Human Resources Legislative Update

Letters of Credit Regulation Proposed to Implement Pension Reform Measures

Date: July 30, 2012

On July 30, 2012, the Ontario Ministry of Finance posted details of a proposed, supporting regulation to implement the new framework for letters of credit under the yet to be proclaimed section 55.2 of the *Pension Benefits Act* ("PBA").

As noted in our "Pension Reform Measures in Ontario Have Arrived" FTR Now of July 27, 2012, in Bill 120, the PBA was amended to allow the use of letters of credit in lieu of cash contributions to fund deficits in defined benefit plans up to 15% of a plan's solvency liabilities. The government reaffirmed its commitment to providing employers with additional flexibility in the funding of their pension plans in the 2012 Budget. The regulatory details proposed are designed to implement these measures, and would:

- identify the maximum value of letters of credit;
- set out the calculation method for determining the maximum value;
- identify who can use and issue letters of credit;
- set out the contractual requirements for letters of credit;
- set out the provisions for holding letters of credit in trust;
- determine circumstances in which a default is deemed to have occurred;
- establish procedures to be followed in the event of a default;
- establish requirements for permissible trust agreements; and
- set out distribution and inspection requirements.

Stakeholders and interested parties may submit comments on the proposed regulation electronically by August 31, 2012.