Superintendent of Pensions

INFORMATION
BULLETIN

BULLETIN NUMBER:	**PEN - 09 - 005**
TITLE:	**TRANSFERS OF THE COMMUTED VALUE OF PENSION BENEFITS UNDER SECTION 25 OF THE PENSION BENEFITS STANDARDS REGULATION**
LEGISLATION:	**Pension Benefits Standards Act**
DATE:	**JULY 2009**

Overview

The purpose of this bulletin is to:

- Provide an overview of section 25 of the Pension Benefits Standards Regulation ("Regulation"), and how it applies to the transfer of the commuted value of benefits out of a defined benefit pension plan;

- Elaborate on subsection 25 (3) of the Regulation, which permits an administrator of a defined benefit pension plan to restrict the transfer of a commuted value, where the solvency ratio exceeds 100%; and

- Discuss the three exceptions to the transfer of commuted values set out in subsections 25 (5) and 25 (9) of the Regulation.

Given recent market events, plan administrators may not be aware of legislated safeguards to protect the solvency of pension plans.

Plans with Solvency Ratios of 100% or More

Generally, where the solvency ratio of a defined benefit pension plan is 100% or more, the transfer of a commuted value of benefits from the plan will not be deemed to impair the solvency of the plan. However, under subsection 25 (3) of the Regulation, the administrator of a defined benefit pension plan may restrict the transfer of the commuted value of benefits from the fund, even where the plan has a solvency ratio of 100%, if the Superintendent agrees that the transfer would materially impair the solvency of the plan.

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Example
Assume that:

- The most recent AVR prepared as at December 31, 2007, showed a solvency ratio of 105%.
- In 2008, the plan incurred investment losses of 16%, resulting in an estimated solvency ratio of 88.0%.
- The administrator makes an application to the Superintendent, with supporting documentation, requesting approval to restrict the transfer of commuted values to 88.0% of the commuted value.
- The Superintendent issues written agreement with the administrator's position that the transfer of the full commuted value of benefits from the plan would materially impair the solvency of the plan.

- The administrator could then immediately restrict all transfers from the pension fund to 88.0% of the commuted value. The remaining amount must be paid not later than five years after the date of the initial transfer.

Plans with a Solvency Ratio of Less than 100%

Where the solvency ratio of a defined benefit pension plan is less than 100%, the legislation allows an amount equal to the commuted value of benefits, less the **transfer deficiency**[1], to be transferred from the plan.

Example
Assume that:

- A pension fund holds $800,000 in assets.
- The total liabilities for the plan are $1,000,000.
- The solvency ratio for the pension fund is 80.0% (which is less than 1).
- The commuted value to be transferred on behalf of a terminated member is $100,000.

- The transfer deficiency is $20,000, calculated as

  $100,000 – ($100,000 * 0.80)
  = $100,000 - $80,000
  = $20,000

- The administrator may immediately transfer $80,000. The remaining $20,000, plus applicable interest, must be paid not later than five years after the date of the initial transfer.

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[1] Section 25 of the Regulation defines a **transfer deficiency**, if one is identified in the most recent Actuarial Valuation Report as, in part, "the amount by which the commuted value of a benefit exceeds the product of that commuted value and the solvency ratio."

Exceptions to the Restrictions on Transfers

Subsections 25 (5) and 25 (9) of the Regulation

Under subsection 25 (5) of the Regulation, when a defined benefit plan has a solvency ratio of less than 100%, there are two permitted exceptions to the restrictions on the transfer of the commuted value. A further exception is set out in subsection 25 (9) of the Regulation.

Any transfer of assets that does not meet the terms of any of the three exceptions is not permitted.

Subsection 25 (5) of the Regulation

Under subsection 25 (5) of the Regulation, the administrator may transfer the full commuted value of benefits if:

1. Before making a transfer, a lump sum amount equal to the transfer deficiency is remitted to the pension fund; or,

2. Where

    a. the transfer deficiency for any person is less than 5% of the Year's Maximum Pensionable Earnings (the "YMPE")[2] for the year; and,
    b. the total of all transfer deficiencies since the last actuarial review date, which cannot exceed 5% of the market value of the assets of the plan at the time of transfer;

    the transfer shall not be deemed to impair the solvency of the plan.

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[2] Please note that the YMPE increases annually. For more information on YMPE limits, refer to the following website http://www.cra-arc.gc.ca/tx/rgstrd/papspapar-fefespfer/lmts-eng.html

Example:
For purposes of the first exception under subsection 25 (5), assume that:

- A pension fund holds $1,000,000 in assets.
- The total liabilities for the plan are $1,200,000.
- The solvency ratio for the pension fund is 83.33% (which is less than 1).
- The commuted value to be transferred on behalf of a terminated member is $50,000.
- The transfer deficiency is $8,335, calculated as:

  $50,000 – ($50,000 * 0.8333)
  = $50,000 - $41,665
  = $8,335

- If, before making the transfer of the commuted value, a lump sum in the amount of $8,335 is remitted to the plan fund by the employer, the administrator may transfer the entire amount of the commuted value, and the transfer from the plan would not be deemed to impair the solvency of the plan.

For purposes of the second exception, under subsection 25 (5) assume that:

- A pension fund holds $1,000,000 in assets.
- The total liabilities for the plan are $1,100,000.
- The solvency ratio for the pension fund is 90.91% (which is less than 1).
- There have been no transfers of commuted values made since the most recent Actuarial Valuation Report (December 31, 2008).
- The Year's Maximum Pensionable Earnings ("YMPE") for 2009 is $46,300.
- 5% of the YMPE for 2009 is $2,315 ($46,300 * 0.05).
- The commuted value to be transferred on behalf of a terminated member is $25,000.
- The "transfer deficiency is $2,272.50, calculated as:

  $25,000 – ($25,000 * 0.9091)
  = $25,000 - $22,727.50
  = $2,272.50

- Since the amount of the transfer deficiency ($2,272.50) is less than 5% of the YMPE ($2,315), and no other transfers have been made since the last Actuarial Valuation Report, the transfer of the full commuted value of benefits equal to $25,000 may be made without any restriction. Such transfer will not be deemed to impair the solvency of the plan.

Subsection 25 (9) of the Regulation

Under subsection 25 (9), of the Regulation, where a transfer of the commuted value of benefits has been restricted, and the person entitled to the transfer of the transfer deficiency dies during the five (5) year period, the transfer deficiency becomes immediately payable, without regard to the solvency ratio of the plan at that time.

Contacts

For specific information about the application of section 25 of the Regulation to a member or members of your plan, administrators must contact their actuary.

For more information on the transfer of assets of a pension plan, please contact:

Office of the Superintendent of Pensions	Telephone:	(604) 953-5200
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