Ability to take contribution holidays and pay PBGF assessments – revised as per amendments in Regulation 105/19

Revised to reflect the amendments to Regulation 909 set out in ***Reg. 105/19***

Note: Where this document conflicts with the Financial Services Regulatory Authority of Ontario Act, 2016 (FSRA Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or any regulation made under the PBA (Regulations), the FSRA Act, PBA or Regulations govern.

In response to the Ontario new funding regime for pension plans that provide defined benefits (set out in section 55.1 of the Pension Benefits Act (PBA) and **Regulation 250/18** which amends Regulation 909 (Regulation)) that came into effect on May 1, 2018, the Financial Services Commission of Ontario (FSCO) developed a **chart illustrating the rules applicable in five scenarios**, based on valuation and filing dates. For each scenario, the Chart indicates which provisions govern contribution holidays and whether plan surpluses can be used to pay Pension Benefits Guarantee Fund (PBGF) assessments.

Ontario Regulation 105/19 (which amends the Regulation) came into effect on May 21, 2019. As a result, scenario 5 of the Chart has been updated. For a valuation report with a valuation date on or after December 31, 2017 and filed on or after May 1, 2018, a contribution holiday can be taken in accordance with the following:

Contribution Holiday Conditions		Regulation References as amended by Regulation 105/19
• 1st plan fiscal year following the date of the valuation *(assuming no off-cycle filing and no filing extension)*	• A valuation report is filed and demonstrates that there is AAS • No need to file actuarial cost certificate within 90 days of the plan fiscal year • PBGF assessment is	• Maximum AAS as per subsection 7.0.3(4)(a) – subsection 7(3.1.1) clarifies that subsection 7(3.1) does not apply • Subsection 7.0.3(5) applies • Subsection 7.0.3(2) and paragraph 7.0.3(3)(b) apply

FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

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	permitted to be payable from the AAS • If a valuation report is filed more than 6 months after plan fiscal year end, notice of a contribution reduction in the current fiscal year must be given within the first 6 months of the next fiscal year	Notice timeline per subsection 8(5)
• Subsequent plan fiscal years	• Actuarial cost certificate within 90 days demonstrating that there is AAS • PBGF assessment is permitted to be payable from the AAS • Notice of reduction in contributions must be given within the first 6 months of the fiscal year	• Maximum AAS as per subsection 7.0.3(4) – subsection 7(3.1.1) clarifies that subsection 7(3.1) does not apply • Subsections 7.0.3(2) and (3) apply • AAS at last filed report under section 3 or 14 should be adjusted to reflect any amounts funded from the plan surplus since last valuation date • Notice timeline per subsection 8(4)

For scenarios 1 to 4, the amendments in Regulation 105/19 to the Regulation clarify how each of these scenarios will transition into the ultimate contribution holiday rules outlined above, with the following notes:

a. For fiscal years ending before January 1, 2020, an actuarial cost certificate is still required to be filed within the first 90 days of the fiscal year as per subsection 7(3.1) for scenarios 1 through 4. Section 6.3 exempts plans in these scenarios from the application of section 55.1 under the PBA. Sections 7.0.2 and 7.0.3 are not applicable and there is no requirement to demonstrate the availability of AAS. Useable surplus is limited as per subsection 7(3.2).

b. Despite a) above, and for a fiscal year beginning on or after July 1, 2018, an actuarial cost certificate received beyond the 90-days requirement is acceptable if received on or before June 30, 2019, pursuant to subsection 7(4).

c. A PBGF assessment may be paid from the useable surplus determined under subsection 7(3.2) if the requirements of subsections 7(5) and 7(6) are met.

d. As per subsection 5(16.3), the amount of contributions made prior to the amendments in

Regulation 105/19 that would otherwise not have been made if a plan had taken a contribution holiday (assuming it would have been eligible except for PBA section 55.1) can be used to increase the plan's prior year credit balance in the next valuation report if such report has a valuation date on or after December 31, 2017 and is the first report filed on or after May 1, 2018.