

# Temporary Relief 2012 - 2014

A bulletin respecting the temporary solvency relief available to negotiated cost pension plans with a filed actuarial valuation reports bearing a review date between December 31, 2012 to December 31, 2014.

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# **Negotiated-Cost Pension Plan – Temporary Solvency Relief**

## **1.0 INTRODUCTION**

On May 1, 2015, *The Pension Benefits Regulations, 1993* (“Regulations”) were amended to allow certain<sup>1</sup> negotiated cost defined benefit pension plan (“NCP”“) administrators (“eligible plan administrator”) to file an election for a four year period from funding a solvency deficiency established in an actuarial valuation of a plan with a review date between and including December 31, 2012 and December 31, 2014 (“Relief”).

The Relief provides plan sponsors with time to consider options aimed at ensuring the long term viability of the plan. The time should be used to think strategically and act accordingly. In addition, the Relief provides FCAA with time to complete a review of the regulatory framework for NCPPs, and make a recommendation to the Government regarding new permanent funding rules for NCPPs.

The Relief is provided to afford stability to pension benefits and funding requirements during the time of FCAA’s review of the permanent NCPP framework. Note that contributions may still have to be increased and/or benefits reduced if the negotiated contributions rates under the NCPP continue to be unable able to meet the funding tests.

This bulletin outlines the framework for the Relief. This bulletin has no legal authority. The Act and the Regulations should be used to determine specific requirements.

## **2.0 FOUR YEAR MORATORIUM**

The Regulations have been amended to allow an eligible plan administrator to file an election for a four year moratorium from funding a solvency deficiency established in a valuation of a plan with a review date between and including December 31, 2012 and December 31, 2014 (“Relief Valuation”).

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<sup>1</sup> The Relief does not apply to NCPPs which are specified plans. In accordance with section 36.7 of the Regulations, specified plans do not have to amortize solvency deficiencies.

### **3.0 ELECTION AND ADMINISTRATOR OF THE RELIEF**

#### **3.1 Plan Administrators which are Eligible to Elect Relief**

Under the Relief, an eligible plan administrator may file an election for Relief. An eligible plan administrator is the administrator of a NCPP which is registered pursuant to *The Pension Benefits Act, 1992* (the “Act”), is subject to subsection 40(5) of the Act, and is not a specified plan as defined by clause 36.7(1)(b) of the Regulations.

The Relief is Relief from the solvency test in clause 36(3)(c) of the Regulations. By electing Relief, the plan sponsor would not be required to increase contributions and/or decrease benefits in order to meet that solvency test.

#### **3.2 Filing an Election for Relief**

To elect the Relief, the eligible plan administrator is required to file a written notice of election with the Superintendent of Pensions (“Superintendent”). A letter, filed at the same time that the Relief Valuation is filed, from the eligible plan administrator to the Superintendent would be sufficient for this purpose. The Relief begins at the review date of the actuarial valuation that was filed with the notice of election.

The Relief can only be applied to the solvency deficiency established in the Relief Valuation that was submitted with the notice of election. If an actuarial valuation is filed during the Relief period, the administrator cannot elect Relief for a solvency deficiency established in that valuation. The election for the Relief can only be made once. Any new solvency deficiency established in a filed actuarial valuation would have to be funded over a period that does not exceed five years.

#### **3.3 Standard Triennial Valuation Not Required**

The Regulations were amended to exempt a plan from the requirement to file the regular triennial valuation that would typically fall within the Relief period. For example, provided the Relief is not withdrawn or revoked, a plan that files a Relief Valuation prepared as at December 31, 2012 is not required to file the standard triennial valuation as at December 31, 2015, but is required to file an actuarial valuation report prepared at the end of the Relief period (i.e. as at December 31, 2016). The requirement to file a regular triennial actuarial valuation resumes at the end of the Relief period. If an actuarial valuation is filed during the Relief period, the funding requirements set out under section 3.5.1 would apply.

### **3.4 Benefit Improvements**

Benefit improvements are prohibited during the period of the Relief, except where established by collective bargaining agreement or other contract before the coming into force of the amending regulations.

### **3.5 Solvency Valuation during the Relief**

The solvency assets in the Relief Valuation includes any remaining and payable<sup>2</sup> solvency deficiency payments established in a previous valuation (any valuation filed before the Relief Valuation), and the present value of up to five years of unamortized unfunded liability payments.

Upon election of the Relief, no payments would be required towards the solvency deficiency established in the Relief Valuation. Further, the plan sponsor would not be required to increase contributions and/or decrease benefits in order to meet that solvency test. Although payments towards the solvency deficiency established in the Relief Valuation would not be required if an election for the Relief was made, the plan sponsor could make solvency deficiency payments, if permitted under the *Income Tax Regulations* (Canada).

#### **3.5.1 Filing an Actuarial Valuation during the Relief**

An administrator could file an actuarial valuation during the Relief period (“Subsequent Valuation”). Doing so does not trigger a voluntary withdrawal from the Relief. See section 4.1 for further details regarding a voluntary withdrawal from the Relief.

If a Subsequent Valuation is filed during the Relief period, and the Subsequent Valuation reveals a solvency deficiency, then that new solvency deficiency must be amortized over a period not exceeding five years.

The solvency assets in the Subsequent Valuation would include:

- any remaining and payable<sup>3</sup> solvency deficiency payments established in a previous valuation (i.e. any valuation filed before the Subsequent Valuation), and
- the present value of up to five years of unamortized unfunded liability payments.

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<sup>2</sup> Solvency assets would not include any remaining payments towards a solvency deficit upon which the previous relief was elected, if applicable, as those payments are not “payable”.

<sup>3</sup> Solvency assets would not include any remaining payments towards a solvency deficit upon which the Relief was elected, as those payments are not “payable”.

In this scenario, a voluntary withdrawal from the Relief would not be triggered, thus there would be remaining years of the Relief. To account for those remaining years, the present value of the notional payments remaining in the Relief period can be deducted from the solvency deficiency established in the subsequent valuation.

In this scenario, an actuarial valuation would be required at the end of the Relief period (End-of-Relief Valuation). See subsection 4.3 for details.

### **3.6 Disclosure to Members**

Within sixty days of providing notice of election to the Superintendent, the administrator must provide written notice of election to plan members and former members.

## **4.0 TERMINATION OF THE RELIEF**

This section sets out the three means by which the Relief could end.

### **4.1 Voluntary Withdrawal from the Relief**

An administrator would be able to withdraw the election of the Relief by filing a notice of withdrawal with the Superintendent. The effective date of the withdrawal can only be as at the plan's fiscal year end. An actuarial valuation would be required to be prepared as at the effective date of the withdrawal ("Withdrawal Valuation"), and filed no later than nine months after the effective date.

If the administrator withdraws from the Relief, and the Withdrawal Valuation reveals a solvency deficiency, then that new solvency deficiency must be amortized over a period not exceeding five years.

The solvency assets in the Withdrawal Valuation would include:

- any remaining and payable<sup>4</sup> solvency deficiency payments established in a previous valuation (i.e. any valuation filed before the Withdrawal Valuation), and
- the present value of up to five years of unamortized unfunded liability payments.

In this scenario, a voluntary withdrawal from the Relief was triggered, thus there would be no remaining years of the Relief and there would be no notional payments remaining in the four year Relief period that could be deducted from the solvency deficiency established in the Withdrawal Valuation. In addition, the Withdrawal Valuation would also be the End-of-Relief Valuation.

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<sup>4</sup> See footnote "3"

#### **4.2 Involuntary Termination of the Relief**

The Superintendent has the authority to terminate the election for Relief if any requirements under the Regulations are breached.

All solvency deficiencies of the plan would have to be funded in accordance with section 36 of the Regulations. Payments would be payable to the plan as though the Relief was never elected. As such, special payments towards all solvency deficiencies would commence immediately, and all outstanding special payments (i.e. the payments due from the review date to the date of termination of the Relief) would be due immediately to the plan. Where a NCPP is not able to meet the solvency tests of the plan, benefits would be decreased and/or contributions must be increased.

#### **4.3 End of the Four Year Period of the Relief**

An End-of-Relief Valuation would be required to be prepared at the end of the Relief period. The solvency assets in the End-of-Relief Valuation would include any remaining and payable<sup>5</sup> solvency deficiency payments established in a previous valuation (i.e. any valuation filed before the End-of-Relief Valuation), and the present value of up to five years of unamortized unfunded liability payments.

### **5.0 ADDITIONAL INFORMATION**

For additional information please contact:

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<sup>5</sup> See footnote "3".