

Human Resources Legislative Update

Letters of Credit Pension Regulation Filed

Date: November 16, 2012

On November 15, 2012, the Ontario government filed [O. Reg. 364/12](#), which amends [Regulation 909](#) made under the [Pension Benefits Act](#) (“PBA”) and implements the framework for letters of credit under the yet to be proclaimed section 55.2 of the PBA.

Section 55.2 of the PBA will 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. [As previously reported](#), a draft regulatory proposal designed to implement that change was released for comment on July 30, 2012. O. Reg. 364/12 is the result of that process.

Among other matters, O. Reg. 364/12 prescribes:

- the pension plans to which section 55.2 of the PBA applies;
- rules with respect to the determination of the amount of the solvency liability of a pension plan for the purposes of section 55.2(4) of the PBA;
- the circumstances under which a trustee who holds a letter of credit in trust for a pension plan can demand payment of the amount of that letter of credit into the pension fund by the issuer;
- mandatory requirements of the form of the letters of credit and their terms;
- requirements for holding a letter of credit in trust; and
- specified provisions which must be contained in trust agreements to which a letter of credit is subject.

O. Reg. 364/12 comes into force on the day it is filed or the date section 18 of the *Securing Pension Benefits Now and for the Future Act, 2010* (which enacts section 55.2 of the PBA) comes into force, whichever is later.

For more information on the recent changes to the pension regime in Ontario, see our *FTR Now* of July 27, 2012, “[Pension Reform Measures in Ontario Have Arrived](#).”