

March 29, 2018

Pension and Benefit Highlights of the 2018 Ontario Budget

Author: [Elizabeth Brown](#), [Lisa Mills](#), [Terra Klinck](#), [John Prezioso](#), [Jason Paquette](#), and [Nicolas Guadagnolo](#)

On March 28, 2018 the Ontario Government released its [2018 Budget, A Plan for Care and Opportunity](#) (the Budget), along with companion legislation, [Bill 31, Plan for Care and Opportunity Act \(Budget Measures\), 2018](#) (Bill 31).

From a pension and benefits perspective, the Budget summarizes many of the important pension reform initiatives currently being undertaken by the Government and announces a handful of new initiatives.

Pensions

The Budget makes note of the significant initiatives that have been undertaken by the Government to “improve the sustainability of pension plans and provide Ontarians with the retirement income they need”, including enhancements to the Canada Pension Plan, the pending introduction of a new funding framework for defined benefit (DB) plans under the Ontario Pension Benefits Act (PBA), and the pending introduction of a target benefit plan regime under the PBA for negotiated cost multi-employer pension plans.

Increases to the Pension Benefits Guarantee Fund (PBGF)

In late 2017, the Government enacted changes to the PBA, which are not yet in force, to increase Pension Benefits Guarantee Fund (PBGF) coverage in cases where an employer is bankrupt and unable to fund a deficit in a DB pension plan. The maximum coverage is increasing to \$1500 per month from its current level of \$1000 per month. Age plus service eligibility criteria for PBGF coverage are also being removed. Employer PBGF assessments will also increase. A description of the proposed [supporting amendments to the PBA regulations](#) were published in January, 2018.

The Budget announced that the enhanced PBGF coverage will apply to plans with a wind-up date on or after May 19, 2017. This amendment will extend the enhanced PBGF coverage to former Sears Canada employees. The PBA will be further amended to enshrine a periodic review of the PBGF provisions. All of these PBGF changes are included in Bill 31.



Underfunded DB Plans

Underfunded DB plans have played a prominent role in many corporate insolvencies. The Budget announced that the PBA will be amended to introduce a distressed pension plan workout scheme that will give the pension regulator “appropriate tools to respond to pension plans with a distressed sponsor”. A distressed plan workout scheme was introduced under the Federal Pension Benefits Standards Act, 1985 in 2011.

The Federal “workout scheme” establishes a framework through which employers that do not expect to be able to make required contributions or that are subject to restructuring proceedings may negotiate with stakeholders - employees, retirees and unions - to develop an alternative pension funding schedule without the need for plan-specific pension funding Regulations. While the Budget makes no reference to the Federal workout scheme, we anticipate that the PBA scheme will have some similarities to the Federal regime, which requires court appointed representatives for non-unionized employees and for retirees and non-objection by less than one third of plan members and beneficiaries to any revised funding arrangements; sets clear parameters for the scope of the changes that can be negotiated; and, provides for close regulatory oversight and Ministerial approval. The Budget indicates that consultation on the distressed pension plan workout scheme will be undertaken.

The Budget also announced that a “disclosable events” regime will be introduced under the PBA, similar to comparable regimes in the United Kingdom and the United States. Disclosure of certain corporate or pension plan events will be required. The Budget describes examples of disclosable events as significant stripping of corporate assets or the issuance of extraordinary corporate dividends. Bill 31 amends the PBA to introduce the “disclosable event” concept, but the actual definition will be contained in future Regulations.

Financial Services Regulatory Authority (FSRA)

As announced some time ago, the Government is modernizing the regulatory oversight of pension and financial services through the creation of a new regulatory authority, the Financial Services Regulatory Authority (FSRA). The framework for the new regulator was previously introduced under the *Financial Services Regulatory Authority of Ontario Act, 2016* and through prior amendments to the PBA. Bill 31 introduces further conforming amendments to the PBA in contemplation of the new regulatory regime. The Government’s stated goal is for FSRA to be fully operational by April 2019.

The Budget announced that FSRA will establish an advisory committee dedicated to overseeing issues related to the PBGF and pension plans with distressed sponsors.



Broader Public Sector Pension Reform

The Budget announced that the Government is exploring initiatives to allow long-term solutions to sustainability and affordability of pension plans in the broader public sector, including consolidation and conversion of DB pension plans to jointly sponsored pension plans (JSPPs). This is consistent with past budgets in which the Government has consistently indicated support for the consolidation of broader public sector pension plans.

The Budget also notes that further technical amendments will be made to the PBA relating to asset transfers from certain public sector pension plans in relation to public sector divestitures.

Benefits

The Budget announced that, beginning in August 2019, the Ontario Drug Benefit (ODB) program coverage will be expanded for seniors. The annual deductible and co-payment for seniors under the ODB program will be eliminated, and prescription medications funded through the ODB program will be provided to seniors, regardless of income. Once implemented, this change may result in a cost savings to employers who provide prescription drug coverage to retirees through employer-sponsored private health services plans.

If you have any questions regarding the Budget or any of the ongoing Ontario pension reform initiatives, please do not hesitate to call a sidebar with any of us – we're here to help.

Elizabeth M. Brown
416-922-0678
elizabeth.brown@bmkplaw.com

Terra L. Klinck
416-922-1106
terra.klinck@bmkplaw.com

Jason R. Paquette
416-922-9084
jason.paquette@bmkplaw.com

Lisa J. Mills
613-369-5477 | 416-922-9865
lisa.mills@bmkplaw.com

John Prezioso
416-922-6697
john.prezioso@bmkplaw.com

Nicolas J. Guadagnolo
416-922-8348
nicolas.guadagnolo@bmkplaw.com