

Regulatory Statement



REGULATORY STATEMENT NUMBER:	PENS 20-005
TITLE:	Target Benefit Provision for Adverse Deviation Exemption and Related Amendments
LEGISLATION:	Pensions Benefit Standards Act
DATE:	December 18, 2020
DISTRIBUTION:	Plan Administrators of Target Benefit Plans

PURPOSE

The Government of British Columbia has amended the *Pension Benefits Standards Regulation* (“Regulation”) to offer short-term funding relief to Target Benefit (“TB”) plans.

Administrators may elect an exemption from the requirement to fund the Provision for Adverse Deviation (“PfAD”) under Section 58 (2)(b) of the Regulation for a period that begins on a review date falling during the period from December 31, 2019 to December 30, 2022 inclusive, and ends before the following review date.

In addition, housekeeping amendments have been made to sections 45 (5) and 58 (10) to (11) of the Regulation so that they apply to all TB plans, not only those that are collectively bargained.

The Order in Council became effective on December 18, 2020 and may be found [here](#).

The amendments made by the Order in Council reflect recommendations from the BC Financial Services Authority (“BCFSA”) to the Ministry of Finance that were developed by the BCFSA’s TB PfAD Working Group. The amendments are intended to assist TB plans in managing the current funding requirements over the short-term while the Working Group continues to develop recommendations for long-term PfAD reform.

This Regulatory Statement reflects the views of the BCFSA. The specific legal requirements are set out in the *Pension Benefits Standards Act* (the “Act”) and the Regulation.

CURRENT REQUIREMENTS

The Regulation establishes minimum funding requirements for TB plans. Compliance must be demonstrated every three years in an actuarial valuation report (“AVR”), which must be prepared by an actuary in accordance with standards set by the Canadian Institute of Actuaries in a manner acceptable to the Superintendent of Pensions (“Superintendent”).

Contributions to a TB plan must be sufficient to fund the plan on a going concern basis plus a PfAD on normal actuarial cost. If contributions are insufficient and participating employers do not voluntarily increase contributions, benefits must be reduced to meet the minimum funding requirements.

WHAT’S NEW

The amendments permit the administrator to elect an exemption from the requirement to fund the PfAD by providing written notice to the Superintendent. The notice must specify a review date of the plan falling during the period from December 31, 2019 to December 30, 2022 inclusive. There is no restriction on the number of elections that may be made for review dates falling within this period.

If an election is made, the participating employers are exempt from the requirement under Section 58 (2) (b) of the Regulation to fund the PfAD during the exemption period. The exemption period is defined as the period beginning on the review date specified in the written notice of election and ending on the day before the following review date.

The amendments do not change the Regulation’s going concern funding requirements.

WHO IS ELIGIBLE?

Administrators of pension plans that contain one or more TB provisions in their plan text document are eligible to make an election under the Regulation for review dates falling during the period from December 31, 2019 to December 30, 2022 inclusive.

GUIDANCE TO PLAN ADMINISTRATORS

1. How to file an election

For AVRs filed after the issuance of this regulatory statement, there is no requirement to file a separate notice of election with the Superintendent. The administrator must indicate in the AVR that they are electing an exemption for the review date at which the AVR is prepared.

2. Instructions for plans that have already filed AVRs for eligible review dates

Some administrators have filed AVRs for review dates falling on or after December 31, 2019 prior to the amendments coming into force.

An administrator who has filed an AVR with a review date falling on or after December 31, 2019 may make a written notice of election under the Regulation to the Superintendent before December 31, 2020.

3. Conditions of the extension

The administrator must disclose the exemption in the annual statements to active members and retired members along with other persons who are receiving pensions provided in each fiscal year after the election is made, for as long as the exemption period continues.

Once an election is made for a TB plan, the plan text document must not be amended to improve benefits as long as the exemption period continues.

ADDITIONAL INFORMATION

If you have any questions, please contact the Office of the Superintendent of Pensions at Pensions@bcfsa.ca or by phone at 604-660-3555.

As the BC Financial Services Authority, we issue Regulatory Statements outlining how entities must operate, or the form and content required by the Regulator for mandatory regulatory filings identified in the *Pension Benefits Standards Act*, Regulations, and other pertinent legislation. While the comments in a part of a Regulatory Statement may relate to provisions of the law in force at the time they were made, these comments are not a substitute for the law. The reader should consider the comments in light of the relevant provisions of the law in force at the time, taking into account the effect of any relevant amendments to those provisions or relevant court decisions occurring after the date on which the comments were made. Subject to the above, instructions, definitions, and positions contained in a Regulatory Statement generally apply as of the date on which it was published, unless otherwise specified.