Proposed Regulations for Discharge of Pension Plan Administrator Regarding Purchase of Annuities

January 10, 2018

This Pension Alert contains information relevant to a pension plan registered in Ontario which has a defined benefit component.

The *Pension Benefits Act* (Ontario) will be amended to provide for the discharge of the plan administrator of a single-employer plan that provides a defined benefit pension benefit and which has purchased annuities in respect of a pension, a deferred pension or an ancillary benefit. The discharge is available for purchases before or after the legislative amendments come into effect if the prescribed conditions are satisfied.

The Ontario Ministry of Finance is seeking comments on the proposed regulations regarding the discharge. Stakeholders are invited to submit their comments by January 29, 2018.

Below is a high-level outline of the key features regarding the proposed discharge relating to annuities purchased after the legislative amendments come into effect.

- The discharge is available only for purchases of annuities for former and retired members and not active members.
- The annuity must be purchased from an insurance company which is authorized to sell annuities.
- The annuity must provide the same benefits (to a former member) or payments in the same amount or form (to a retired member or his/her spouse) as they would have received from the pension plan if the annuity has not been purchased.
- The annuity contract must describe clearly the benefit purchased and include provisions prescribed by the regulations, including exemption from execution, prohibition against assignment, division on the breakdown of marriage or common-law relationship, joint and survivor benefit, pre-retirement death benefit.
- Plan solvency funding levels must be maintained after the annuity purchase at higher of 100 per cent (or 85 per cent under the proposed new funding rules) and the plan's solvency funding ratio immediately before the annuity purchase.
- The administrator must provide notice to the affected former members or retired members advising them of the purchase and the discharge and providing them with other prescribed information including a summary of the annuity contract.

- A compliance certificate and a copy of the annuity contract must be filed with the Ontario pension regulator.

Discharge in respect of annuities purchased before the legislative amendments come into effect will be available if certain prescribed requirements are satisfied, including adjustments of the annuity contracts to comply with the new rules and the maintenance of the plan solvency funding levels.

The Pensions and Benefits Group will continue to keep you posted in our Pension Alerts.

By

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