Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Amendments
INDEX NO.:	A400-100
TITLE:	Actuarial Filing for Plan Amendments - Regulation 909 ss. 3, 13 and 14
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (July 2013)
EFFECTIVE DATE:	November 1, 2006 [updated – July 2013]

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Section 3 of the Regulation requires the plan administrator to file a report when a plan amendment changes contributions or creates or changes a going concern unfunded liability or solvency deficiency. The report must contain any of the information required under section 14 of the Regulation that might be affected by the amendment. This policy provides guidance to plan administrators and their actuaries about the preparation of this report.

Application of This Policy

This policy applies to a plan amendment that changes the benefit provisions of a pension plan that provides defined benefits, but does not normally apply to an amendment concerning the conversion of a defined benefit arrangement to a defined contribution arrangement, the transfer of assets from one plan to another, or the wind up of a plan in whole or in part. These latter types of amendments are addressed in other policies.

When applying this policy to a jointly sponsored pension plan, which is defined in section 1(2) of the PBA, necessary modifications should be made to reflect the special funding rules applicable to that type of plan (e.g., special payments may be expressed as a percentage of pensionable earnings, amortization of going concern unfunded liability and solvency deficiency may commence up to one year after the valuation date, etc.).

In this policy "period covered by the report" means the time period starting on the day after the valuation date of the last report filed under section 13 or 14 of the Regulation and ending on the valuation date of the next report to be filed under section 14.

Amendment Improving Plan Benefits

Where a plan is amended to improve pension benefits, ancillary benefits or other benefits, the plan administrator should seek advice from an actuary when determining whether a report must be filed under section 3 of the Regulation. Generally, a report will be required unless all of the following conditions are met:

- The last filed valuation report for the plan disclosed a surplus on both a going concern and solvency basis, and the amount of the going concern surplus was sufficient to meet the expected normal cost for the period covered by the report;
- The plan does not prohibit the use of surplus for contribution holiday; and
- The actuary is of the opinion that, after the amendment takes effect, the plan will still have a surplus on both a going concern and solvency basis and the amount of the going concern surplus is sufficient to meet the expected normal cost for the balance of the period covered by the report. In forming this opinion, the actuary should take into account the plan experience since the effective date of the last valuation report and the prevailing economic conditions at the effective date of the amendment.

If it is determined that a report is not required to be filed under section 3 of the Regulation, the plan administrator should file a copy of the actuary’s written opinion with FSCO.

If it is determined that a report must be filed under section 3 of the Regulation, the plan administrator may choose to file either a complete valuation report or a report in the form of a cost certificate as described below.

Complete Valuation Report

The report must contain all of the information required in a report under section 14 of the Regulation, prepared on the basis of a valuation that takes into account the amendment as well as the plan experience since the valuation date of the last filed valuation report up to the effective date of the amendment. This report will be considered as a report filed under section 14 of the Regulation.

Cost Certificate

If a benefit improvement becomes effective after the valuation date of the last filed valuation report but prior to the date as of which the next valuation must be performed, the plan administrator may choose to file a cost certificate instead of a complete valuation report. The cost certificate discloses only the going concern and solvency funding impact due to the amendment, determined on the basis of a simplified valuation. The simplified valuation used to determine the impact of the amendment does not need to take into account the plan experience since the effective date of the last filed valuation report that is unrelated to the amendment. For the purposes of this valuation, the membership data used in the last filed valuation report may be used, with adjustments to reflect any material membership changes since the valuation date of that report.

The cost certificate should be prepared in the following manner:

1. The cost certificate, prepared as at the effective date of a benefit improvement, should contain the following information:

   (a) Any increase in the normal cost due to the benefit improvement;
   (b) Any increase in the going concern liabilities due to the benefit improvement, if not already reflected in the last filed valuation report or a previous cost certificate;
   (c) Any increase in the solvency liabilities due to the benefit improvement;
   (d) Any increase in the Pension Benefits Guarantee Fund (PBGF) liabilities due to the benefit improvement;

(e) The rule for computing the incremental normal cost due to the benefit improvement for the period up to the valuation date of the next report, if applicable;
(f) The estimate of the incremental normal cost due to the benefit improvement for each year up to the valuation date of the next report, if applicable;
(g) The incremental going concern special payments determined in accordance with paragraph 3 below, if any;
(h) The incremental solvency special payments determined in accordance with paragraph 4 below, if any; and
(i) A description of the actuarial assumptions and methods that are used to determine the incremental normal cost, incremental going concern liabilities and incremental solvency liabilities, as applicable.

The items identified in (a) to (d) above must be determined using the going concern assumptions or solvency assumptions that are applicable on the effective date of the benefit improvement. No smoothing adjustment is permitted for the determination of items (c) and (d).

2. If the last filed valuation report disclosed a surplus on either a going concern or solvency basis or both, and if, after taking into account the plan experience since the effective date of that valuation and the prevailing economic conditions at the effective date of benefit improvement, a corresponding surplus still exists in the plan prior to reflecting the benefit improvement, then this surplus as described in the paragraph below, may be applied to reduce or eliminate the incremental liabilities described in items 1(b), 1(c), or both, as the case may be, that are required to be funded.

   For the purposes of this Policy, surplus (going concern or solvency) is defined as the excess of the market value of assets of the plan over the sum of (i) the liabilities (going concern or solvency) of the plan prior to reflecting the benefit improvement, and (ii) the prior year credit balance (if any), all measured as at the effective date of the benefit improvement. The market value of assets must be determined based on the information contained in the financial statements of the pension fund. The liabilities of the plan may be determined using an approximation approach, with due regard to any material changes in the plan membership since the valuation date of the last filed valuation report, and should include a loading of 5% to allow for estimation errors. In determining the solvency liabilities, no smoothing adjustment is permitted.

3. The incremental going concern liabilities in item 1(b) above, reduced by any going concern surplus determined in paragraph 2, must be amortized by equal monthly installments over a period of no more than 15 years, beginning on the effective date of the benefit improvement.

4. The incremental solvency liabilities in item 1(c) above, reduced by any solvency surplus determined in paragraph 2 and the present value (calculated using the interest rates which are used to calculate the incremental solvency liabilities) of the next five years of the going concern special payments determined in paragraph 3, must be amortized by equal monthly installments over a period of no more than 5 years, beginning on the effective date of the benefit improvement.

5. For the purpose of determining the PBGF assessments to be paid on assessment dates subsequent to the benefit improvement, the incremental PBGF liabilities in item 1(d) above must be added to the PBGF liabilities and the PBGF assessment base[1] disclosed in the last filed valuation report. However, any solvency surplus determined in paragraph 2 that is related to the Ontario plan beneficiaries, up to the amount of the incremental PBGF liabilities, may be applied to reduce the PBGF assessment base.

[1] For the purpose of this calculation, there is no need to adjust for the time values of these items.

6. If the impact of the benefit improvement, including any prior benefit improvements that became effective after the last valuation date, is material[2] relative to the liabilities of the plan before any of such improvement(s) became effective, the cost certificate must include a reassessment of the transfer ratio of the plan as at the effective date of the benefit improvement. Commencing on that date, payment of commuted values to terminating members is to be based on the reassessed transfer ratio, if less than 1.0. Note that this reassessment of the transfer ratio will not trigger the requirement to perform annual valuations under section 14(3) of the Regulation because it will not affect the statutory solvency liabilities on the valuation date.

7. The contribution schedules set out in the cost certificate are in addition to those set out in the last filed valuation report and in any cost certificate(s) which were subsequently filed. Contributions for the period commencing on the effective date of the benefit improvement until the end of the period covered by the report must be made in accordance with the contribution schedules set out in the last filed valuation report and (all) cost certificate(s).

Prospective Flat Dollar Benefit Improvements and Ad Hoc Pension Adjustments

If a plan is amended to provide prospective flat dollar benefit improvements or ad hoc increases to pensions in payment, which will come into effect after the valuation date of a report, but which become definitive or virtually definitive[3] before the date the report is filed, the administrator may choose to reflect all of such benefit improvements in the valuation report as if they had become effective on the valuation date. This means that the employer must commence funding for the impact of the benefit improvements on the valuation date. (However, the impact of the improvements can be disregarded for the purpose of determining whether there is a solvency concern under section 14(3) of the Regulation because it will not affect the statutory solvency liabilities on the valuation date.) Having done so, there will not be a need to file a cost certificate when the benefit improvements come into effect.

Amendment Reducing Plan Benefits

Where a plan is amended to reduce pension benefits, ancillary benefits or other benefits, the employer may continue to fund the plan, until the next valuation report is filed, in accordance with the funding requirements set out in the last filed valuation report and in any filed cost certificates, where applicable. In this case, there is no need to file a report under section 3 of the Regulation. However, if the employer wants to lower its funding obligations to reflect the benefit reduction, a complete valuation report must be filed to support the reduction in required contributions. Where the benefit reduction applies to future service only, and the going concern liabilities and solvency liabilities of the plan are not changed as a result of the amendment, a cost certificate instead of a complete valuation report will suffice.

Exception

Under exceptional circumstances, the Superintendent may accept reports that are not prepared in accordance with the guidelines set out in this policy. However, the administrator must explain the reasons for not following the guidelines and demonstrate that the requirements under section 3 of the Regulation are otherwise met.

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[2] Impact is considered to be material if the solvency liabilities for the cumulative benefit improvements, determined as if they had become effective on the last valuation date, are greater than or equal to 10% of the solvency liabilities of the plan set out in the last filed valuation report.

[3] According to section 1520 of the *Standards of Practice* of the Actuarial Standards Board, published by the Canadian Institute of Actuaries, a definitive decision means a final and permanent decision which is not tentative, provisional, or unsettled. It would be evidenced by an amendment to a benefits plan, a collective bargaining agreement, a binding exchange of letters between two contracting parties, a court order, a legislative bill that has been proclaimed, or the like. A virtually definitive decision is one which is virtually certain to become definitive, but that lacks one or more formalities like ratification, due diligence, regulatory approval, third reading, royal assent, or proclamation.