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of Financial Institutions Canada

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October 1989

PBSA Update

Issue No. 3

This is the third issue of *Update*. The purpose of *Update* is to improve communications between the Office of the Superintendent of Financial Institutions and pension plan sponsors whose plans are filed with the Office pursuant to the *Pension Benefits Standards Act, 1985* (PBSA).

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1. PBSA, 1985 Administration

The day-to-day administration of the PBSA is carried out by the PBSA Section of the Pension Benefits Division in the Superintendent's Office.

The Director of the PBSA Section is Jean-Noël Martineau (613) 990-8055; the acting Director General of the Pension Benefits Division is Mark Fowler (613) 990-8084. Both are actuaries.

Pension analysts responsible for reviewing plan texts, associated documents, periodic reports required to be filed with the Office and who attend to other matters relating to plans subject to PBSA can be reached at (613) 990-8124.

The PBSA Section also has actuarial staff that examine actuarial reports and carry out actuarial research projects. They too may be contacted at (613) 990-8124.

2. PBSA Registration

The standards for registration are set out in sections 9 and 14 to 28 of the PBSA. All plan texts and amendments are reviewed in our PBSA Section for compliance with the

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requirements of the legislation. We have designed a compliance checklist to assist plan sponsors in ensuring that each of the standards required by the legislation to be included in the pension plan documents is covered.

If you are a PBSA plan sponsor and have not yet filed amendments necessary to bring your pension plan(s) into compliance with the legislation, you should have a copy of the checklist. Please complete and file it with the Office along with the amendments. We hope this will help plan sponsors to ensure that they comply with the legislation.

A copy of the checklist as completed by the analyst who reviewed the plan text is sent to the plan sponsor for reference and guidance if the standards for registration have not been addressed properly in the pension plan documents.

3. Pension Plan Administration

Even though a federally supervised pension plan may not yet be registered under the PBSA, it is required to be administered according to the PBSA since the PBSA took effect January 1, 1987.

On-site examinations by our staff confirm that some of the standards set out in sections 9 and 14 to 28 of the PBSA are not being applied in all cases. These include vesting of benefits, remittances of contributions to the fund and disclosure of information to pension plan members.

We want to stress the importance of plan administrators adhering to the standards of the PBSA.

If you are in doubt about any of the standards, please contact us.

Reporting Requirements – “As at” Dates Should Coincide with Plan Year End

The Pension Benefits Standards Regulations, 1985, and the Directives pursuant to the PBSA spell out the reporting requirements for pension plans subject to the legislation, including information returns, lists of assets, cost certificates, actuarial reports and audit reports on the plans’ financial statements.

These reports should be prepared to coincide with the plan year end. Cost certificates and valuation reports required to be prepared as the result of pension plan amendments should be prepared as at the effective date of the amendment.

Class of Employees – Single Member Plans

Subsection 14(1) of the PBSA requires that all employees of a class for which a pension plan is established must be eligible to participate in the plan. Consequently, for pension plans with one or a few members, we now require that the essence of the eligibility rule be included in the name of the pension plan. For example, a pension plan for the President of

XYZ Company would satisfy this requirement; one for Jane Smith of XYZ Company would not. Similarly, a pension plan for Senior Executives of ABC Company would be acceptable, but one for Designated Senior Executives would not. This requirement applies from April 1989 to all new plans being submitted for registration and to registered plans being amended to comply with the PBSA. For pension plans already registered under the PBSA, this requirement will have to be met when the pension plan is next amended.

Prescribed Forms

Although the legislation requires that certain statements, agreements and notices be in the form set out in the Forms of the Schedules that are appended to the Regulations, the Office does not provide these forms. Deviations from the prescribed forms may be made provided that they do not affect substance or are calculated to mislead. For example, if the pension plan does not permit – and has not previously permitted – members to make additional voluntary contributions, reference to them need not be included in the statement set out in Form 2 of Schedule IV of the Regulations. In the same manner, additional information may be included on the statement as long as it does not conflict with the information required.

Portability of Pension Benefit Credits

Under the PBSA, an employee that ceases to be a member of a pension plan, and has not reached early retirement, is entitled to transfer the member's pension benefit credit to another pension plan (if that pension plan permits), to a registered retirement savings plan, or to purchase an immediate or deferred life annuity.

This portability feature of the legislation also applies to pensions provided through guaranteed annuity contracts and other insurance contracts whether purchased prior to or on and after January 1, 1987, the effective date of the PBSA.

Fees to Move Toward Full Recovery of the Cost of Administering the PBSA, 1985

In the last issue of *Update* we provided details of a proposed new fee schedule, affecting plans with more than 1,000 members. Under the proposed schedule, both the per member rate ($5) and the minimum rate per plan ($100) are unchanged for plans with 1,000 member or less. For plans with more than 1,000 members, the fee per member will be $5 for the first 1,000 members, and $2.50 per member in excess of 1,000. The maximum fee will be $50,000.

This amendment to the Regulations is expected to come into force before the end of the year.

Solvency Valuation Requirements

Responses received to our recent memorandum reminding defined benefit plan sponsors to file their initial solvency valuation required pursuant to section 9 of the Pension Benefits Standards Regulations, 1985, indicate that there is still some misunderstanding of what the Office requires with respect to solvency valuations. What follows should help to clarify this matter.

The concept of solvency valuation is different from the concept of a going-concern valuation. A solvency valuation is based on the assumption that the plan is going to be terminated.

Any pension plan in force on January 1, 1987, and subject to the PBSA, should have had a solvency valuation performed as of a date within the period from June 30, 1986 to July 1, 1987. Thereafter, solvency valuations must be performed in conjunction with the going-concern valuation. As a result, actuarial reports must now include either a certification that the plan does not have a solvency deficiency or a certificate of the solvency deficiency amount as well as of the special payments required to amortize it according to section 9 of the Regulations.

If the actuary is of the opinion that no solvency deficiency exists, based on the results of the going-concern valuation, he or she may certify this without actually performing a solvency valuation. In such a case, the actuary should explain how this conclusion was reached. However, in all cases the solvency certification should be distinct from any other actuarial certifications and should also be unconditional and unqualified. It should be worded clearly and be easily identified so that there is no doubt that it constitutes a solvency certification submitted pursuant to the PBSA.

We recommend that a separately titled section of the valuation report be used to contain the solvency certification. This would also facilitate the acknowledgment of the solvency certification filing, as the Office sees it and monitors it as a filing requirement different from the going-concern valuation. Where a solvency valuation has in fact been performed, the actuarial assumptions, methods, etc., used should be clearly described. Further, where a solvency deficiency is certified, an appropriate solvency actuarial balance sheet must be appended and the solvency ratio as defined in section 2 of the Pension Benefits Standards Regulations, 1985 should be disclosed.

Comments?

Again, we invite your comments on the matters covered in this *Update*. If you have any suggestions that you think would improve communications between our Office and the supervised plans, please let us know. Write to us at:

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You may fax the Pension Benefits Standards Division at (613) 990-7394 or e-mail us at penben@osfi-bsif.gc.ca.