December 2, 2015

Ontario Proposes Abolishing the Pension Fund "30% Rule"

Canadian pension funds and their subsidiaries are subject to rules that prohibit them from investing in shares of a corporation having more than 30% of the votes for the election of directors, except in the case of qualifying real estate, resource and investment subsidiaries (the so-called 30% Rule). A variety of approaches have been undertaken to limit the effect of this prohibition, in some cases with specific regulatory approval. But compliance with the 30% Rule requires planning in cases where the pension fund wishes to acquire more than 30% of the equity of a corporation.

In its recent Economic Outlook and Fiscal Review, the government of Ontario announced its intention to do away with the 30% Rule in the near future, stating:

"To open up new investment opportunities and tap the capacity of the pension sector to contribute more to economic growth, the government intends to eliminate the "30 per cent rule," which restricts Ontario pension funds from owning more than 30 per cent of the voting shares of a corporation."

A description of proposed regulations to effect this change will be released for consultation in early 2016.

This change will only affect pension funds governed by Ontario law. The 2015 federal budget announced a review of this rule at the federal level, but it remains to be seen whether other jurisdictions will follow suit.

If you have any questions regarding the foregoing, please contact R. Ian Crosbie (416.367.6958), Raj Juneja (416.863.5508) or Jessica Bullock (416.863.5503) in our Toronto office.