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PBSA Update

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1. Locked-in RRSPs and the Federal Home Buyer's Plan

On February 25, 1992, the Minister of Finance announced in his budget that, until February 1993, Canadians will be able to use up to $20,000 of their RRSP funds to buy a house. Since the announcement, many people with locked-in RRSPs transferred from a pension plan subject to the federal jurisdiction have enquired with the Office about whether the money in these RRSPs is available to buy a house pursuant to Mr. Mazankowski's initiative. The Office has confirmed to these persons that pursuant to the PBSA Regulations, these funds continue to be locked in and are not available for the purchase of a house under the Home Buyer's Plan.

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2. Actuarial Data Certification

The Canadian Institute of Actuaries' Recommendations for Valuation of Pension Plans include a requirement that the actuary certify that, in his or her opinion, the data on which actuarial calculations are based are sufficient and reliable for the purpose of the valuation.

Some actuarial reports filed with the Office contain data certification with wording that does not meet these Recommendations. Although the Office is prepared to accept variations in the statement of data certification, it requires that wording chosen by a plan actuary comply with the CIA standards.

It is often not clear, however, whether the actuary intends to qualify the opinion as to data sufficiency and reliability or whether the formulation used is intended to comply with the Recommendations and not to constitute a qualification of the data certification.

Our view is that to ensure that the data certification contained in actuarial reports complies with the actuarial standards, the actuary must use a formulation that confirms that the data used are sufficient and reliable for the purpose of the valuation. For example, wording such as "I certify that I have tested the data and have found nothing to indicate that they are unreliable and insufficient," is not acceptable to the Office because it does not confirm that in the actuary's opinion the data are reliable and sufficient. Unsatisfactory formulation of the data, certification is particularly prevalent in actuarial reports filed in respect of multi-employer pension plans. This practice reflects the difficulties actuaries experience in obtaining satisfactory data for, these plans.

In the future, when actuarial reports containing unsatisfactory data certification are filed with the Office, we intend to request that the actuary amend the data certification opinion to conform to the CIA standards and the Office's requirements. If the actuary is not willing or is unable to amend his or her statement, the Office will reject the report and will request the plan administrator to file an actuarial report on a basis that conforms to these standards. We realize that in some circumstances the actuary may feel compelled by the CIA professional standards to file a report that includes a qualified opinion regarding the data. The Office is comfortable with this. It relies on the actuary to report that the valuation data are insufficient or unreliable. The Office also feels that in these circumstances its responsibility to the members and the public is to force plan sponsors to resolve the data problem. It is not in the public interest to accept the funding of plans on the basis of actuarial reports other than unqualified actuarial reports prepared in accordance with generally accepted actuarial principles and the standards of the CIA and the Office.

3. Treatment of Special Benefits on Plan Termination

When a plan subject to the PBSA terminates, its obligations to members depend on the provisions of the plan text as long as these provisions are consistent with the legislation. Subsection 29(7) of the PBSA requires that, on plan termination, provision be made for "all accrued or payable benefits...without regard to conditions as to age, period of membership in the plan or period of employment." Normal retirement benefits accrue with each year of service and therefore they fully vest at plan termination regardless of a member's age, service and duration of membership.

However, bridge benefits and subsidized early retirement benefits accrue only pursuant to the conditions of the plan. These conditions are typically age, service or a formula based on age and service. Consequently, it is the Office's position that these benefits accrue when these conditions are met. Although some plans may require that members must retire from active employment to become entitled to these special benefits, the Office requires that these benefits be vested at plan termination for all members who would have been eligible for them, had they decided to retire the day before the plan terminated.

When these special benefits are subject to employer's consent, the Office does not require that they be recognized in the solvency liabilities. The Office requires that, at plan termination, all benefits not subject to the plan sponsor's consent are paid before any benefits subject to consent are granted.

The following illustration may be helpful. The XYZ plan provides normal retirement benefits at two per cent of final average earnings for each year of service. Participation is immediate and mandatory. Normal retirement age is 65, but members 55 years and older may retire with a pension that is actuarially equivalent to the normal retirement pension. Members with more than 30 years of service can retire after age 55 and receive a subsidized pension reduced only by two per cent for each year by which retirement precedes age 65, plus a bridge benefit of $600 per year until age 65.

When the XYZ plan terminates, Paul is 53 years old and has one year of service; Mary is 54 years old and has 30 years of service; and John is 58 years old and has 32 years of service.

At termination, John is entitled to the $600 bridge benefit and to the partially subsidized early retirement because he meets both age (55) and years of service (30) conditions required by the plan. Paul and Mary are entitled to neither of these special benefits; Paul does not have 30 years of service and is not 55 and Mary is not yet 55, although she has 30 years of service. Accordingly, the actuary must include in the solvency valuation of the plan the value of the bridge and subsidized early retirement benefits accrued by John. As for Paul and Mary, the Office does not require that these special benefits be taken into account in the solvency valuation because they have not accrued yet and therefore have not vested. Pursuant to subsection 29(7) of the PBSA, Paul's deferred pension at 65 is, however, vested even though he has only one year of service.

In that respect, we would like to remind plan administrators that, under the PBSA, the pensionable age is "the earliest age at which a pension benefit...is payable to the member under the terms of the pension plan without the consent of the administrator and without reduction by reason of early retirement." As a result, an unreduced early retirement benefit not subject to the employer's consent would vest when the plan is terminated as it does when individual membership is terminated. From a PBSA point of view, it is not an early retirement benefit but, by definition, a normal retirement benefit.

For example, if the XYZ plan provided for an unreduced early retirement at 60 for members who are 55 and have 30 years of service or more, the Office's policy is that members terminating their membership with 30 years of service, but before reaching 55 continue to accumulate years of age: for purposes of eligibility to retirement at age 60. Consequently, they are entitled on both plan and individual termination to a deferred pension commencing at 60. This is based on the definition of pensionable age previously referred to and subsection 17(l) of the PBSA which requires that, on termination of membership, any member who has two years of service be entitled to a deferred pension "calculated in a similar manner and payable on the same terms and conditions as the immediate pension benefit...that, if the member had attained pensionable age, the member would have been eligible to receive."

Hence, on termination of the modified plan XYZ, John and Mary would be entitled to an unreduced pension commencing at 60 since both have 30 years of service. Paul would be entitled to a deferred pension commencing at 65 because he does not have 30 years of service. In the solvency valuation of this plan, the actuary would, therefore, have to account for John's and Mary's entitlements to a deferred unreduced pension commencing at 60 and for Paul's entitlement to a deferred unreduced pension commencing at 65.

4. Collective Agreements – Retroactivity for January 1, 1987 Amendments

Plan sponsors are reminded that when a collective agreement governing a pension plan covered by section 44 of the PBSA expires, the provisions of the plan must be amended retroactively to January 1, 1987 for members who remain active after the contract expiration date. Although the Office will not require administrators to change the effective date of the amendments, members do have a right to benefits provided for in the PBSA from January 1, 1987 and plans should be administered accordingly.

5. Change in Approval Procedures for Refund of Surplus

Recent experience with pension plan wind-ups that involve potential refunds of surplus to the employer have raised concerns that require modifications to the Office procedures for approval of refund of surplus on plan termination.

If a pension plan that is being wound-up submits a termination report disclosing a surplus based on the market value of assets and the market-related value of liabilities, the Office will not approve a refund of surplus until all plan obligations have been discharged either by transfers to locked-in RRSPs or purchase of annuities.

This procedure is designed to ensure that no surplus is refunded until all illiquid assets, such as real estate, that could produce substantial fluctuations in the amount of surplus in the fund, are completely liquidated and, where annuities have to be purchased, until they actually have all been purchased.

Comments?

The Office welcomes readers' comments on any matter covered in *PBSA Update* or related to the Office's supervision of pension plans. If you have any suggestions that you think would improve communications between our Office and the pension industry or on other matters pertaining to the legislation, please let us know. Write to us at:

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