FTR Now

Ontario Expert Commission on Pensions Releases Report

Date: November 20, 2008

The Ontario Expert Commission on Pensions (the "Expert Commission") released its much anticipated Report "*A Fine Balance*" to the public today. The full Report is 222 pages and contains 142 recommendations "for reforming and reinvigorating Ontario's pension system".

HIGHLIGHTS OF KEY FINDINGS AND RECOMMENDATIONS

New Regulatory Regime Recommended

The Expert Commission recommended that the current Financial Services Commission of Ontario (which oversees pensions, insurance companies, mortgage brokers and credit unions) should be replaced by a new Ontario Pension Regulator. This new agency should have self-management powers comparable to those of the Ontario Securities Commission and it should deal exclusively with pension matters. It is recommended that the Superintendent of Pensions be the chief executive of the agency, and that he or she be given expansive regulatory powers.

The Expert Commission also recommended that the current Financial Services Tribunal should be replaced with a new Pension Tribunal of Ontario which would have exclusive and ultimate jurisdiction over all *Pension Benefits Act* matters. It was recommended that decisions of the Pension Tribunal of Ontario should be final and binding, with very limited avenues of appeal.

Funding Recommendations

The Expert Commission found that single employer pension plans (SEPPs) should continue to be valued on both a solvency and going concern basis. It was recommended that SEPPs should be required to maintain a security margin (or provision for adverse deviation) of 5%, with a proposed eight year amortization period. It was also recommended that Regulations should be developed to allow sponsors to use letters of credits and possibly asset pledges to fulfil certain contribution obligations.

The Expert Commission did not endorse an extension of current solvency deficiency funding schedule to 10 years as was proposed by some stakeholders. It did however recommend that different rules be adopted for various types of plans (SEPPs as compared to multi-employer plans and jointly sponsored plans), due to the distinctive characteristics of each type of plan.

Recommendations Relating To "Plan Failures"

The Expert Commission recommended that the Superintendent be given the power to approve arrangements agreed to by plan sponsors and unions (and members in the non-unionized workforce context) for resetting funding obligations and providing security when a plan is at risk. A review of the PBGF has been recommended.

Emphasis on Governance

An entire chapter of the Report discussed the topic of governance. It was specifically recommended that pension governance documentation should be filed with the regulator, and that all plans should be required to establish pension advisory committees which represent both members and retirees.

Further Sweeping Policy Initiatives

The Expert Commission made a number of broad “policy type” recommendations aimed at enhancing pension coverage. The Report calls for the creation of a Pension Champion, a government agency that would be responsible for improving the Ontario pension system. It was recommended that the development of large broad based plans be further studied.

The creation of a new Pension Community Advisory Council was also recommended.

BACKGROUND: THE EXPERT COMMISSION AND THE REVIEW PROCESS

The Expert Commission was appointed by the Ontario government in the fall of 2006 to review Ontario’s occupational pension system. A comprehensive review of the Ontario pension system has not been undertaken in over 20 years. Harry Arthurs, former President of York University and the Dean of Osgoode Hall Law School, was appointed as the Chair of the Expert Commission. A four-person advisory panel was also appointed. The mandate of the Expert Commission was “to examine the legislation that governs the funding of defined benefit pension plans in Ontario, the rules relating to pension deficits and surpluses, and other issues relating to the security, viability and sustainability of the pension system in Ontario.”

The Expert Commission generated today’s Report after completing extensive research and industry-wide consultation. In February 2007, it published a discussion paper “*Reviewing Ontario’s Pension System: What are the Issues?*”, which invited interested parties to make written and oral submissions in response to specific questions. Last fall, the Expert Commission held public hearings in five cities across Ontario. In total, approximately 120 written submissions were received by the Expert Commission from various stakeholders, including: plan sponsors, plan members and pensioners, unions and other representative organizations, plan administrators, pension professionals, academic, community and others.

Finally, the Expert Commission sponsored a Research Program under which it commissioned 17 research projects covering a broad range of topics.

NEXT STEPS

The Report was delivered to Ontario’s Minister of Finance on October 31, 2008, before today’s broader release. The province is seeking feedback on the Report from industry stakeholders and all other interested parties, with a written comment period ending February 27, 2009.

Hicks Morley’s Pension and Benefits Group is now reviewing the Report in detail. Further information about the Report will be provided in due course. In the meantime, if you have questions, please contact one of the members of our Pension and Benefits Group.

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