Special Notice

August 5, 2021

Newfoundland and Labrador Introduces Amendments to funding for Multi-Employer Pension Plans

Changes eliminate onerous solvency funding requirement and set an appropriate level of minimum funding requirements, providing boards of trustees flexibility to fulfill their fiduciary duty to manage their plan in the best long-term interests of plan members.

On July 30, 2021, the government of Newfoundland and Labrador *published* Regulation 44/21 amending the Pension Benefits Act Regulations under the Pensions Benefits Act (Regulation 44/21). After a multi-year consulting process between the government and interested stakeholders, Regulation 44/21 introduces amendments to funding rules related to Multi-Employer Pension Plans (MEPPs) in the province.

The measures include a permanent exemption from solvency funding requirements for MEPPs, retroactive to December 31, 2020 when the previous temporary exemption ended. Going-concern unfunded liabilities must now be funded over 10 years instead of the previous 12-year requirement. Also of note, solvency holdbacks for commuted value payouts from MEPPs are no longer required.

This Special Notice provides an overview of the changes and the implications for MEPP plan administrators and members moving forward.

Solvency Exemption for MEPPs

Regulation 44/21 amends the Pension Benefits Act Regulations to provide a permanent solvency exemption to MEPPs but requires plans to apply enhanced going-concern funding rules as follows:

- Going-concern unfunded liabilities must be funded over a 10-year period (with a newly established payment schedule following each valuation), rather than over 12 years as previously required under the temporary solvency exemption.
- MEPPs will continue to be required to file full actuarial valuation reports every 3 years, with cost certificates in the interim years.

Permanent solvency exemption is automatically granted. As a result, plans are no longer required to provide notice to members of applying the solvency exemption.

Calculation of Commuted Values and Discontinued Solvency Holdbacks for MEPPs

Reg. 44/21 eliminates the requirement for plan administrators to apply solvency holdbacks to commuted value payouts from MEPPs and any currently pending solvency holdbacks are now able to be paid out.

The Canadian Institute of Actuaries (CIA) released revised Standards of Practice for the calculation of commuted values on January 24, 2020 (see Eckler's February 12, 2020 *Special Notice* for further details). The revised CIA standards resulted in changes to the calculation of commuted values for many MEPPs, including the use of assumptions tied to the going-concern valuation. Although the implementation of the revised standards has been permitted for MEPPs in Newfoundland and Labrador, holdbacks determined based on solvency valuation metrics continued to be required until the release of Regulation 44/21. This removal of the solvency-based holdback now brings the Pension Benefits Act Regulations into alignment with the revised CIA standards. Plan administrators should continue to calculate commuted value payouts from MEPPs based on the new CIA Standards of Practice, noting also that the province's requirement to use the optimal or maximizing age for commuted values remains in place.

Implications

Reg. 44/21 introduces welcome changes to the funding restrictions placed on MEPPs. The move by the Newfoundland and Labrador government to eliminate unduly onerous solvency funding requirements sets an appropriate level of minimum funding requirements, while providing boards of trustees flexibility to make prudent funding considerations given their specific situation. This will allow them to exercise their fiduciary duty to manage their plan in the best long-term interests of plan members including balancing benefit adequacy, security and stability and maintaining intergenerational equity. The regulatory model introduced by Newfoundland and Labrador serves as the type of framework for MEPP funding that would be welcomed by plan administrators and stakeholders in other jurisdictions.

Coming into force

Section one of Reg. 44/21 is considered to have come into force as of December 31, 2020. Plan administrators should ensure they review their current funding and administrative policies to confirm compliance with the revised regulations. Please reach out to your Eckler contacts if you have any questions or concerns regarding Regulation 44/21 or any other administrative questions.

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