



FEBRUARY 28, 2011

# Pension *Pulse*

## Federal Government Consulting on Pooled Registered Pension Plans

The federal government is holding focused consultations with key stakeholders and industry groups regarding its proposed Pooled Registered Pension Plan. See our *Pension Pulse* dated December 22, 2010 for more details on the PRPP.

A framework for the PRPP was agreed to by the federal and provincial finance ministers at its meetings on December 19 and 20, 2010. The PRPP will be a type of defined contribution pension plan, but administered by financial institutions, and possibly others, on a large-scale pooled basis. The intent of the PRPP is to enable smaller employers and the self-employed to participate in a pension plan with fewer administrative and regulatory complexities.

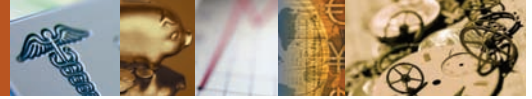
The federal government is now engaged in directed discussions to refine the concept prior to introducing draft legislation. While the basic framework of the PRPP is sound in principle, there are many details that need to be identified and examined. Some of these are as follows:

- **Qualified administrators.** In its initial draft framework, the finance ministers stated that insurance companies, trust companies and banks that have trust company subsidiaries will be eligible administrators. It is possible that other entities will be eligible to be administrators, such as some of the large pension plans, provided they are able to assume fiduciary responsibilities.
- **Duties of the administrator and employer.** It is intended that the financial institution that acts as the administrator of a PRPP will have fiduciary responsibilities toward the plan members. The nature and extent of those responsibilities and the responsibilities of employers need to be detailed. It would be beneficial for an employer, for example, if a safe harbour were available for this type of plan, to exempt it from liability if certain standard conditions are met.
- **Regulatory oversight.** The PRPP should operate as a regular pension plan, subject to regulatory supervision by the provincial or federal pension regulator that would normally have jurisdiction over a pension plan based on where the plurality of plan members is located and the industries in which the employer is engaged.
- **Investment choices.** There are many questions to be addressed under this heading, for example, how many investment choices should be offered, whether there should be a minimum and maximum number of choices, what minimum array of investments should be offered, whether there should be standard default investments, whether low cost options should be mandated and how those should be defined, etc.



- **Fee disclosure.** One of the purposes of the PRPP is to provide a low-cost retirement savings vehicle. In keeping with the Capital Accumulation Plan Guidelines published by the Canadian Association of Pension Supervisory Authorities in 2004, full disclosure of all fees for each investment product offered within a PRPP should be required. One question to be addressed is whether the CAP Guidelines are sufficient.
- **Plan participation and enrolment.** The framework document stated that the PRPP will accommodate jurisdictions that choose to require employers to offer the PRPP to its employees. It is anticipated that most jurisdictions will not impose mandatory employer participation. The other question relates to employee enrolment, whether it will be voluntary, or mandatory with an opt-out feature.
- **Harmonized rules.** Currently, pension legislation across Canada is far from being harmonized. Some degree of harmonization of the rules and regulations underlying the PRPP, regardless which jurisdiction in which an employer or an employee is located, would be helpful to encourage participation in and understanding of PRPPs.

It will be interesting to see what form the final PRPP will take, both from a regulatory standpoint and from a practical standpoint in terms of attractiveness of the vehicle for employers and employees. If the fee savings are significant and if an employer's responsibilities and potential liability are decreased as compared to current retirement plans on the market, the PRPP may become an attractive vehicle not just for employers that do not sponsor another retirement plan, but also for employers that sponsor other plans and that consider migrating to the PRPP. ■



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As a member of our firm's Labour and Employment group, Mark handles all aspects of pensions and benefits law, including governance, regulatory compliance, collective bargaining, litigation, due diligence, mergers and acquisitions, financing agreements, bankruptcy and insolvency, and the tax aspects of compensation, pensions and benefits.

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