

# Special Communiqué

## ABOUT US

Morneau Sobeco Income Fund is the largest Canadian-owned firm providing human resource consulting and outsourcing services.

Through Morneau Sobeco and Shepell•fgi, the firm delivers solutions to assist employers in managing the financial security, health and productivity of their employees.

With over 2,300 employees in offices across North America, Morneau Sobeco Income Fund offers its services to organizations that are situated in Canada, in the United States and around the globe.



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## Amendments to Funding Rules for University Sector Pension Plans (Quebec)

The long-awaited final regulation on funding of municipal sector and university sector pension plans (*Règlement concernant le financement des régimes de retraite des secteurs municipal et universitaire*) was published on July 7, 2010.

This regulation came into force on July 22, 2010, although some of the measures apply retroactively to December 31, 2008.

Please refer to our *Special Communiqué* dated March 25, 2010, to learn about the main measures announced in the initial draft regulation published on December 23, 2009. The main changes since the initial draft and a summary of the final regulation are as follows:

### Temporary Relief Measure Proposed Following the Financial Crisis

The temporary relief measure initially proposed has not been changed. For 2009, 2010 and 2011, plan sponsors may choose to pay only **20%** of the amortization payments required to fund a technical unfunded liability that is due to the financial crisis.

The employer will need to inform the pension committee on whether or not it intends to avail

itself of the relief measure and provide instructions in this regard.

### Permanent changes to the funding rules that come into force on December 31, 2008

Except for a few technical details, the funding rules have not been changed.

### Confirmation of Certain Existing Provisions

- > Full actuarial valuations are required every 3 years.
- > For the purposes of the going-concern valuation, the market value of the assets is to be used.
- > Funding of solvency deficits is not required.

### New Permanent Provisions

- > **Technical unfunded liabilities** (other than unfunded liabilities related to amendments) may now be consolidated, subject to certain conditions, at each actuarial valuation.

### Deadline for filing an actuarial valuation report

The deadline for filing an actuarial valuation report as at December 31, 2008, has been moved to **August 31, 2010**.



### Did You Know That...

A penalty will now be imposed for late filing of the actuarial valuation report. The penalty is equal to 20% of the annual information return (AIR) fee for each complete month the report is filed late, up to a maximum of 100% of that fee. This penalty applies to actuarial valuations with a date after December 14, 2009.

### Reserve and Provision for Adverse Deviations (PfAD)

The draft regulation had introduced the concept of a provision for adverse deviations—basically a safety cushion intended to soften the effect of fluctuations of amortization payments.

Total assets would therefore consist of two notional accounts: a general account, to be used for determining the going-concern financial position, and a reserve that will be accounted for in a separate account (theoretical only).

The final regulation includes additional information about this reserve:

- > The introduction of the reserve was postponed by a few years. Under the final regulation, the reserve must be set up as of December 31, 2012. For any period preceding this date, the reserve is nil and the general account is equal to total assets.
- > The reserve consists mainly of technical actuarial gains.

The new regulation specifies that the actuarial gains resulting from voluntary contributions in excess of the required minimum contribution will not be used to constitute the reserve. Instead, these gains will be allocated to the general account.

The other rules governing the reserve remain the same as in the draft regulation.

### Treatment of Surplus

The final version of the regulation contains several new developments in this regard.

- > Funding of an amendment

Contrary to what was set out in the draft regulation, it is not necessary that a plan be fully solvent for a surplus to be used to fund an amendment. Neither is it necessary that the reserve for adverse deviations be fully constituted.

However, if a surplus exists, it must be used to fund the amendment. For this purpose, the surplus is defined as the excess of assets in the **general account** over the going-concern liability.



### Did You Know That...

In certain cases, when a surplus is used to fund an amendment, the principle of equity comes into play. In these cases, a notice must be sent to all plan members and beneficiaries. If 30% or more of active members **or** 30% or more of inactive members and beneficiaries oppose this use of surplus, it is deemed not to respect the principle of equity.

- > Contribution holidays

For an employer to be able to take a contribution holiday, the plan must be fully funded and solvent, but the reserve for adverse deviations need not be fully constituted. The surplus that may be allocated to a contribution holiday

corresponds to the lesser of the two following amounts:

- the surplus assets over the solvency liability; or
- the surplus of the **general account** over the going-concern liability.

It should be noted that in the case of an amendment to a plan that has a surplus, it is mandatory to use this surplus to fund this amendment. Thus, if the employer was planning to use the surplus to reduce its contributions, it can only use the surplus that remains after funding the amendment.

### Transitional provisions

An amendment that is made or that is effective after December 30, 2008, must be valued in an actuarial valuation with a date after December 30, 2008. The principle of equity may come into play if a surplus is used to fund the amendment.

However, an actuarial valuation reflecting an amendment made after December 31, 2008, can be performed as at a prior date if the following conditions are met:

- > a surplus was determined by an actuarial valuation prior to December 31, 2008;
- > plan rules at such date provided that a surplus could be used to fund an amendment;
- > the amendment funded by this surplus must be made by **December 31, 2011**.

In this case, the plan members and beneficiaries need not be polled under the principle of equity rules.

## Conclusion

The most important change made to the final version of the regulation is certainly the postponement of the reserve for adverse deviations to December 31, 2012.

This postponement will give parties time to examine existing agreements on surplus treatment and contingency reserve should they wish to do so.