Pension Holiday Wish List

As policy makers across the country implement pension reform and address priorities, we wanted to highlight a few of the recent reforms impacting private sector registered pension plans that, in our view, are positive steps, warranting consideration in the other jurisdictions:

Optional Tool Box Stocking Stuffers

- Solvency Reserve Accounts
- Target Benefit Plans
- Variable Payments from Pension Plans

Under the Tree Discharge Item

- Immunity on Annuity Buy-outs

Solvency Reserve Accounts

Although surplus seems to be a distant memory for some, there are many plans whose funded positions have significantly improved over the last few years. Surplus, as many of us recall, had its own issues – entitlement, trapped capital, etc. Alberta's new Employment Pension Plans Act (EPPA) contains provisions to permit solvency reserve accounts (SRA). The EPPA now allows a pension plan to hold an SRA as a separate account within the plan. The SRA is used to hold solvency deficiency payments made under the defined benefit (DB) component of a pension plan. If there is a surplus in the plan down the road, the SRA money can be withdrawn in accordance with the EPPA rules. For more details on SRAs, please see our recent blog post. B.C. will also permit SRAs under its pension changes once in force.

Target Benefit Plans

As discussed in many of our prior blog posts, legislative change is needed to facilitate single employer target benefit plans (TBPs) across the country. TBPs are a risk sharing design option along the spectrum between DB and defined contribution (DC). Like DC plans, TBPs have a fixed (or variable within a narrow range) cost, so plan sponsors have cost certainty. Like DB plans, TBPs pool investment and longevity risks. Further, TBPs provide a targeted DB type pension at retirement. However, unlike DB plans, benefits under a TBP may be reduced if the contributions are insufficient to pay for the targeted benefit. Thus far, New Brunswick has in place legislation permitting shared risk plans, a type of TBP. In addition, Alberta's new EPPA permits single employer TBPs. Quebec has limited legislation that permits TBPs in the pulp and paper sector only.

Variable Payments from Pension Plans

The tax rules were amended recently to permit variable benefits to be paid from DC plans (that is, the pension payable from the plan on retirement would not have to be drawn in equal amounts). However, provincial pension standards must also be amended to permit variable benefits to be paid from a DC pension plan. Thus far, the payment of variable benefits from a DC plan is permitted in Alberta, B.C., Manitoba and Saskatchewan. In addition, provisions permitting variable benefits are awaiting proclamation in the federal jurisdiction, Ontario and Nova Scotia. Allowing variable benefits to be paid from a plan to a retired member may assist with the decumulation phase. For more on decumulation, please see our prior blog posts.

Immunity on Annuity Buy outs

De-risking or risk management has been a top of mind consideration for many plan sponsors over the past few years. De-risking may take many forms, including plan design changes and risk transference strategies. For more on de-risking, please see our prior blog posts.

Annuity buy-outs are one form of risk transference that have received considerable attention and have been used in a few high profile instances in the U.S. In Canada, however, their use may be limited because of the uncertainty with respect to potential residual plan sponsor/plan liability in the event of the future insolvency of the insurer who provides the annuities. There are some provinces where the regulators have indicated that the plan sponsor/plan does retain such liability, whereas other regulators appear to take a different position. Such uncertainty could be alleviated if there were statutory discharges where an annuity buy out is completed.

B.C. recently added a provision (not yet in force) discharging plan administrators from further liability in respect of annuity purchases (as long as the administrator complies with specified requirements). Alberta attempted to add a very similar provision to its new EPPA, but the Bill died on the order paper when Alberta's legislature was prorogued.

Legislation permitting SRAs, TBPs, variable payments from DC plans and discharges on annuity purchases are all great steps forward in pension reform.

So if Santa is listening….