Goodmans LLP Update

Pensions Law

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Pension Investment Rules Modernized and Clarified

On March 25, the Minister of Finance released the latest series of amendments to the *Pension Benefits Standards Regulations*. Among other things, key amendments to the pension investment rules modernize the rules by replacing outdated definitions and clarifying certain aspects. These amendments come into force on July 1, 2016.

Deeming Provision Broadened

Investments held through an investment fund (whether established by a corporation, limited partnership or trust), a segregated fund or a trust fund in which the moneys of the plan have been invested, are now deemed to be indirect investments made by the pension plan administrator.

10% Rule

The "10% Rule," which prohibits plan administrators from investing or lending more than 10% of the total value of the plan's assets in or to a single entity, has been amended to base the 10% limit on the "market value" (*i.e.*, current value), rather than the "book value" (*i.e.*, original purchase price) of a plan's assets.

The amendments also provide helpful clarification that the 10% Rule applies to transactions that result in the plan exceeding the limit, and is not an ongoing test that would require the plan to divest assets if investments grew to more than 10% of the plan's holdings. As such, a plan administrator may not lend or invest in a person, associated persons or affiliated corporations if the transaction would result in the plan having lent or invested, in total, 10% or more of the plan's assets to or in that entity.

Related Party Rule

The "Related Party Rule" prohibits plan administrators from investing in a related party to the plan, subject to specific exemptions, including where the securities of a related party were acquired at a public exchange.

The amendments replace the "public exchange" exemption with a "marketplace" exemption that allows the administrator to invest in the securities of a related party if the securities are held in an investment fund or segregated fund in which investors other than the administrator and its affiliates can also invest, and that complies with certain quantitative limits.

Transactions for the operation or administration of the plan (such as the rental of office space) are now exempt from the Related Party Rule, provided the transition is under market terms and conditions.

Administrators of pension plans holding securities of related parties will now be given five years to divest themselves of these securities to comply with the Related Party Rule.

Lastly, in response to stakeholder concerns, the existing exemption for a transaction with a related party that is nominal or immaterial to the plan has been retained.

For further information regarding interpretation of the pension investment rules, contact our Pensions Group.