

EPPA Update 12-01

Issued September 2012 / Updated October, 2012

Defined Benefit Funding Relief Provisions - 2012

In response to the decline of solvency discount rates, the [Employment Pension Plans \(Partial Exemption and Consolidation of Solvency Deficiencies\) Amendment Regulation](#) was enacted on September 19, 2012. This amendment introduces short term funding relief provisions to the *Employment Pension Plans Regulation* (the Regulation). These new provisions are intended to assist plan sponsors with the financial pressures associated with funding a defined benefit pension plan. The new relief provisions can be found in Schedule 0.2, section 3.21 of the Regulation.

The solvency relief option is only applicable to pension plans which are not specified multi-employer pension plans. (Existing funding relief provisions for SMEPPs are detailed in [Policy Bulletin #17](#)).

This Update is designed to instruct plan administrators on the requirements of the legislation, and the Superintendent, in order to avail themselves of the funding relief provision, and identify any special filing requirements related to those options.

This Update has no legal authority. The Act and Regulation should be used to determine specific legislative requirements.

Solvency Deficiency Consolidation and Amortization Period Extension

The amendment to the regulation permits a plan administrator, on written application to the Superintendent of Pensions, to consolidate all existing pension plan solvency deficiencies into one new solvency deficiency. The regulation amendment then further allows for that solvency deficiency to be amortized over a period not exceeding a maximum of 10 years (rather than the usual 5 year requirement). The amendment requirement has not changed the period required by the Regulation in which to amortize unfunded liabilities.

Plan administrators are permitted to make only one application for the consolidation of solvency deficiencies and extension of the amortization period. The application may be made in respect of any actuarial valuation report that has a review date between December 31, 2011 and December 31, 2012, inclusive.

Conditions and Requirements for Funding Relief

Any application for the consolidation of solvency deficiencies, and extension of the amortization period, must be made in writing, must include the following details and information, and is subject to the following conditions:

- A valuation report is prepared as at a review date, which becomes the date of application. Please note that for the purposes of determining solvency assets:
 - the actuary is permitted to include the actuarial present value of 10 years worth of going concern unfunded liability special payments (instead of the usual five) as a solvency asset adjustment, and
 - Using this solvency asset adjustment, the corresponding new solvency deficiency recognized as at the review date may be amortized over a 10 year period.

Where an applicant obtains the Superintendent's consent for the funding relief option, subsequent valuation reports filed after the initial application valuation may continue to carry forward the extended solvency asset adjustment to be commensurate with the number of remaining years in the 10 year amortization period.

As a simple example, the solvency asset adjustment of a December 31, 2011 application valuation would be the actuarial present value of the lesser of:

- the number of years remaining to amortize any particular unfunded liability, or
- 10 years of unfunded liability payments,

based on unfunded liabilities that were established on or before December 31, 2011.

If this same plan also files a December 31, 2012 actuarial valuation report, and a new solvency deficiency is created in that valuation, the solvency asset adjustment would be the actuarial present value of:

- Up to 9 years worth of unfunded liability special payments (based on unfunded liabilities that were established on / before December 31, 2011), and
- 5 years worth of unfunded liability special payments based on any unfunded liability established as at December 31, 2012).

- Where a person is entitled to a benefit payment, either a “top up” payment (equal to the transfer deficiency) will be made to the plan before paying out the benefit, OR the top up payment will be included in the next remittance of contributions.

Note, this requirement does not extend to ongoing monthly pension payments,

- Confirmation that the next annual member disclosure will include a statement that the Plan has received the extension on making solvency deficiency special payments.

In addition, the Plan administrator must confirm that they will also agree to comply with any other conditions that are set by the Superintendent, which may apply on a plan-by-plan basis, following the Superintendent’s review of the application valuation.

Instructions for December 31, 2011 Applications

Although the amendment regulation applies to valuations with review dates on and after December 31, 2011, a number of pension plans have already filed a December 31, 2011 valuation report and have started to make contributions based on the recommendations made by the plan actuary, on the basis of the funding requirements in force prior to the amendment regulation.

For any pension plan administrator wishing to make an application for funding relief as of December 31, 2011, the following is required documentation:

1. The written application for funding relief must still be provided to the Superintendent, along with confirmation that all of the other conditions will be met.
2. Rather than a full replacement actuarial valuation, it would be acceptable to file replacement pages for the already filed valuation report, to reflect the change in the required solvency deficiency payments as a result of the consolidation of solvency deficiencies, and extension of the amortization period.
3. Similarly, a replacement page for the cost certificate would also be filed, and
4. A replacement Form 7 should be filed with the respective fund holder / custodian.

While the amendment regulation is intended to provide meaningful funding relief for plan sponsors; the likelihood is that pension plans have already been making solvency deficiency payments under the usual funding requirements, and in some cases, the contributions to amortize solvency deficiencies which have already been made to date will exceed those that would otherwise have been required under the funding relief option.

Unless the Canada Revenue Agency would deem that the contributions already made to date would cause the plan's registration status to be revocable, all contributions already made by the plan sponsor must be retained in the plan fund. If the total amount already remitted to the pension plan exceeds what would have been required under the funding relief option, plan sponsors are permitted to cease making additional contributions until the "excess" contributions have been used up.

Frequently Asked Questions (NEW – Added October 2012)

The Superintendent's office has received a number of questions related the temporary funding relief provisions. For the benefit of stakeholders, the most common questions – and answers – are replicated below.

Q1 – For a pension plan that has not already filed a December 31, 2011 valuation report (for example), is the administrator of that plan still able to make a retroactive application for funding relief, even though the normal valuation report filing deadline (180 days from the review date) has already passed?

A1 – To be consistent with the intent behind of the temporary funding relief provisions, and in recognition that the funding relief regulations were not enacted until after the usual valuation report filing deadline, the Superintendent's office **will allow** a pension plan to apply / file a retroactive funding relief application, provided that the application for funding relief, and the supporting valuation report, is filed prior to the end of 2012.

Q2 – One condition of the temporary funding relief, as described in section 3.21(6) of Schedule 0.2 of the Employment Pension Plans Regulation, is that during the extension period all lump sum payments/transfers out of the plan require a "top-up payment".

Does this condition continue to apply on individual member terminations that occur even after subsequent valuation reports have been filed (i.e. in which any possible new solvency deficiency identified in that report again reverts to a 5 year amortization requirement)?

A2 – Yes, the requirement to make a "top up" payment continues to apply during the whole of the extension period.

Q3 – Consider the situation of a pension plan that has an established letter of credit, the face value amount of which was based on that plan's original December 31, 2011 solvency funding requirements.

If this same pension plan makes a retroactive application for the funding relief, and it results in a reduction in the annual solvency deficiency payments, can the face value amount of the letter of credit be reduced?

A3 – Section 48.1 of the *Employment Pension Plans Regulation* only permits a renewed or replaced letter of credit for a lesser amount where (a) a previously established letter of credit is about to expire, and (b) a valuation report is submitted to demonstrate that a revised and reduced letter of credit is appropriate. Unless an already established letter of credit is set to expire, a renewal of the letter of credit for a lesser amount would not be permitted as both a condition of the legislation as well as a condition of the letter of credit itself.

Q4 – Particularly in situations where a pension plan must file an annual valuation report, it may not be possible for that plan to fully “use up” (i.e. take a contribution holiday) any additional contributions between the date the application for funding relief was made, and the next actuarial valuation review date.*

** = The additional contributions will arise as a result of differences between amounts that were remitted under the original valuation report until the date the funding relief application was made, and the amounts that are now required as a result of funding relief being granted.*

To the extent that any of these additional contributions remain unused as at the next valuation review date, can they continue to be used as contribution holiday against any future contribution obligations of the plan, or must these additional amounts be recognized as an “experience gain”?

A4 – Section 48 of the *Employment Pension Plans Regulation* requires any additional / over contributions to be recognized as an “actuarial gain” as economic experience – in this case, actual contributions remitted which are greater than those required in the prior valuation report.

Consequently, the Superintendent does not have the flexibility to permit a pension plan to continue to take a contribution holiday in respect of these additional contributions.

Q5 – For a plan that has already filed a December 31, 2011 valuation report and is now going to apply for retroactive funding relief, what must the plan sponsor continue to contribute between the date that the application for funding relief is made, and the date that the Superintendent confirms acceptance of that application?

A5 – The funding requirements for any defined benefit plan is based on contribution obligation outlined in the actuarial valuation report that has been filed with the Superintendent, for the period of time that is covered by that report.

Since a retroactive application for funding relief as at December 31, 2011 must also include replacement pages for the already filed valuation report, it is sufficient for the plan sponsor to fund based on the revised / updated solvency deficiency figures once submitted to the Superintendent's office.

Q6 – In a situation where a pension plan makes an amendment to the plan that has a financial impact (see section 9(7) of the Employment Pension Plans Regulation), is that date eligible as a review date for the purposes of the funding relief provision?

A6 – The funding relief provisions apply to any review date between December 31, 2011 and December 31, 2012, inclusive. Consequently, the review date that arises as a result of the application of section 9(7) of the Regulation would qualify for the purpose of an application for funding relief.

Q7 – Is there a restriction from improving benefits under this round of funding relief?

A7 – These funding relief provisions do NOT impose a restriction on benefit improvements.

For further information please contact:

Superintendent of Pensions
Alberta Treasury Board and Finance
Room 402, 9515 - 107 Street
Edmonton, AB T5K 2C3

Telephone: (780) 427-8322
Fax: (780) 422-4283
Internet: <http://www.finance.alberta.ca>

For toll-free dialling within Alberta, call 310-0000 and then dial 780-427-8322.