

FTR Now

Amendments Filed to Regulation Made Under Ontario *Pension Benefits Act*

Date: December 4, 2014

The Ontario government has filed [O. Reg. 235/14](#), amending Regulation 909 of the *Pension Benefits Act* (“PBA”) in respect of new rules regarding Statements of Investment Policies and Procedures (“SIP&Ps”), requirements to provide periodic statements to former and retired members and the content of annual member statements.

Draft regulations (“Draft Regulations”) were previously released for consultation on October 3, 2014. The key features of the Draft Regulations were summarized in our *FTR Now* of October 9, 2014, “[Ontario Releases Proposed PBA Regulations for Consultation.](#)”

With the filing of O. Reg. 235/14, administrators of Ontario registered pension plans now have guidance on when certain changes will be effective. In this *FTR Now*, we highlight the timing of these new provisions.

NEW SIP&P REQUIREMENTS

All Ontario registered pension plans are required to maintain a SIP&P which governs the investment of the plan’s assets. O. Reg. 235/14 introduces filing requirements for SIP&Ps. For plans registered before January 1, 2016, the SIP&P must be filed with the Superintendent of Financial Services within 60 days of January 1, 2016. For plans registered on or after January 1, 2016, the SIP&P must be filed within 60 days after registration. SIP&Ps must be reviewed and confirmed or amended at least once each plan year. Subsequent amendments to a SIP&P must be filed within 60 days after the amendment is made.

Effective January 1, 2016, SIP&Ps must include information about whether environmental, social and governance (“ESG”) factors are incorporated into the SIP&P, and if so, how. While this new requirement does not necessarily direct a different approach to investments, it will likely encourage plan administrators to give more specific consideration to ESG factors.

DISCLOSURE REQUIREMENTS

Former and Retired Members

Further to the 2010 changes to the PBA introduced through Bill 236, the new section 27(2), which comes into force on January 1, 2015, will require plan administrators to provide periodic statements to former and retired members. O. Reg. 235/14 prescribes the content and the frequency of these statements.

Generally, the content of the new statements for former members and retired members will be similar to annual statements which are now provided to active plan members. However, details relating to a particular former member or retiree's participation in the plan do not need to be included (e.g., years of Credited Service under a DB benefit formula).

For plans registered on or before January 1, 2015, the first statement for former members and retired members must be provided no later than July 1, 2017. Subsequent statements must be provided within the two-year period from the day the previous statement was provided, but in any event within six months after the plan's year end.

One significant change from the Draft Regulations found in O. Reg. 235/14 is an extension of the deadline for the delivery of statements to former members and retired members with respect to plans registered after January 1, 2015. Plan administrators will now have 18 months after the end of the plan's first fiscal year to provide the first statements to former members and retired members. The Draft Regulations had specified a deadline of six months.

Changes to Current Requirements for Member Statements

Effective July 1, 2016, members' annual statements must disclose that a SIP&P has been established and information about whether ESG factors are incorporated into the SIP&P and if so, how. The revised regulation also requires that members' annual statements disclose that the plan's SIP&P is available for inspection by prescribed persons at the employer's premises or at the office of the Superintendent.

If you have any questions about O. Reg. 235/14 and its requirements, please contact any member of Hicks Morley's [Pension, Benefits and Executive Compensation Team](#).

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