Seeing Beyond Risk

Canadian Institute of Actuaries / Institut canadien des actuaires

Voir au-delà du risque

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We would like to thank you for the opportunity to provide our comments to the Government of Canada on the proposed amendments to certain regulations relating to pensions. We, the actuarial profession, feel that we are uniquely qualified to assist in your efforts to manage the cost and risk related to pension arrangements, and to evaluate proposals for innovation in this area.

Introduction

The Canadian Institute of Actuaries (CIA) is the national organization of the actuarial profession. The CIA establishes the Rules of Professional Conduct, guiding principles, and monitoring and discipline processes for qualified actuaries. All members must adhere to the profession's Standards of Practice. The CIA follows its Guiding Principles, including Principle 1, which holds the duty of the profession to the public above the needs of the profession and its members. The CIA also assists the Actuarial Standards Board in developing standards of practice applicable to actuaries working in Canada.

Actuarial skills are typically used to identify, quantify, project, and then evaluate mitigation options for risk; primarily risk in the financial sector, where uncertain future contingent events with potentially large financial impacts are present. Consequently, actuaries are predominantly employed by insurance companies, pension plans, and investment portfolio management companies. They provide viable financial solutions and frameworks to manage the risks inherent within financial security systems such as pension plans.

Background

On September 19, 2014, the federal Minister of State (Finance) released proposed regulations under the federal Pension Benefits Standards Act, 1985 (PBSA). They follow through on several measures included in Bills C-9 and C-47 tabled in 2010, and also include additional measures. Finance Canada aims at three main objectives with this final set of amendments, namely to:

1) Improve the regulatory framework for defined contribution (DC) plans;
2) Modernize investment rules; and
3) Enhance disclosure and protect benefits of plan members and their spouses.

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Summary Analysis and Comments on Key Measures with Impact on Defined Benefit and Defined Contribution Plans

The following outlines the CIA's comments on each of the key issues. The regulations will most likely complete the 2010 PBSA reform process. Administrators of federally registered plans, or provincially registered plans that include federally regulated members, may have to review their plan documentation and administration following these reforms. They will also have to consider what amendments may be required.

A. Investment Rules

Proposed changes to the investment rules will apply widely to the pension standards legislation of Alberta, British Columbia, Ontario, and Saskatchewan as these jurisdictions adopt the federal investment rules by reference. However, some changes related to investments are not set out in Schedule III of the Pension Benefits Standards Regulations (PBSR) but are, instead, amendments to other parts of the PBSR that may not be directly referenced in existing provincial legislation. For instance, changes in definitions of *investment fund* and *member choice account* are set out in the main PBSR, not Schedule III. As a result, provinces will need to amend their regulations to account for these updated definitions.

Also, any plan subject to Schedule III with any direct investment in plan sponsor securities will have to disinvest these assets within the proposed five-year timeframe. The inability of an employer to invest in a related party if the securities are traded on a public exchange may not be embraced by employers who are currently using that exemption, regardless of the five-year required timeframe. In most cases, the plan's Statement of Investment Policies and Procedures (SIP&P) will need to be reviewed by the administrator.

While we agree in principle that shifting from book value to market value for the 10 percent limit of investment in a single entity is an improvement, rules should be clarified in terms of monitoring and consequences if investments exceed 10 percent.

B. DC Member Choice Accounts

The PBSA will explicitly allow DC plans to permit each member to choose investments with respect to his or her own account. Though this may already be common practice, it is the CIA's opinion that the member's choice of account rules will be well received, as the administrator will have to provide all federally regulated members with a written statement with enhanced disclosure on each investment option. We also believe that the member choice account rules serve the public interest as they will help plan administrators in mitigating legal risk related to member investment choice.

C. Plan Administration of Pensions for Federally Regulated Members

Annual Statements and Other Information

In addition to extending defined benefit (DB) and DC asset information on annual statements, plan administrators will have to provide annual statements to deferred vested members and retirees. The CIA supports these changes as enhanced information to plan members does serve the public interest as long as minimum information requirements are reasonably easy to administer.

In addition, there are several additions in the regulations of a requirement to advise members of negotiated contributions plans that benefits may be reduced if contributions are insufficient. This is an improvement in the member disclosure, clarifying a key difference between a negotiated cost plan and a DB plan. This increased disclosure on the nature of the benefits is supported by the CIA.

Variable Benefits

DC plans will be able to offer to their members the option to receive pension benefits directly from the plan in amounts that vary annually within the ranges specified for life income funds, with no maximum for members who are over 90. For members receiving DC plan variable benefits, the annual statement will have to include the date of birth used to determine minimum payments, the minimum and maximum annual payments permitted, payment frequency, how a recipient can modify the amount received, how investments can be changed, and the available transfer options. The CIA agrees with this change as it allows DC plans to provide additional options at retirement for their members.

Plan Termination Statements

Plan administrators will be required to provide to members, former members, and to their spouses, two written statements, one within 30 days of plan termination and the second within 120 days. The PBSR amendments describe the format of these statements. The CIA appreciates the fact that the first form will include a statement that plan documents filed with the Superintendent can be examined and that benefits will not be distributed until the termination report is approved by the Superintendent. Informing participants that the legislative authority oversees the plan termination process will increase the sense of trust of plan members.

Electronic Communications

Amendments to the PBSA will enable information and plan documents to be forwarded electronically if the plan member has given consent and designated an information system to receive the information. Electronic signatures will also be allowed under precise circumstances. However, the amendments do not accommodate the use of deemed consent. We therefore recommend that consideration be given to permitting the use of deemed consent.

It is the CIA's opinion that the ability to send documents electronically will provide additional flexibility for plan administrators, as well as improved efficiency and timeliness, as long as security and confidentiality processes are well implemented and monitored.

Surplus Distribution

The waiting period for surplus distribution approved by the Superintendent will be extended from 14 to 40 days to allow members, former members, or anyone with a benefit entitlement under the plan time to seek judicial review of the Superintendent's decision. We agree with this measure as it gives members additional time to assess the regulator's decision.

Conclusion

We believe that the proposed amendments do serve the public interest in general, as they are targeted toward protection of plan members by improving communications and disclosure as well as modernizing investment rules with the recognition of the market value in the 10 percent rule, without creating an undue additional burden on plan administrators.

Actuaries have a significant amount of expertise and knowledge to bring to the table in pensions and retirement benefits, and we would encourage officials of the federal government to engage with us as they move forward with any initiative that relates to retirement. As mentioned above, the CIA places the interest of the public above that of our members or the Institute itself. We are able to provide objective viewpoints, along with the technical modelling and forecasting skills that may be needed.

The CIA trusts that the comments provided above will be of value. We thank you for offering us the opportunity to participate in this consultation.

Respectfully submitted,

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