

**Caution:**

*This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

**CONSULTATION DRAFT**

**ONTARIO REGULATION**

to be made under the

**PENSION BENEFITS ACT**

Amending Reg. 909 of R.R.O. 1990

(GENERAL)

**1. (1) The definitions of “going concern assets”, “going concern excess”, “going concern funded ratio”, “going concern unfunded liability” and “provision for adverse deviations” in subsection 1 (2) of Regulation 909 of the Revised Regulations of Ontario, 1990 are revoked and the following substituted:**

“going concern assets” means,

- (a) in respect of a report under this Regulation relating to a pension plan that does not provide target benefits, the sum of,
  - (i) the value of the assets of the pension plan determined on the basis of a going concern valuation, including accrued and receivable income but excluding the amount of any letter of credit held in trust for the pension plan,
  - (ii) if the report has a valuation date before December 31, 2017 or is in respect of a jointly sponsored pension plan listed in subsection 1.3.1 (3), the present value of any special payments in respect of a going concern unfunded liability disclosed in previously filed reports, and
  - (iii) if the report has a valuation date on or after December 31, 2017 and is not in respect of a jointly sponsored pension plan listed in subsection 1.3.1 (3),
    - (A) the present value of special payments in respect of any past service unfunded actuarial liability, other than special payments required to liquidate any past service unfunded liability determined in the report,

- (B) the present value of special payments described in clause 5 (1.0.0.1) (e) in respect of any plan amendment that increases going concern liabilities, and
  - (C) the present value of special payments in respect of a going concern unfunded liability that are scheduled for payment within one year after the valuation date of the report and that are disclosed in the previously filed report, excluding any special payments described in subclause (i);
- (b) in respect of a report under this Regulation relating to a pension plan that provides target benefits, the sum of,
  - (i) the value of the assets of the pension plan determined on the basis of a going concern valuation, including accrued and receivable income,
  - (ii) the present value of any special payments described in paragraph 1 and subparagraph 2 i of subsection 12 (1) of the Target Benefits Regulation disclosed in previously filed reports, and
  - (iii) the present value of any special payments described in subparagraph 2 ii of subsection 12 (1) of the Target Benefits Regulation in respect of any plan amendment that increases going concern liabilities; (“actif à long terme”)

“going concern excess” means,

- (a) in respect of a pension plan that does not provide target benefits, the amount, if any, by which the going concern assets of the pension plan exceed the sum of,
  - (i) the going concern liabilities of the pension plan,
  - (ii) the amount equal to the provision for adverse deviations in respect of the going concern liabilities of the pension plan, and
  - (iii) the prior year credit balance of the pension plan;
- (b) in respect of a pension plan that provides target benefits, the amount, if any, by which the going concern assets of the pension plan exceed the going concern liabilities of the pension plan; (“excédent à long terme”)

“going concern funded ratio” means,

- (a) in relation to a pension plan that does not provide target benefits, the ratio of “Y” to “Z” where,

“Y” is the amount by which the value of the assets of the pension plan determined on the basis of a going concern valuation, including accrued and receivable income but excluding the amount of any letter of credit held in trust for the pension plan, exceeds the prior year credit balance, and

“Z” is the total amount of the going concern liabilities of the pension plan;

- (b) in relation to a pension plan that provides target benefits, the ratio of “AA” to “BB” where,

“AA” is the value of the assets of the pension plan related to target benefits determined on the basis of a going concern valuation, including accrued and receivable income, and

“BB” is the total amount of the going concern liabilities of the pension plan related to target benefits; (“ratio de capitalisation à long terme”)

“going concern unfunded liability” means,

- (a) in respect of a report under this Regulation relating to a pension plan that does not provide target benefits,
- (i) for a report with a valuation date before December 31, 2017 or that is in respect of a jointly sponsored pension plan listed in subsection 1.3.1 (3), the amount, if any, by which the sum of the going concern liabilities and the prior year credit balance exceeds the going concern assets, and
  - (ii) for a report with a valuation date on or after December 31, 2017, other than a report in respect of a jointly sponsored pension plan listed in subsection 1.3.1 (3), the amount, if any, by which the sum of the going concern liabilities, the amount equal to the provision for adverse deviations in respect of going concern liabilities and the prior year credit balance exceeds the going concern assets;
- (b) in respect of a report under this Regulation relating to a pension plan that provides target benefits, the amount, if any, by which the sum of the going concern liabilities exceeds the going concern assets; (“passif à long terme non capitalisé”)

“provision for adverse deviations” means,

- (a) in relation to a pension plan that does not provide target benefits, the percentage determined under section 11.2 to be the provision for adverse deviations, and

- (b) in relation to a pension plan that provides target benefits, the percentage determined in accordance with section 15 of the Target Benefits Regulation as the provision for adverse deviations; (“provision pour écarts défavorables”)

**(2) Subsection 1 (2) of the Regulation is amended by adding the following definitions:**

“market value ratio”, in relation to a report for a plan that provides target benefits, means the ratio of the market value of the plan’s assets related to target benefits to the plan’s going concern liabilities related to target benefits, determined using the benefit allocation method used in the contribution sufficiency test for the plan under subsection 11 (3) of the Target Benefits Regulation; (“ratio de la valeur marchande”)

“Target Benefits Regulation” means Ontario Regulation [**O. Reg. # for new target benefits regulation**] (Target Benefits) made under the Act; (“règlement sur les prestations cibles”)

**(3) The definition of “solvency liabilities” in subsection 1 (2) of the Regulation is amended by adding “and subclause 14 (8.0.4.3) (d) (i)” after “clauses 14 (8) (c) and 14 (8.0.4) (f)” in the portion before clause (a).**

**(4) Subsection 1 (5) of the Regulation is amended by striking out “a transfer deficiency and a transfer ratio” and substituting “a transfer deficiency, a transfer ratio and a market value ratio”.**

**2. (1) Subsection 3 (1) of the Regulation is revoked and the following substituted:**

**Plan amendments**

(1) If an amendment to a pension plan reduces or increases contributions, or if an amendment creates or changes a going concern unfunded liability or, in the case of a plan that provides defined benefits, creates or changes a solvency deficiency, the administrator shall file a report containing the following:

1. Any of the information required in a report under section 14 that might be affected by the amendment.
2. A description of the lump sum benefit improvement contribution, if any.
3. In the case of a plan that provides defined benefits, the plan’s going concern funded ratio on the date the amendment is effective.

**(2) Subsection 3 (1.1.2) of the Regulation is amended by striking out “clause (1) (c)” and substituting “paragraph 1 of subsection (1)”.**

**3. Subsection 4 (2.3) of the Regulation is amended by striking out “clause (a) of the definition” wherever it appears and substituting in each case “subclause (a) (i) of the definition”.**

**4. Paragraph 1 of subsection 4.1 (19) of the Regulation is amended by striking out “Clause (a) of the definition” at the beginning and substituting “Subclause (a) (i) of the definition”.**

**5. Clause 6 (4) (a) of the French version of the Regulation is amended by striking out “analyses” and substituting “tests”.**

**6. (1) Subclause 13 (1) (b.1) (i) of the Regulation is revoked and the following substituted:**

- (i) the provision for adverse deviations for the plan, determined in accordance with section 11.2 of this Regulation or section 15 of the Target Benefits Regulation, as applicable, and

**(2) Subsection 13 (1) of the Regulation is amended by adding the following clause:**

- (h) in the case of a plan that provides target benefits, the going concern funded ratio and the information about stress testing listed in section 14.1;

**(3) Subsection 13 (1.1) of the Regulation is amended by striking out “The report shall also set out” in the portion before clause (a) and substituting “The report for a plan that provides defined benefits shall also set out”.**

**(4) Section 13 of the Regulation is amended by adding the following subsection:**

(1.1.0.1) The report for a plan that provides target benefits shall also set out,

- (a) on the basis of a solvency valuation,
  - (i) the transfer ratio, and
  - (ii) the solvency ratio; and
- (b) an explanation of how the provision for adverse deviations for the plan was developed in compliance with the plan’s funding and benefits policy.

**(5) Subsection 13 (1.1.1) of the Regulation is revoked and the following substituted:**

(1.1.1) If section 55.1 of the Act applies with respect to the pension plan, the report shall also set out any available actuarial surplus for each year up to the date of the next report.

**7. (1) Subsection 14 (2) of the Regulation is amended by adding “for a plan that provides defined benefits” after “a report” in the portion before paragraph 1.**

**(2) Section 14 of the Regulation is amended by adding the following subsection:**

(2.1) For the purposes of subsection (3), a report for a plan that provides target benefit indicates funding concerns if either of the following circumstances exist:

1. The ratio of the going concern assets to the going concern liabilities is less than 0.85.
2. If, in any year covered by the report, the value of “B” described in subsection 11 (5) of the Target Benefits Regulation is greater than zero.

**(3) Subsection 14 (3) of the Regulation is amended by striking out “solvency concerns, the next report” and substituting “solvency concerns, or where a report filed under this section indicates funding concerns, the next report”.**

**(4) Subclause 14 (8.0.2) (c) (i) of the Regulation is revoked and the following substituted:**

- (i) the provision for adverse deviations for the plan, determined in accordance with section 11.2 of this Regulation or section 15 of the Target Benefits Regulation, as applicable, and

**(5) Clause 14 (8.0.2) (f) of the Regulation is amended by striking out “the special payments” at the beginning and substituting “in the case of a plan that provides defined benefits, the special payments”.**

**(6) Subsection 14 (8.0.2) of the Regulation is amended by adding the following clause:**

- (f.1) in the case of a plan that provides target benefits, the special payments remaining to be paid after the valuation date with respect to the going concern unfunded liability determined in any of the previously filed reports, as determined under section 12 of the Target Benefits Regulation;

**(7) Clause 14 (8.0.2) (h) of the Regulation is amended by adding “or section 12 of the Target Benefits Regulation, as applicable” at the end.**

**(8) Clause 14 (8.0.2) (m) of the Regulation is amended by adding “or section 13 of the Target Benefits Regulation, as applicable” at the end.**

**(9) Subsection 14 (8.0.4) of the Regulation is amended by adding “in respect of a plan that provides defined benefits” before “shall also set out” in the portion before clause (a).**

**(10) Section 14 of the Regulation is amended by adding the following subsection:**

(8.0.4.3) Each report under this section in respect of a plan that provides target benefits shall also set out,

- (a) the information about stress testing listed in section 14.1;
- (b) the going concern funded ratio;
- (c) the market value ratio; and
- (d) on the basis of a solvency valuation,
  - (i) the liabilities referred to in clauses (a) to (h) of the definition of “solvency liabilities” in subsection 1 (2) that are being excluded from the calculation of the solvency liabilities,
  - (ii) the transfer ratio, and
  - (iii) the solvency ratio; and
- (e) an explanation of how the provision for adverse deviations for the plan was developed in compliance with the plan’s funding and benefits policy.

**(11) Subsection 14 (8.0.5) of the Regulation is revoked and the following substituted:**

(8.0.5) If section 55.1 of the Act applies with respect to the pension plan, each report under this section shall set out any available actuarial surplus for each year up to the date of the next report.

**(12) Clause 14 (8.1) (d) of the Regulation is amended by striking out “(8.0.4), (8.0.5) and (8.0.6)” and substituting “(8.0.4) to (8.0.6)”.**

**8. The Regulation is amended by adding the following section:**

**Same, target benefits — stress testing**

**14.1** (1) For the purposes of clause 14 (8.0.4.3) (a), the information about stress testing that must be included in a report in respect of a plan that provides target benefits is the following:

1. A description of how each material risk identified in the plan’s funding and benefits policy could, in the actuary’s opinion, cause the actual experience of the plan to be substantially different from the expected experience such that benefit reductions may be needed.

2. For each material risk, an explanation of the rationale for the actuary's opinion.
3. For each material risk, a description of its potential effect on the funded position of the plan and any changes to benefits or contributions that would be needed as a result of such effect in order to ensure the sufficiency of the contributions under section 11 of the Target Benefits Regulation.

(2) The information required for the purposes of paragraph 3 of subsection (1) shall be prepared using the assumption that there are no effects attributable to any other material risk on the funded position of the plan.

**9. (1) Paragraph 1 of subsection 47.9 (4) of the Regulation is amended by striking out "Clause (c) of the definition" at the beginning and substituting "Subclause (a) (iii) of the definition".**

**(2) Paragraph 1 of subsection 47.9 (6) of the Regulation is amended by striking out "Clause (b) of the definition" at the beginning and substituting "Subclause (a) (ii) of the definition".**

**10. (1) Subsection 77 (1) of the Regulation is amended by striking out "that provides defined benefits".**

**(2) Section 77 of the Regulation is amended by adding the following subsection:**

(1.1) Subsection (1) does not apply with respect to a pension plan if all the pension benefits provided under the plan are defined contribution benefits.

**11. (1) Subsection 78 (4) of the Regulation is revoked.**

**(2) Subsection 78 (5) of the Regulation is amended by striking out "that is registered on or after January 1, 2016".**