Alberta Government

Interpretive Guideline #20

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Use of Actuarial Excess and Surplus

This guideline is designed to explain the options available for the use of actuarial excess in ongoing plans and surplus assets on plan termination, as permitted and required by the provisions of *Employment Pension Plans Act* (Act) and the *Employment Pension Plans Regulation* (Regulation). This guideline summarizes the legislative requirements that apply to the subject matter, and includes (as applicable) additional details to outline the Superintendent of Pensions (the Superintendent) expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

What is actuarial excess?

Actuarial excess arises only in a benefit formula provision and occurs while a plan is ongoing. It is the amount by which the assets of the plan exceed the liabilities of the plan calculated on either a going concern or solvency basis.

What is surplus?

Surplus arises only in a benefit formula provision and occurs when a plan terminates and all assets and liabilities crystalize. Surplus is the amount of assets left after all liabilities have been settled.

What is accessible actuarial excess?

In the case of a defined benefit provision, it is the amount by which the defined benefit provision assets exceed 105 per cent of the defined benefit provision liabilities determined on either a going concern or solvency basis as applicable.

In the case of a target benefit provision, it is the amount that exceeds:

> (Going concern liabilities) + (going concern liabilities x the plan’s PfAD) - the plan’s PfAD offset.

In either case, the purpose is to retain a contingency reserve in the plan fund after some of the actuarial excess has been withdrawn from the pension fund.

Uses of Actuarial Excess

Actuarial excess assets in any plan may be held as a contingency reserve in the pension fund to offset future adverse experience. This option is subject to the limits imposed by the *Income Tax Act* (Canada).

Target Benefit Provisions

Accessible actuarial excess or, on plan termination, surplus assets with respect to a target benefit provision may be used

- while the plan is ongoing:
  - to improve benefits for all members provided that only actuarial excess assets are used to make the improvement; or
  - to provide for temporary benefit improvements); and
- on plan termination
  - to improve benefits for all members.

Employers cannot withdraw actuarial excess or surplus from a plan with a target benefit provision.

Defined Benefit Provisions

Accessible actuarial excess may be used:

- to improve benefits for plan members;
- to offset participating employer (and in the case of a jointly sponsored plan, member) required contributions, unless the plan text document specifically prohibits such a use of excess; or
- subject to the requirements described below, refunded to the participating employer (and in the case of a jointly sponsored plan members).

Withdrawal of accessible actuarial excess from a plan with a defined benefit provision

In order for a participating employer to withdraw accessible actuarial excess from the plan fund related to a defined benefit provision, the consent of the Superintendent is required. To receive consent, the plan administrator must apply to the Superintendent and must include the following items:

- a current actuarial valuation showing that the plan does not have either an unfunded liability or a solvency deficiency, the amount of actuarial excess and the amount of accessible actuarial excess in the plan fund;
- an opinion from the plan actuary that, upon withdrawal of the proposed actuarial excess, the plan has neither an unfunded liability nor a solvency deficiency,
- a statement of the amount of accessible actuarial excess to be transferred to the employer (or employer and members in the case of a jointly sponsored plan);
- confirmation that:
  - the plan text document contains a provision permitting such a withdrawal; or
  - if the plan text document does not permit such a withdrawal:
    - confirmation that a proposal to permit such a withdrawal was provided to all those individuals who have a benefit entitlement under the plan; and
    - confirmation that at least 2/3 of all active members and 2/3 of all deferred and retired members consent to the proposal.

Once the Superintendent's written consent has been received, the plan administrator may withdraw up to 20 per cent of the actuarial excess in each plan year commencing with the one in which consent of the Superintendent was received and continuing for the next two years. The Superintendent may withdraw consent at any time, if there is concern about the continued funded status of the plan, in which case no further withdrawals are permitted.

Withdrawal of accessible actuarial excess from a solvency reserve account of a defined benefit provision
Rules for the withdrawal of accessible actuarial excess from a solvency reserve account of a defined benefit provision are similar to those for withdrawal from the main fund.

- The withdrawal must not cause an unfunded liability under the plan.
- A current valuation demonstrating the amount of the accessible assets must be filed.
- The administrator must make written application.
- The maximum withdrawal each year is 20 per cent of the accessible actuarial assets.

The differences are that:
- the plan text document is **deemed** to permit such a transaction even if the plan is silent on the issue;
- no prior proposal to members or member consent is required;
- the next annual statements to both active members and retired members must advise the members of the amount of the withdrawal and the amount of the plan's accessible excess assets remaining in the solvency reserve account.

Withdrawal of Surplus

Surplus crystalizes when a pension plan terminates in full and all assets are to be disbursed. Withdrawal of surplus requires the prior written consent of the Superintendent. **No surplus may be withdrawn or released from the pension plan (main fund or solvency reserve account) until all other plan liabilities have been paid out of the fund.**

When all liabilities of the plan have been transferred or paid, the administrator may apply to the Superintendent for consent to withdraw the remaining assets (plan surplus) from the plan.

<u>Withdrawal from the Main Plan Fund</u>
To receive the consent of the Superintendent to withdraw surplus from the main plan fund, the administrator must make written application which includes:
- confirmation that all other liabilities of the plan have been paid or transferred to the appropriate parties;
- the amount of assets remaining for withdrawal;
- confirmation that the plan text document contains a provision permitting such a withdrawal;
- confirmation that all members have been notified of the intended

withdrawal;

- if the plan text document does not contain a provision permitting such a withdrawal:
  - o confirmation that a proposal to permit such a withdrawal was provided to all those individual who have a benefit entitlement under the plan; and
  - o confirmation that at least 2/3 of all active members and 2/3 of all deferred and retired members consent to the proposal.

Withdrawal from a Solvency Reserve Account

To receive the consent of the Superintendent to withdraw surplus from a solvency reserve account, the administrator must make written application which includes:

- confirmation that all other liabilities of the plan have been paid or transferred to the appropriate parties;
- the amount of assets remaining for withdrawal; and
- confirmation that all members have been notified of the intended withdrawal.

Divisional Multi-Employer Plans

A divisional multi-employer plan, which is defined in the Regulation, is one in which each of the participating employers is responsible only for funding the liabilities related to employees of the employer. In the case of a divisional multi-employer plan with a defined benefit or target benefit provision, each participating employer's assets and liabilities must be calculated and tracked separately. References to a participating employer above should be read as applying to each participating employer.

For further information please contact:	
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