

Bill C-9
Annual Actuarial Valuations

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Bill C-9, the humungous omnibus statute incorporating the federal budget announcements and much much more, was given first reading March 29, 2010 and is proceeding apace through the legislative process. It has had second reading and is through the Committee stage.

Included in its provisions are amendments to the *Pension Benefits Act*, 1985. Also issued are draft regulations supporting the amendments. Bill C-9 contemplates workout agreements to address underfunded plans, the appointment by the Superintendent of replacement administrators, the designation by the Superintendent of actuaries, and the use of letters of credit. The draft regulations go chiefly to techniques of averaging in valuations and the restriction of contribution holidays. We understand that there are more regulations to come.

An interesting ancillary feature of Bill C-9 is that it very clearly gives the Superintendent very wide latitude in directing the timing of filing actuarial reports.

A Draft Directive setting out the Superintendent's requirements was issued for comment on May 18, 2010. The effect of the Draft Directive is to require annual actuarial reports for all plans with solvency ratios less than 1.25 as disclosed in valuation reports with effective dates after December 31, 2009.

The requirement for annual valuations with a high threshold for exemption from annual filings, combined with the draft regulations calling for the averaging of solvency ratios and a 5 percent solvency margin for contribution holidays, would seem to afford plan members additional security, and also to limit wide fluctuations in the employer's solvency funding requirements.

There may be a concern, however, as to the additional burden on defined benefit plans, particularly smaller plans where the cost of an actuarial valuation is significant. It can be expected that annual valuation reports would be required for most federally registered plans on the assumption that most will not have a solvency ratio of 1.25.

Perhaps most federally regulated plans which tend to be large, will be able to absorb the cost of annual valuations. It is for plan sponsors to make their views known. If such a requirement should find its way into provincial legislation, however, we would be concerned of its impact on defined benefit plans, whose survival is already at risk. There is a need to balance protection of plan members with encouragement, or at least lack of discouragement of such plans.

This article is intended for general information purposes only and should not be relied upon as legal advice.

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