

Federal Investment Rules

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On March 25, 2015, the Federal Department of Finance published the final text of changes to the pension investment restriction rules contained in Schedule III to the Pension Benefits Standards Regulations, 1985 (Canada) ("Schedule III"). The reforms, published in September 2014 for a 30-day comment period, will apply not only to federally regulated pension plans but also to those plans whose governing provincial legislation, such as the Pension Benefits Act (Ontario), incorporates Schedule III. Although the changes will not come into force until July 1, 2016, plan administrators, investment managers and other service providers should be reviewing the relevant plan documentation including agreements as well as compliance monitoring systems to ensure that they are ready to implement the changes.

The amendments include the updating of certain definitions and terminology in the investment rules, a modification of the 10% diversification limit, from a 10% book value test to 10% market value test (on a time of purchase basis), and changes to the related party rules, such that, subject to certain exceptions (notably for investments made through investment funds), the administrator of a pension plan will no longer be allowed to invest plan assets directly in securities of the employer. A transition provision is included that allows administrators of plans that currently hold securities of related parties, five years to divest of these securities in order to comply with the prohibitions on self-investment.

New sections are also being added to the federal investment rules regarding their application to "member choice accounts". For example, the 10% diversification limit will apply at the member account level for a pension plan that allows a member to make investment choices. There will be a carve-out from the 10% limit for investment fund and segregated fund holdings related to "member choice accounts", provided that the investment fund or segregated fund complies with the 30% corporate control limit. Similarly, the related party restrictions will not apply in respect of investments, applicable to a "member choice account" in an investment fund or segregated fund, in which investors other than the administrator of the pension plan and its affiliates may invest and that complies with the 30% corporate control limit.