is not required, although advance notice must be given to members and former members of the plan.

2. *Consolidate pre-existing solvency deficiencies into a new five year payment schedule.*

If benefits are increased during the term of the new payment schedule,

accelerated funding requirements will apply to any resulting increase in going concern liabilities. Member consent is not required, although advance notice must be given to members and former members.

3. *Extend the liquidation period for new solvency deficiencies from five to up to 10 years.*

This option requires the prior consent of at least two thirds of the plan members and former members, as well as annual notices. The same accelerated funding requirements as in Option 2 will apply if benefits are increased.

Other Changes:

- Contribution holidays are no longer permitted unless an actuarial cost certificate is filed demonstrating that the plan has sufficient surplus assets. This new rule applies for fiscal years beginning between July 1, 2009 and January 1, 2012. The certificate must be filed within 90 days after the commencement of the fiscal year.

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- Commuted value payments are not permitted where the plan's transfer ratio is less than one and the plan administrator knows or ought to know that the transfer ratio has declined by 10% or more since the plan's most recent valuation. Exceptions may be permitted with the consent of the Superintendent of Financial Services.

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