

# Client Advisory

## Manitoba amends the Pension Benefits Act and a related regulation

September 1, 2021

### Summary

Bill 8 and a supporting regulation introduce funding and other important reforms to Manitoba's pension legislation. The funding reform at this point is limited to solvency reserve accounts, which will come into force at a date to be determined. The other aspects of the funding reform proposed by Manitoba in November 2019 have not yet been introduced. This Client Advisory will be of interest to sponsors and administrators of Manitoba-registered pension plans, and administrators of other plans with Manitoba members.

### Introduction

**Amendments** to *The Pension Benefits Act* (PBA) (see our [Client Advisory](#) dated December 16, 2019) have been passed without amendment and will, unless otherwise indicated, take effect on October 1, 2021, together with **supporting amendments** to the *Pension Benefits Regulation* (Regulation). These amendments will implement significant pension reforms.

In this Advisory we first outline changes made to the Regulation that will affect plans registered in Manitoba, followed by a discussion of changes that will relate to Manitoba members of plans registered in other jurisdictions. We then provide details about solvency reserve accounts (SRAs) and aspects of the funding reform that are still to come.

### Plans registered in Manitoba

Below is a list of changes to the Regulation that will impact pension plans registered in Manitoba:

- Refunds can be made of employer overpayments and, on termination or wind-up, of excess solvency payments (excess solvency payment refers to the portion of a payment made by an employer after the plan termination to fund a solvency deficiency identified in the termination actuarial valuation report that, on wind up, is in excess of what was required to fund plan benefit obligations)

- A copy of the Statement of Investment Policies and Procedures must be filed within 180 days after the end of each fiscal year of a plan (currently there is no filing requirement)
- All plans with a DB provision must file audited financial statements within 180 days after the plan fiscal year (currently, there is an exception for single employer DB plans with assets under \$5 million, or for those with more assets, if certain conditions are met: going forward, this exemption will only apply to DC plans)
- Audited financial statements must disclose each fund investment with a market value greater than 2% (up from 1%) of the market value of all fund investments, and itemized according to 17 investment categories (a new requirement)
- Rules to be followed when a pension committee does not have a voting member who was elected or appointed by the plan's non-active members or other beneficiaries
- Plan amendments must be filed using a new form specified by the Superintendent
- An administrator must ensure the pension plan and fund (not just the plan) comply with the PBA and the Regulation
- Provisions relating to multi-unit pension plans are extended to specified multi-employer pension plans and a new exemption from the restriction on transfers that would impair the solvency of the plan is provided for both types of plans that elect to be treated as target benefit arrangements under Section 3570 of the CIA Standards
- Special Payments Relief Regulations made in 2008, 2011 and 2016 are repealed; however, the 2011 and 2016 Regulations continue to apply to a pension plan (that has made an election) either until the 10-year amortization period expires, or until the plan's first review date after October 1, 2021, whichever occurs first

## Manitoba members

Other amendments to the Regulation that will impact Manitoba members, regardless of the jurisdiction of plan registration, include:

- The Superintendent can, under exceptional circumstances, extend a deadline by which anything must be done under the PBA or the Regulation (other than a deadline by which an employer must fund or pay into the plan)
- New rules are provided for transfers to and/or withdrawals from RRIFs, LIRAs, LIFs and prescribed plans (see government [news release](#) for further details), and administrators who fail to comply with the rules for a one-time transfer of up to 50% of locked-in funds to a prescribed RRIF can be made subject to penalties
- The Chartered Bank Interest Rate set out in CANSIM V80691336 published by the Bank of Canada on the last Wednesday of each month must be used when crediting interest on member contributions, for refunds, transfers and late pension payments and on relationship breakdown

- Clarification is provided for how the small benefit rule applies to members who have already reached normal retirement age
- New rules are provided for dividing pension assets on relationship breakdown and allow for greater flexibility for plan members and spouses

## **Funding reform still to come**

Once further supporting regulations are released and an effective date proclaimed, employers will be able to establish SRAs, which provide for a separate account within the pension fund to hold solvency deficiency payments. If there is a surplus, contributions within the SRA could be withdrawn by the employer, subject to conditions (including any exceptions) that will be set out in the Regulation.

The government had announced, in November 2019, that employers will be able to fund solvency deficiencies to 85% instead of the current 100%. However, they will also be subject to enhanced going concern funding requirements, which could include a provision for adverse deviation (PfAD) or a shorter amortization period. These additional changes are not included in Bill 8 or in amendments to the Regulation. Further amendments will be needed to implement these aspects of the funding reform. Other additional issues that could be covered in the supporting regulation include new rules for contribution holidays and benefit improvements, member disclosure requirements, and transition rules.

## **Conclusion**

Amendments to the Regulation will facilitate plan administration through the rules on overpayments while requiring greater transparency in the documents transmitted to the Superintendent (SIPs and audited financial statements).

The expected new defined benefit funding rules, when they become available and are fully implemented, will have an impact on Manitoba-registered plans. For any particular plan, the impact of the expected funding rule changes will depend on the plan's particular financial position. Once in place, Manitoba's new funding framework should help stabilize employer contributions over the medium- and longer-term.

Finally, sponsors and/or administrators of plans registered in Manitoba, or with Manitoba members, should review their plan documents and administration practices in light of Bill 8 and amendments to the Regulation, and consider any adjustments that may be required. They should also contact their pension consultant to establish an implementation plan for the reforms introduced in Bill 8.

## For more information

This Advisory is not intended to constitute or serve as a substitute for legal, accounting, actuarial or other professional advice. For information on how this issue may affect your organization, please contact your Willis Towers Watson consultant, or:

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