

**Proposed Regulation:
Pension Payments from Pension Plans which provide
Defined Contribution Benefits**

A. Background

In December 2010, Bill 120 amended the *Pension Benefits Act* (PBA) to allow pension plans that provide defined contribution benefits to make payments of pensions and pension benefits authorized by the *Income Tax Act* (Canada).

Currently, an individual with retirement savings in a defined contribution plan must transfer their money to a financial institution in order to receive retirement income. The unproclaimed amendments to Bill 120 would allow pension plans with a defined contribution component to provide an additional option to members. This option would allow retirees to keep their savings in a variable benefit account held by the plan, and receive income directly from this account. In addition to increased flexibility, members could benefit from the investment expertise of the pension plan managers and from cost efficiencies due to scale.

Regulations are required to implement section 39.1 of the PBA. A description of the proposed regulatory requirements is set out below.

The payments permitted from a variable benefit account would be the same as those permitted from a Life Income Fund (LIF).

- The minimum amount payable would be the amount according to the Registered Retirement Income Fund (RRIF) schedule, as prescribed by the *Income Tax Act* (Canada).
- The maximum amount payable would be calculated according to the same formulae as for a LIF, as prescribed by the PBA.
- Appendix A provides an example of the maximum annual income payment table that would apply – this is the same table that applies to a LIF. It would also be possible to receive the investment earnings in the account in the previous fiscal year, if greater than the amount shown in the table.

Interested stakeholders are invited to make submissions by June 10, 2014. All submissions should be emailed to pension.feedback@ontario.ca, or to the mailing address indicated on the Registry.

The PBA currently does not provide for transfers into a variable benefit account from other locked-in sources, or for transfers out of a variable benefit account to another retirement income vehicle once payments have commenced. Furthermore, there is no provision that would allow for the “unlocking” (i.e. either withdrawal or transfer to a registered savings account) of up to 50 per cent of assets, as is permitted for LIFs. Legislative amendments would be required to implement these features.

Questions for Stakeholders

- Should participants be able to transfer funds into a variable benefit account from other locked-in sources? Why or why not?
- Should participants be able to transfer funds from a variable benefit account to other retirement income vehicles (e.g. Life Income Fund, annuity purchase)? Why or why not?
- Should participants be able to unlock up to 50% of funds initially in a variable benefit account? Why or why not?
- Would providing any or all these options involve significant administrative resources?

B. Proposed Regulation

1. Eligible Plans

A pension plan that provides defined contribution benefits would be permitted to offer a variable benefit account to eligible participants under section 39.1 of the PBA. The variable benefit account would make direct payments of retirement income, as authorized by the *Income Tax Act (Canada)*, to eligible participants. In order to offer a variable benefit account, the terms of the pension plan must allow for this option.

2. Eligible Participants

Subject to the terms of the plan, an eligible participant would be a member or former member in respect of that plan, as defined in section 1.1 of the PBA. An eligible participant may elect to establish a variable benefit account held by the plan administrator. The member or former member would become a variable benefit account participant.

3. Eligible Accounts

A variable benefit account would be required to make payments of pension benefits in accordance with paragraph 8506(1)(e.1) of the *Income Tax Regulations (Canada)* and in accordance with the requirements described below.

An eligible participant would be able to give notice of intention to establish a variable benefit account in the fiscal year prior to the earliest date on which the participant would be entitled to receive a pension under the terms of the pension plan providing the account. A variable benefit account would not be established until the eligible participant has retired according to the terms of the plan.

The written consent of the spouse of an eligible participant would be required to establish a variable benefit account. The spouse must waive his or her entitlement to a joint or survivor pension using a new form approved by the Superintendent of Pensions. The consent of a spouse who is living separate and apart from the participant on the date of retirement would not be required.

A contract establishing a variable benefit account would be required to provide for the matters described in this section.

- It must indicate the name and address of the plan administrator providing the account.
- It must describe the participant's powers, if any, respecting investment of the assets in the account.
- It must state that the participant agrees not to assign, charge, anticipate or give as security money payable under the account except as required by an order under the Family Law Act, a family arbitration award or a domestic contract.
- It must describe the method for determining the value of the assets in the account.

Money in a variable benefit account would not be able to be commuted, withdrawn or surrendered in whole or in part, except as permitted by sections 49, 50 or 67 of the Act.

4. Assets in Variable Benefit Account

Subject to the terms of the plan, and the requirements described in this posting, the entire amount contained in the DC account owned by the participant must be transferred into the variable benefit account, if an eligible participant elects this option.

5. Periodic Payments out of the Account

Periodic payments from the variable benefit account would be required to begin no earlier than the earliest date on which the participant would be entitled to receive a pension under the terms of the pension plan providing the variable benefit account. The latest that payments must commence would be by the end of the fiscal year following

the establishment of the account. For the purposes of the variable benefit account, the fiscal year would be required to end on December 31 and must not exceed 12 months.

The participant would be required to notify the plan administrator of the amount and frequency of payments from the variable benefit account each year. If the participant does not do so, the minimum amount prescribed for a RRIF under the *Income Tax Act* would be paid.

The notice respecting the amount and frequency of payment would be required to be given either at the beginning of the fiscal year of the plan, or at another time or times agreed to by the plan administrator. This notice would expire at the end of the fiscal year to which it relates.

6. Maximum amount

The maximum withdrawals amounts would mirror those contained in the LIF provisions. The withdrawal percentages were determined by the Canadian Institute of Actuaries to ensure money remains in the account until the owner is 90 years-old.

The amount of income paid during the fiscal year out of the account would not be permitted to exceed the greater of the following amounts:

- a. The investment earnings, including any unrealized capital gains or losses, of the account in the previous fiscal year.

- b. The amount calculated using the formula:

$$C/F$$

in which,

- “C” would be the value of the assets in the account at the beginning of the fiscal year, and
- “F” would be the present value, at the beginning of the fiscal year, of an annuity of \$1 payable annually in advance over the period commencing at the beginning of the fiscal year and ending on December 31 of the year in which the participant reaches 90 years of age.

The following interest rate assumptions would be used to determine the amount “F”:

- The interest rate for each of the first 15 fiscal years of the period referred to in the definition of “F” would be the greater of 6 per cent and the nominal rate of interest on long-term bonds issued by the Government of Canada for

- November of the year before the beginning of the fiscal year, as determined from the Canadian Socio-Economic Information Management System (CANSIM) series V122487 compiled by Statistics Canada and available on the website maintained by the Bank of Canada.
- For the sixteenth and each subsequent fiscal year of the period referred to in the definition of “F”, the interest rate would be 6 per cent.

7. Minimum Amount

The amount paid out of the account during the fiscal year would not be permitted to be less than the minimum amount prescribed for a RRIF under the *Income Tax Act* (Canada).

- If the minimum amount according to the Income Tax Act is greater than the maximum amount as calculated above, the minimum amount would be required to be paid out of the account during the fiscal year.

8. Withdrawals based on Shortened Life Expectancy

Subject to the terms of the pension plan, a variable benefit account participant would be able to, upon application in accordance with the requirements below, withdraw all or part of the money in the account if, when the participant signs the application, he or she has an illness or physical disability that is likely to shorten his or her life expectancy to less than two years.

Any application would be required to be made on a new form approved by the Superintendent and must be given by the participant to the plan administrator.

The contract governing the variable benefit account must include the following terms and, if it does not, the contract is deemed to include them.

- The plan administrator would be entitled to rely upon the information provided by the participant in the application to withdraw money assets from the account.
- The plan administrator would be required to make the payment to which the participant is entitled within 30 days after the plan administrator receives the completed application and the accompanying documents required by that section.
- An application that meets the requirements of the applicable section would constitute authorization to the plan administrator to make the payment from the account in accordance with that section.

The application form would be required to be signed by the participant and be accompanied by a statement signed by a physician who is licensed to practise medicine in a jurisdiction in Canada that, in the opinion of the physician, the participant has an illness or physical disability that is likely to shorten his or her life expectancy to less than two years.

The application form would be required to be signed by the participant and accompanied by a declaration about a spouse. Any of the following documents would constitute a declaration about a spouse:

- A statement signed by the participant's spouse, if any, that the spouse consents to the withdrawal or transfer from the account.
- A statement signed by the participant attesting to the fact that he or she does not have a spouse.
- A statement signed by the participant attesting to the fact that he or she is living separate and apart from his or her spouse on the date the participant signs the application to make the withdrawal or transfer from the account.

Any document required to be given to the plan administrator by the participant would not be valid if it is signed more than 60 days before the administrator receives it.

On receipt of any document required to support an application, the administrator would be required to give the participant a receipt for the document stating the date on which it was received.

9. Annual Statements

The plan administrator would be required to provide the information described in this section to the variable benefit account participant at the beginning of each fiscal year, or more frequently if agreed to by the administrator.

The following information would be required to be provided to the participant:

- With respect to the previous fiscal year: the sums deposited, any accumulated investment earnings, including any unrealized capital gains or losses, the payments made out of the account, the withdrawals taken out of the account and the fees charged against the account.
- The value of the assets in the account as of the beginning of the fiscal year.
- The minimum amount that must be paid out of the account to the participant during the current fiscal year.
- The maximum amount that may be paid out of the account to the participant during the current fiscal year.

10. Survivor's Benefits

Upon the death of a participant receiving variable benefits, the participant's spouse or, if there is none or if the spouse is otherwise disentitled, the participant's named beneficiary or, if there is none, the participant's estate would be entitled to receive a benefit equal to the value of the assets in the account.

A determination as to whether the participant has a spouse would be made on the date of the participant's death. A spouse who is living separate and apart from the participant on the date of the participant's death would not be entitled to receive the value of the assets in the account.

For the purposes of determining the value of the assets in the account, this includes all accumulated investment earnings, including any unrealized capital gains and losses, of the account from the date of death until the date of payment.

The plan would be required to provide that survivor's benefits may be transferred to an RRSP or an RRIF in accordance with the *Income Tax Act (Canada)*.

At any time before the participant's death, a spouse of the variable benefit account participant would be able to waive his or her entitlement to receive the survivor's benefit by delivering to the plan administrator a written waiver in a new form approved by the Superintendent. A spouse who has delivered such a waiver would be able to cancel it by delivering a written and signed notice of cancellation to the plan administrator before the date of the death of the participant.

11. Specified Beneficiaries

Subject to the terms of the plan, a variable benefit account participant would be able to designate a Specified Beneficiary in accordance with subsection 8506 (8) of the *Income Tax Regulation (Canada)*. If a Specified Beneficiary has been designated by the participant, this person would be permitted to elect to receive a schedule of income payments, instead of a lump sum.

12. Statement on Death of Participant

If, as a result of the death of a variable benefit account participant, his or her spouse, beneficiary or estate becomes entitled to a benefit, the following statement requirements would apply.

Within 30 days after the administrator receives a notice of the death, the administrator would be required to give a statement containing at least the following information to the spouse, beneficiary or legal representative:

- a. The name of the pension plan and its provincial registration number.
- b. The amount and method of payment of the benefit.

Appendix A: EXAMPLE
2014 Maximum Annual Income Payment Amount Table¹
(Using C/F formula in section 6(b) of the Description)

Age at January 1, 2014	New Age During 2014	Years to End of Year Age 90 is Attained	Maximum Payment as a Percentage of the VBA Balance at start of fiscal year*
40	41	50	5.98531%
41	42	49	6.00600%
42	43	48	6.02808%
43	44	47	6.05167%
44	45	46	6.07687%
45	46	45	6.10382%
46	47	44	6.13265%
47	48	43	6.16350%
48	49	42	6.19655%
49	50	41	6.23197%
50	51	40	6.26996%
51	52	39	6.31073%
52	53	38	6.35454%
53	54	37	6.40164%
54	55	36	6.45234%
55	56	35	6.50697%
56	57	34	6.56589%
57	58	33	6.62952%
58	59	32	6.69833%
59	60	31	6.77285%
60	61	30	6.85367%
61	62	29	6.94147%
62	63	28	7.03703%
63	64	27	7.14124%
64	65	26	7.25513%
65	66	25	7.37988%
66	67	24	7.51689%
67	68	23	7.66778%
68	69	22	7.83449%
69	70	21	8.01930%

¹ This table applies to a LIF under the PBA.

Age at January 1, 2014	New Age During 2014	Years to End of Year Age 90 is Attained	Maximum Payment as a Percentage of the VBA Balance at start of fiscal year*
70	71	20	8.22496%
71	72	19	8.45480%
72	73	18	8.71288%
73	74	17	9.00423%
74	75	16	9.33511%
75	76	15	9.71347%
76	77	14	10.14952%
77	78	13	10.65661%
78	79	12	11.25255%
79	80	11	11.96160%
80	81	10	12.81773%
81	82	9	13.87002%
82	83	8	15.19207%
83	84	7	16.89953%
84	85	6	19.18515%
85	86	5	22.39589%
86	87	4	27.22561%
87	88	3	35.29338%
88	89	2	51.45631%
89	90	1	100.00000%

The maximum annual income payment percentage is calculated on the basis of a twelve-month fiscal year to December 31, 2014.

The interest rate assumptions used in determining the value of “F” in the formula are:

- (1) 6.00%, which represents the greater of the CANSIM V122487 rate (the long-term Government of Canada bond rate) for November 2013 (which is 3.01%) and 6.00%, for the first 15 years, and
- (2) 6.00% for the sixteenth and each subsequent fiscal year.

Percentages shown in the table must be prorated for the initial fiscal year if less than twelve months. Part of a month is treated as a full month.