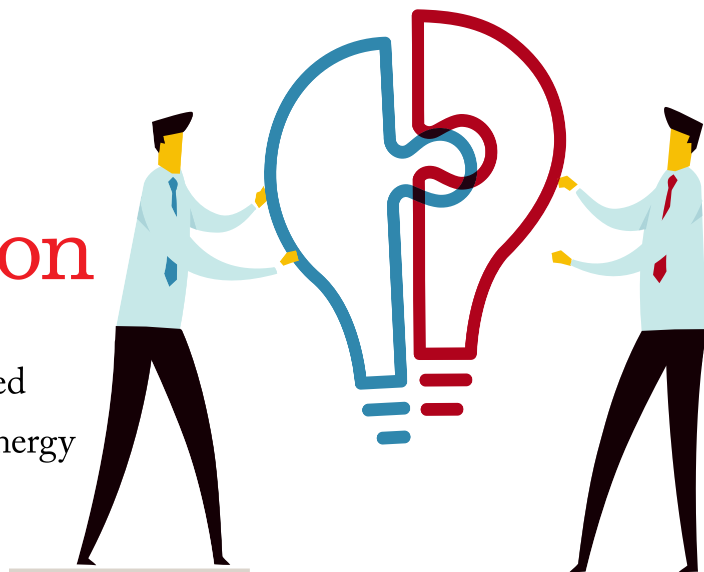
Deal with DB pensions in an M&A transaction



When General Electric Co. acquired French multinational Alstom's energy activities in November 2015, the transaction was via a stock purchase.

By Jennifer Paterson

That meant the whole division joined GE, including six defined benefit pension plans.

"We notified employees and applied for regulatory approval to merge the legacy Alstom DB plans into our primary GE Canada DB plan," says Diana McNiven, manager of compensation and benefits. "We're not going to change the employee benefit at all, but it allows us to consolidate the funds, have one trustee and manage the funds as one entity."

The impact of a merger or acquisition on pensions can vary considerably according to the nature of the transaction, says Kenneth Burns, a pension and employee benefits partner at Lawson Lundell LLP in Vancouver. The potential scenarios include closing or merging plans, moving employees to another one or changing the benefit formula.

The impact will also depend on whether the buyer is purchasing assets from another company or whether it's taking on the whole business, as in the case of the GE and Alstom transaction. "If you're buying shares of a company, you have to take it on," says Burns. "If you're buying assets from a vendor, you might be able to leave the pension plan behind and enrol the new employees in your own plan on a go-forward basis."

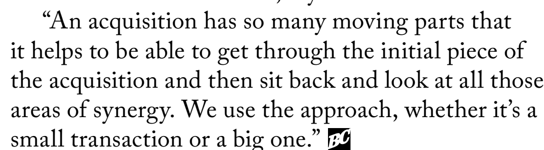
Where an acquisition includes all assets, including a defined benefit pension, the most crucial information for the buyer is the funded status of the plan, says Kent Lum, an associate partner with Aon Hewitt's retirement practice. "What it always comes down to is a negotiation on what is a fair price if the buyer is willing to take over the DB pension plan."

And while the process of merging with or acquiring a business can often happen relatively quickly, it may take a year or two for the new company to digest the pension. So however it decides to integrate the plan, it will happen after the initial transaction, says Burns. "You just can't do things like that quickly. What you really can do in the course of a merger and acquisition is your due diligence."

A large part of that due diligence is looking at the actuarial methods and assumptions involved, he adds, noting that if the actuaries of the acquired plan are using more aggressive standards than those of the buyer, they'll want to apply their own approach in order to get a better picture.

"On the other hand, if they're more conservative than your own standards, you may see a gain if you take on that plan and apply your own more aggressive . . . standards."

Since the plan's deficit is a moving number, it's also important to narrow it down to a specific point in time, such as the close of the sale or the last valuation date, says Lum. "It's a point-in-time measurement, given recent volatility in asset values and discount rates, which impacts on liabilities. That deficit could either decrease or increase. . . . For the buyer, it's difficult for them to accept that risk because it's risk associated with past service."



Once the transaction is complete, the company should look for synergies so it can save on vendor fees and internal resources, says McNiven.

"An acquisition has so many moving parts that it helps to be able to get through the initial piece of the acquisition and then sit back and look at all those areas of synergy. We use the approach, whether it's a small transaction or a big one." BC

MAJOR M&A DEALS IN 2016

Among the companies dealing with the impact of an acquisition is **Enbridge Inc.**, which announced a merger with Texas-based **Spectra Energy Corp.** last year for $37 billion. The year also featured the announcement in September of a merger between two Canadian agricultural giants, **Agrium Inc.** and **Potash Corp.**

Jennifer Paterson is the managing editor of *Benefits Canada*: jennifer.paterson@tc.tc.

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