



Office of the Superintendent of  
Financial Institutions Canada

Bureau du surintendant des  
institutions financières Canada

# 2017 OSFI Pension Industry Forum

Vantage Venues  
Toronto, ON

October 25, 2017



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# Welcome and Introductory Remarks

**Tamara DeMos**

Managing Director, Private Pension Plans Division (PPPD)

**2017 OSFI Pension Industry Forum**

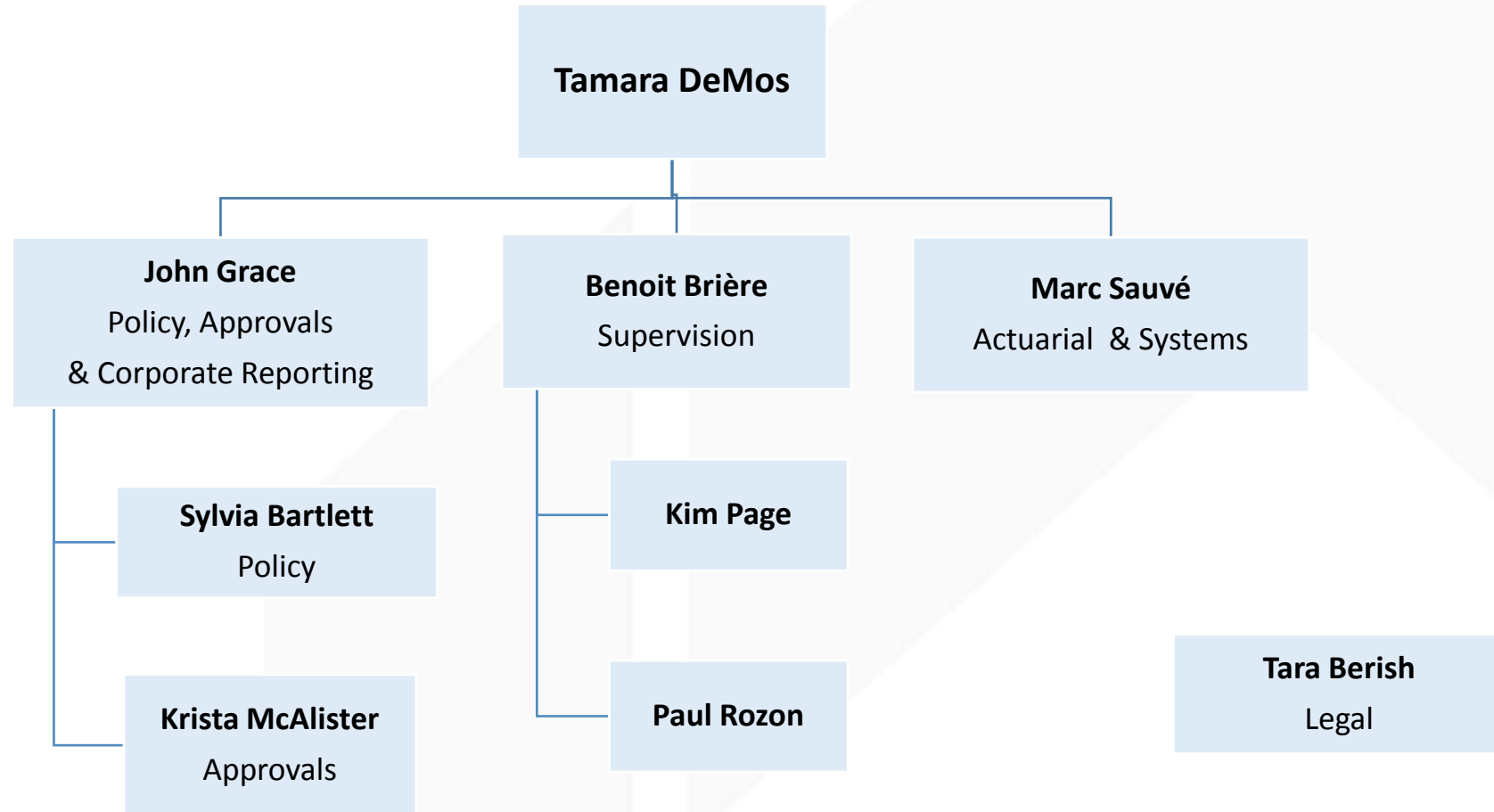
**October 25, 2017**



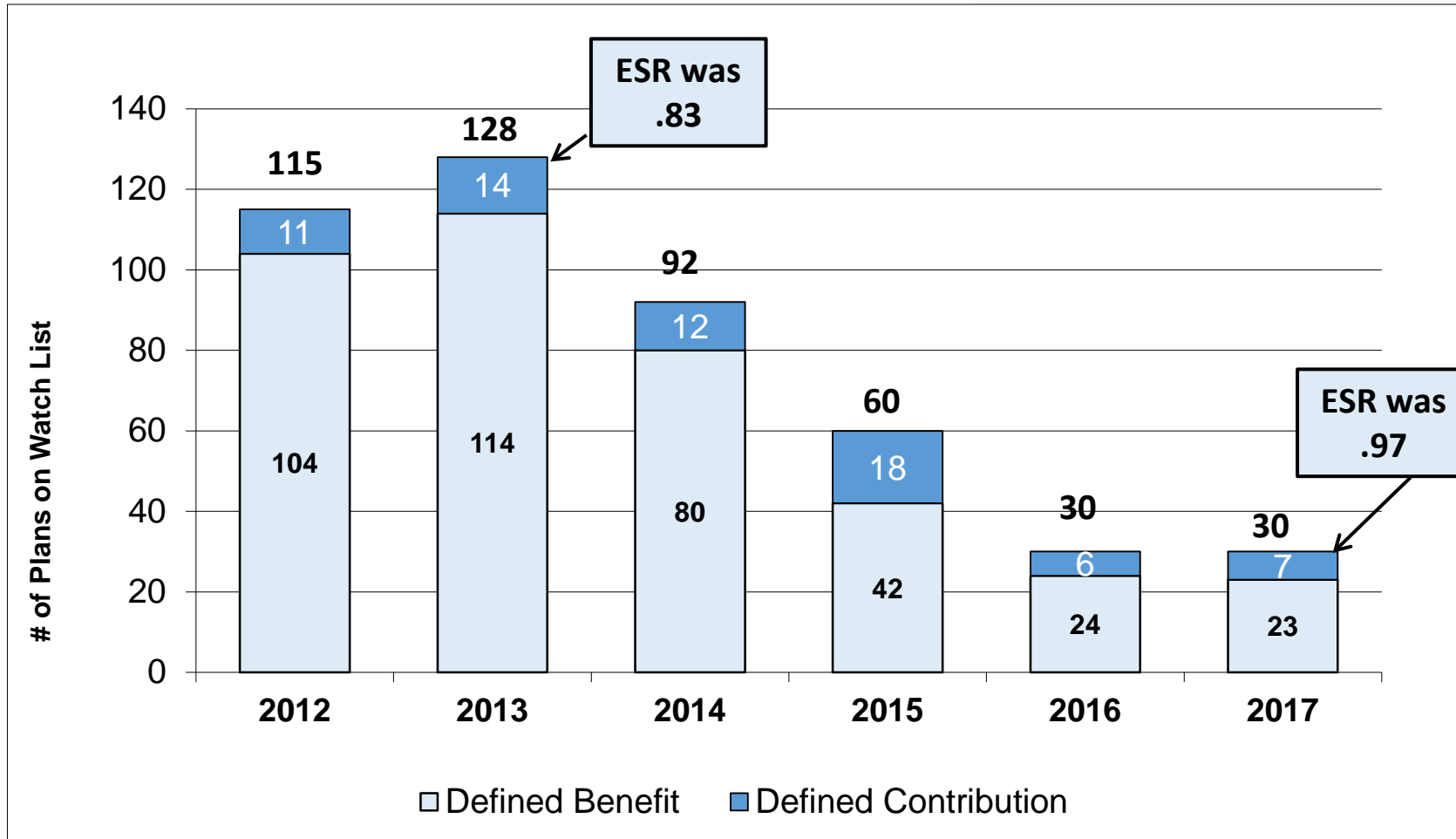
# Agenda

- **Welcome and Introductory Remarks**
- **Pension Policy Developments**
- **OSFI's Supervision of Pension Plans**
- **Regulatory Approvals**
- **Actuarial**
- **Recent Pension Litigation**
- **Pension Benefits Standards Act, 1985 and Pooled Registered Pension Plans Act Policy Initiatives**
- **Closing Remarks**

# PPPD Organizational Structure



# Watch List Trends



# Pensions Environment Overview

- Areas of interest for pension stakeholders
  - Restrictions on solvency funding
  - Target benefit or shared risk plans
  - Mechanism to deal with members who cannot be located
  - Risk management
  - Defined contribution plans
    - better decumulation options including variable annuities
    - disclosure of fees
    - regulator guidance on how to calculate and communicate estimated pensions



# Pension Policy Developments

**John Grace**

Director, Policy, Approvals and Corporate Reporting

**Sylvia Bartlett**

Manager, Policy

**2017 OSFI Pension Industry Forum**

**October 25, 2017**



# Legislative amendments: Target Benefit Plans and Life Annuities

- Bill C-27 tabled in Parliament October 2016
- The Bill amends the PBSA to allow:
  - target benefit plans
  - full discharge of pension obligations through purchase of annuities



# Bill C27 - Target Benefit Plans

Key elements of federal proposal:

- Benefit stability and funding
- Governance
- Conversion of existing benefits
- OSFI's role

# Benefit Stability and Funding

- Flexibility for each plan to set its funding policy/benefit stability objectives
- Actuarial modelling required with respect to benefit stability objectives

# Governance

- To be administered by board of trustees or similar body:
  - at least one person chosen by members/employees and one chosen by former members and survivors (if numbers warrant)
- Governance policy required
- Funding policy:
  - to be approved by administrator when plan established
  - must include:
    - pension benefit formula
    - employer and employee contributions
    - pension benefit stability objectives
    - deficit recovery plan and surplus utilization plan

# Conversion of accrued benefits

- Conversion takes form of “surrender and exchange” of accrued benefits
- Requires consent:
  - of individual member or former member
  - unions may consent on behalf of membership
- Written explanation of target benefit plan must be provided to members and former members:
  - required contents to be specified in regulations
  - must be “understandable by a person who does not have technical or specialized knowledge of pensions”

# OSFI's role

- Supervise plans; receive annually filed actuarial reports
- Approve written explanation of target benefit plan used to obtain members' and former members' consent for "surrender and exchange" of accrued benefits
- Benefit reductions that implement deficit recovery plan do not need authorization by Superintendent

## Bill C-27 – Life Annuities

- Increased interest in annuities as a way to de-risk defined benefit pension plans
- Administrators want annuity purchases to satisfy obligation to provide pensions
- Current legislation does not differentiate an annuitized benefit from the obligation to provide a pension
- Stakeholders believe this leads to “boomerang risk”
- Bill C-27 contains federal government response

# Life Annuities

- Subject to certain conditions, the purchase of an immediate or deferred life annuity will satisfy the obligation to provide a pension benefit from a defined benefit plan
- This will apply to immediate or deferred annuities purchased for former members (includes retirees) and survivors

# Life Annuities

- The plan terms must authorize the purchase of the life annuity
- Generally, the life annuity must provide the same benefit that a person is currently receiving or is entitled to receive
- There is a specific provision allowing part of that benefit to be provided by an annuity and part by the plan



# Life Annuities

- The administrator must obtain prior approval from the Superintendent if annuity provider is not a “life company” as defined in the *Insurance Companies Act*
- Current restrictions will apply regarding administrator annuity purchases that impair the solvency of the plan
  - generally, the purchase can proceed if the SR remains over 0.85
- Other conditions will be set out in regulations including those related to notice requirements

# Amendments to Regulations – Letter of Credit (LOC) limit

- Amendments made to the *Pension Benefits Standards Regulations, 1985* (PBSR)
- The cumulative LOC limit for solvency special payments changed from 15% of assets to 15% of solvency liabilities
- Similar changes made to the provisions allowing agent Crown corporations to reduce their solvency special payments by an equivalent amount

# Amendments to Regulations - Portability Provisions

Amendments made to the PBSR and the *Pooled Registered Pension Plans Regulations*:

- Funds transferred to a locked-in vehicle can be unlocked if the holder becomes a non-resident of Canada
- Funds in a locked-in vehicle can be transferred to a provincial plan, pooled registered pension plan (PRPP) and a federal public service plan
- Funds in a locked-in RRSP can be unlocked if they meet the small balance threshold
- Contracts for locked-in vehicles must contain the option to unlock the funds if the holder has a shortened life expectancy

# CAPSA

- Pension regulators' forum to address issues of common concern
- Mandate to facilitate efficient regulatory system
- Stakeholder consultations inform CAPSA's strategic plan
- Some current priorities:
  - agreement respecting multi-jurisdictional plans
  - defined benefit plan funding
  - defined contribution pension plan guideline
  - emerging issues, including leverage and longevity risk transfer

# Agreement respecting multi-jurisdictional plans

- Streamlines administration by applying one jurisdiction's rules (for plan matters)
- Framework of current agreement based on similar rules across Canada
- Funding reforms have prompted review
- Consultations on two options:
  - fund entire plan based on the rules of the “major authority” (status quo)
  - funding requirements adjusted to reflect differences in rules across jurisdictions (with supporting rules for allocating assets)

## Other CAPSA initiatives

- Defined benefit plan funding
- Defined contribution pension plan guideline
- Emerging issues, including leverage and longevity risk transfer



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# OSFI's Supervision of Pension Plans

**Kim Page**  
Manager, Supervision

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# DC Projects

- OSFI DC Study – Recommendations
  - increase number of DC focused examinations
  - analyze results for trends/concerns
- CAPSA DC Plans Committee – Mandate
  - review CAPSA Guideline No. 8 – Defined Contribution Pension Plans Guideline with a focus on
    - retirement income options
    - best practices for variable benefits
    - retirement projections and tools
    - disclosure of fees



# Examinations

- OSFI conducts 9-12 examinations annually
- Mix of on-site examinations and desk reviews
- In 2017
  - 10 plans selected for an examination
  - focus on DC plans
- DC specific information requested includes
  - administrative processes for new members
  - description of default investment option
  - process to select, review and remove investment options
  - overview of ongoing education programs
  - results of benchmarking studies and disclosure of fees and expenses



# Pooled Registered Pension Plans (PRPPs)

- Statistics
  - 5 federal PRPPs: only one has employers (11) and members (100)
  - 9 Voluntary Retirement Savings Plans (Québec): 5,300 employers and 32,000 members
- Multilateral Agreement
  - Canada, British Columbia, Nova Scotia, Ontario, Quebec and Saskatchewan
  - Streamlines licensing, registration, supervision and applicable laws
  - OSFI responsible for supervising PRPPs
- Guidance
  - Licensing and registration guides
  - Default investment option guide
  - Member guides (coming soon)

# Responding to Enquiries

- Update on Service Standards
  - improvements in average response time
- Common Questions
  - Plan administrator contact information / referral
    - members do not know who plan administrator contact is
  - Unlocking of pension funds
    - OSFI's website has FAQs on unlocking
    - unlocking due to financial hardship most common
    - different unlocking provisions in each province
  - Marriage breakdown
    - application of provincial property law
    - subject to court order or agreement between parties
- Articles in *InfoPensions*, updated FAQs and guidance material

# Let's Keep in Touch!

- Regulatory Reporting System (RRS)
  - updating the plan's organizational profile in RRS
  - not just on an annual basis
  - guides on OSFI website and Returns Admin Support team
- Pension Plans Survey
  - identify issues and how OSFI can help
  - RRS-specific questions
- Electronic submissions
  - [Pensions@osfi-bsif.gc.ca](mailto:Pensions@osfi-bsif.gc.ca) email address
- Subscribe to pension news
  - Pension plans main page on OSFI website ([www.osfi-bsif.gc.ca](http://www.osfi-bsif.gc.ca))





# Regulatory Approvals

**Krista McAlister**  
Manager, Approvals

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# Transaction Approvals

Manage transactions requiring authorization of the Superintendent pursuant to the PBSA & PRPP legislation:

- plan registrations
- full terminations
- asset transfers to other registered pension plans
- refunds of surplus to the employer
- reductions of accrued benefits
- delegations to other jurisdictions
- licensing of PRPP administrators

# Asset Transfers

- Changes to DB Guide include:
  - clearer information for multi-jurisdictional plans
    - provincial individuals to be broken down by jurisdiction and by type (i.e., active, deferred members and retirees)
    - receiving plan's actuarial report to be prepared in accordance with federal requirements, if significantly different from the applicable provincial requirements
  - clarifies where the solvency and normal cost payments should be remitted
  - addresses letters of credit
  - clarifies what we mean by material negative impact on the receiving plan

# Asset Transfers

- Changes to the DC Guidance Note include:
  - clearer information for multi-jurisdictional plans – provincial individuals to be broken down by jurisdiction and type (i.e., active, deferred members and retirees)
  - plan administrator to submit the required information based on the jurisdiction of membership



# Statistics

	Applications under review as at April 1, 2016	Applications received in 2016-17	Applications closed in 2016-17	Applications under review as at March 31, 2017
Registrations	7	29	32	4
Terminations	6	14	14	6
Asset Transfers	17	16	14	19
Benefit Reductions	2	2	1	3
Refunds of surplus	3	3	1	5
Delegations	0	0	0	0
PRPP Licences	2	0	2	0
Totals	37	64	64	37



# Actuarial

**Marc Sauvé**  
Senior Manager, Actuarial and Systems

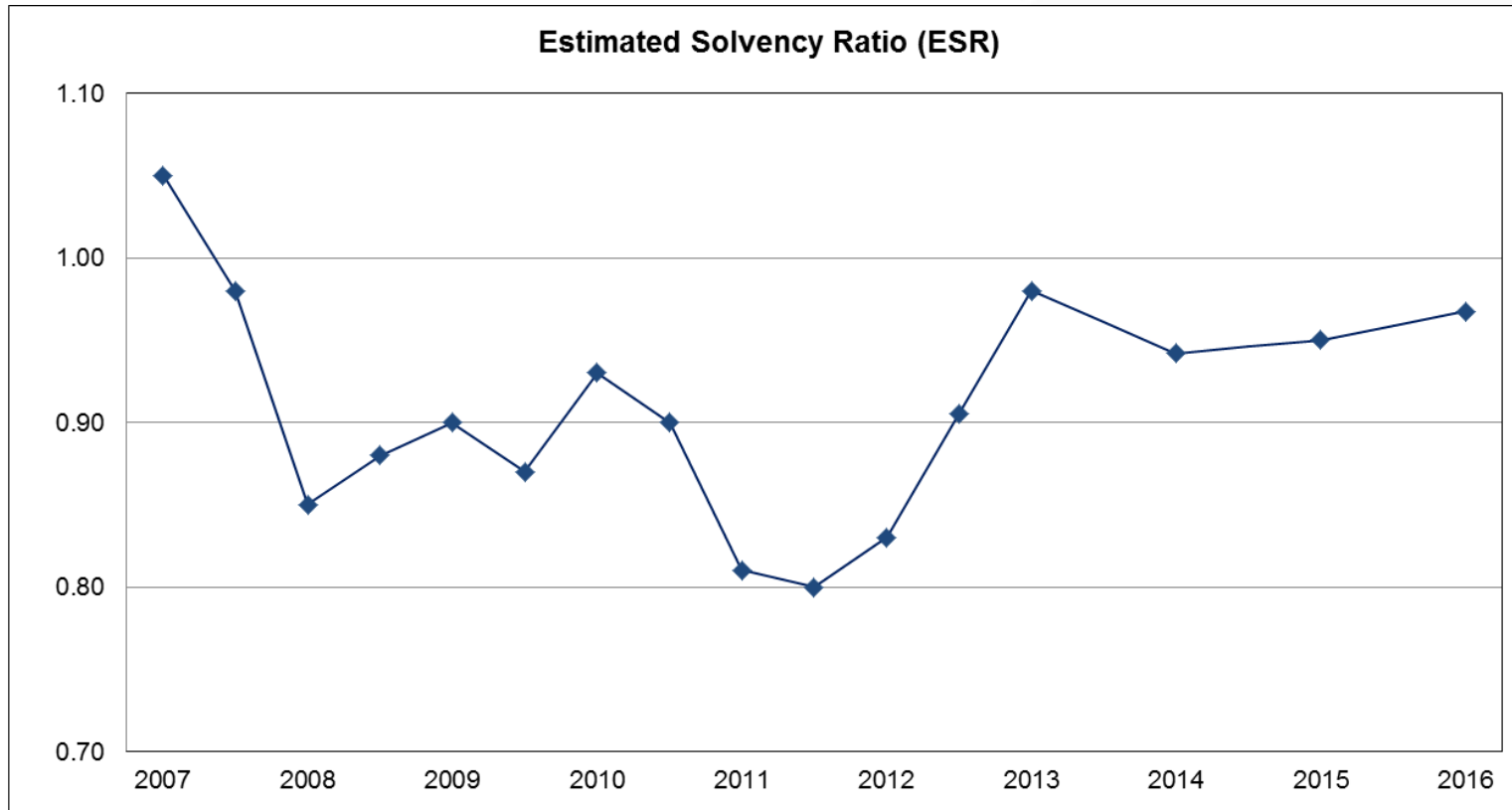
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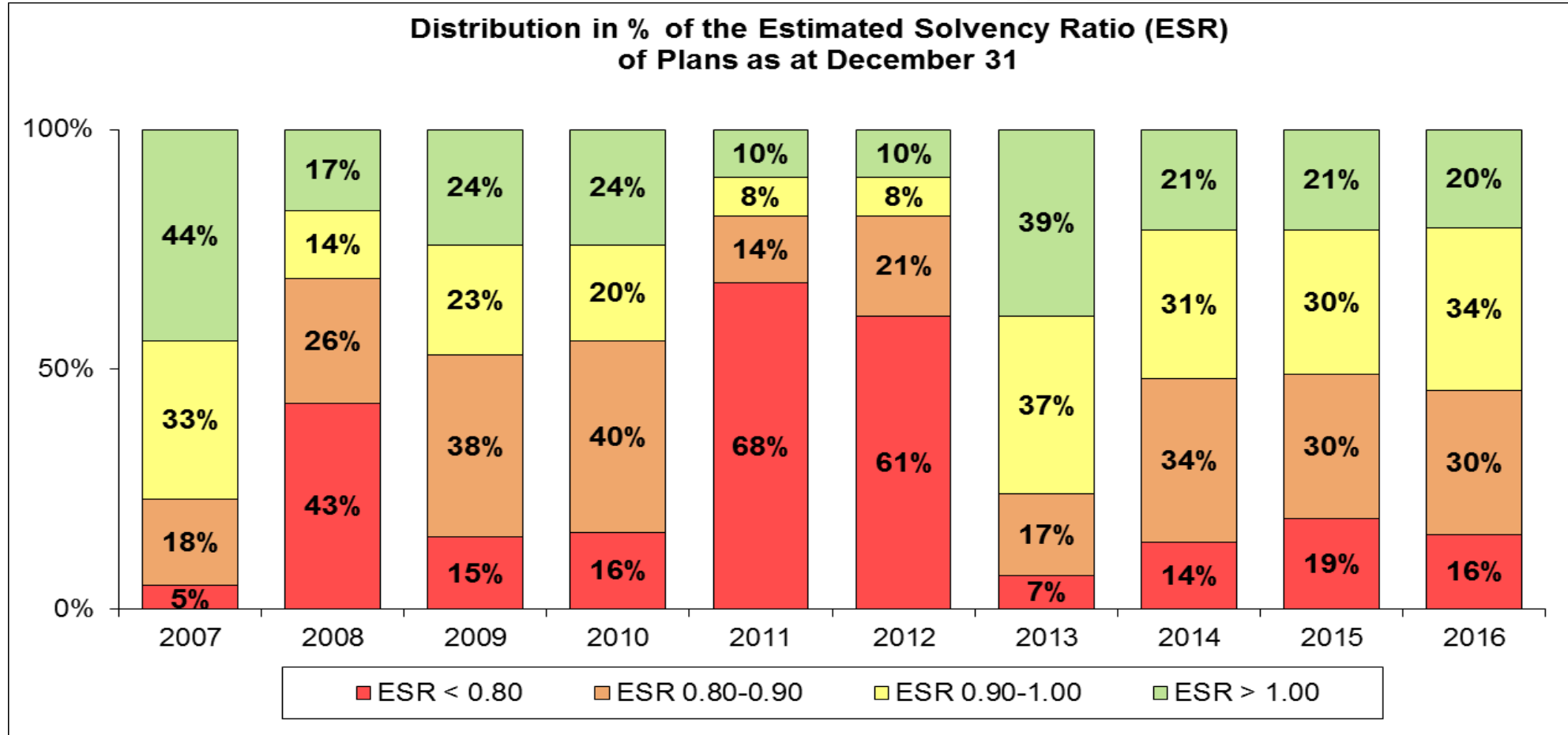
# Estimated Solvency Ratio

- Assists OSFI with the early identification of potential solvency issues
- Approximately 370 defined benefit plans
- Uses the most recent information
  - filed with OSFI
    - actuarial report
    - Certified Financial Statements
    - Solvency Information Return (rates of return)
  - discount rates from the Canadian Institute of Actuaries (CIA)
    - commuted value and annuity proxy rates

# Estimated Solvency Ratio



# Estimated Solvency Ratio



# Update to the Actuarial Guide

- Revised guide released earlier this month
  - reflects OSFI's current expectations based on reporting requirements from legislation and CIA Standards of Practice and Guidance
- Maximum going concern discount rate is unchanged at 6.00%
- Disclosure expectations are clarified
  - maximum allowable amount of letters of credit
  - plans with a defined contribution component
  - mortality assumption
  - termination expenses
  - calculation of the average solvency ratio

# Observations to Better Meet OSFI Expectations

- Going concern valuation – Expenses included in the discount rate
  - provision for each expense item should be clearly and separately disclosed in the actuarial report
  - investment expenses paid through net investment income received by a plan which buys units of an investment fund should be taken into consideration in determination of discount rate

# Observations to Better Meet OSFI Expectations

- Going concern valuation – Provision for adverse deviations
  - set of actuarial assumptions should as a whole include an appropriate provision for adverse deviations
  - margins should be explicitly stated, including those that might be included in economic assumptions other than the discount rate
- Asset mix
  - Information on actual asset mix should be included in the report
  - target asset mix and ranges stipulated by the SIP&P should also be disclosed





# Federal Litigation Update

**Tara Berish**

Senior Counsel, Legal Services Division

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# Background

- Wabush entities
  - iron ore mine and processing facility – Newfoundland and Labrador
  - Pointe-Noire port facilities and pellet production facility – Quebec
  - Arnaud Railway and Wabush Lake Railway – ran between Newfoundland and Labrador and Quebec – federally regulated
- Spring 2015 - financial difficulties

# Background

- Pension Plans
  - two: union and salaried
  - both have DB components
  - both have members covered by federal, Newfoundland and Labrador, and Quebec legislation

As at December 16, 2015 (Date of Plan Termination)	Union Plan	Salaried Plan
Special Payments	\$3,146,700	\$2,185,756
Catch-up Special Payments	\$3,525,120	\$0
Est. Wind-Up Deficiency	\$27,486,548	\$27,450,000

# Overall Issue

- Effectiveness of provincial and federal pension deemed trust in *Companies' Creditors Arrangement Act* "CCAA" context

# What is a deemed trust?

- Contrast with conventional trust
- Example – Section 8 of *Pension Benefits Standards Act, 1985*:

## Amounts to be held in trust

8 (1) An employer shall ensure, with respect to its pension plan, that the following amounts are kept separate and apart from the employer's own moneys, and the employer is deemed to hold the amounts referred to in paragraphs (a) to (c) in trust for members of the pension plan, former members, and any other persons entitled to pension benefits under the plan:

- (a) the moneys in the pension fund,
- (b) an amount equal to the aggregate of the following payments that have accrued to date:
  - (i) the prescribed payments, and
  - (ii) the payments that are required to be made under a workout agreement; and
- (c) all of the following amounts that have not been remitted to the pension fund:
  - (i) amounts deducted by the employer from members' remuneration, and
  - (ii) other amounts due to the pension fund from the employer, including any amounts that are required to be paid under subsection 9.14(2) or 29(6).

# What is a deemed trust?

## Where bankruptcy, etc., of employer

(2) In the event of any liquidation, assignment or bankruptcy of an employer, an amount equal to the amount that by subsection (1) is deemed to be held in trust shall be deemed to be separate from and form no part of the estate in liquidation, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own moneys or from the assets of the estate.



# ***Companies' Creditors Arrangement Act***

- What is the CCAA?
  - Pension protections:
    - employee pension deductions
    - normal cost payments
    - DC contributions

# Decision

- September 11, 2017 – Justice Hamilton



# Issues

- Which pension statutes apply to which members?
- What do the statutes protect?
  - *Pension Benefits Standards Act, 1985* (federal)
    - deemed trust is valid
    - scope of deemed trust
    - trigger for deemed trust
    - “floating charge”
    - conflict with CCAA
  - *Pension Benefits Act* (Newfoundland and Labrador)
    - similar to PBSA deemed trust, except:
      - scope of deemed trust
      - property subject to deemed trust
  - *Supplemental Pension Plans Act* (Quebec)
    - deemed trust not valid



# Issues

- Has there been a liquidation that triggers deemed trusts under the federal and Newfoundland and Labrador legislation?
  - yes
- Are the deemed trusts valid in CCAA proceedings?
  - no
    - provincial deemed trust – doctrine of paramountcy
    - federal deemed trust – intention of Parliament



# *Pension Benefits Standards Act, 1985 and Pooled Registered Pension Plans Act Policy Initiatives*

**Lynn Hemmings**

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# Questions

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