Human Resources Legislative Update

Ontario Proposes Elimination of the “30% Rule” for Pension Investment

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Further to announcements made in its 2015 Economic Outlook and Fiscal Review, the Ontario government is soliciting feedback on proposed regulatory reforms that would eliminate the current investment rule that prohibits plan administrators from making investments that result in pension funds owning more than 30% of the voting shares of a corporation.

The so-called “30% rule” is a quantitative investment limit set out in the federal *Pension Benefits Standards Regulations* incorporated by reference into Regulation 909 of the *Pension Benefits Act*. Currently, only real estate, resource and investment corporations are exempted from its application, provided the corporations undertake to meet certain investment, operational and disclosure obligations. The proposed reforms would:

- **Eliminate the 30% rule**. Pension funds would not be restricted to owning only 30% of the voting shares of any type of corporation.
- **Establish new disclosure obligations and undertakings**. A threshold investment percentage (e.g. 30% or another amount) would be established above which plan administrators or corporations would be required to comply with new disclosure obligations or undertakings, to ensure that fiduciary obligations to members and beneficiaries are met. Undertakings could include the requirement for the corporation to make certain filings with the Superintendent upon request, to provide the Superintendent with access to inspect the corporation’s books and records, to provide accredited appraisals to the Superintendent upon request, or to adhere to limits on the operations or investments made by the corporation. All of these measures would be designed to protect pension plan beneficiaries.Submissions are due by April 29, 2016.
- Stakeholder input is being sought on these proposals, prescribed criteria (if any) for their application to specific types of plans or corporations, and other considerations or concerns associated with the elimination of the rule, such as potential conflicts of interest.