



Canadian Airways Lodge No. 764

INTERNATIONAL ASSOCIATION OF MACHINISTS AND AEROSPACE WORKERS

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March 25th, 2012

AVEOS PENSION UPDATE

#1

I stated in my *Aveos Information Update #1* that I would be communicating pension information as and when I receive it. All of you want to know what will happen with the Aveos pension plan and I will endeavour to provide as much up to date and accurate information as I can. As you can appreciate, there are several different moving pieces to the pension plan issue that will complicate the final resolution and disposition.

My February 2012 LL764 Pension Committee Report was about the Air Canada – Aveos pension plan transfer process and progress as of that date. It is available under the “Pensions” link on the LL764 website homepage www.iam764.ca. I would suggest that all Aveos members read that report as a background to this update.

- 1) All of the money associated with everyone’s Air Canada pensionable service – up to July 14th, 2011 is still held in trust in the Air Canada Master Trust Fund. While Air Canada and Aveos had been working to the timeline set out in the 2007 *Pension and Benefits Agreement* for Transition, the money is still with Air Canada. It would not have been transferred to Aveos in the normal course of events until their new pension plan was fully approved by OSFI, estimated to have been sometime in early to mid 2013.
- 2) As a result of media reports in early March 2012 about the financial health of Aveos and a possible CCAA filing, Aveos was contacted by OSFI. They were seeking assurances about the deposit and payment of employee pension contributions into a registered trust fund. It is my understanding that OSFI was assured that the employee pension contributions were made by Aveos since July 14th, 2011 and have been deposited in trust as required by the *PBSA*.
- 3) Aveos registered their Unionized (IAMAW) pension plan and text with OSFI in December 2011 as required by Section 2 of the 2007 *Pension and Benefits Agreement* (transition document between AC, Aveos and the IAMAW). This means that the pension contributions paid and pensionable service earned since the July 14th, 2011 transition is registered and protected by OSFI and the *PBSA*,
- 4) If there is any deficiency in the employee contributions or associated pensionable service funding it would be subject to collection and payment from the company’s assets. They would form what is called a Deemed Trust. This will greatly elevate their importance and ranking in the list of creditors when Aveos’ assets are liquidated.
- 5) In the normal course of events, had Aveos remained a going concern, any member who wished to terminate or retire from Aveos would have had to apply to Aveos to trigger a payout of their pension benefit. The benefit owed and options for payment would have been in accordance with the rules of the pension plan, which are the same as the rules of the existing AC pension plan. While the pension benefit owed and the payment options will remain the same after the declaration of insolvency, there is no longer an employer to file your application with. This will be one of the bigger complications in the near term in deciding how and when you can access your pension assets.
- 6) OSFI and the court appointed Bankruptcy Trustee for Aveos will ultimately announce an arrangement regarding the pension plan and the possible appointment of a third party administrator of the Aveos pension plan in accordance with Section 29 of the *PBSA*. They will define a process whereby the pension assets will be invested, transferred or paid on behalf of all plan members.
- 7) Section 17 of the 2007 *PBA* states that Air Canada will make all required pension benefit payments on behalf of Aveos until such time as the final asset transfer takes place. As stated above, that has not occurred and was not scheduled to occur until sometime in 2013. The application for and payment of your pension benefits from Air Canada will be complicated by and subject to the final resolution of item (6) above.

- 8) Because Section 14 of the 2007 *PBA – (Determination of Certification Date Assets)* has not been completed, Aveos has never done a solvency funding valuation on their pension plan. Therefore, the solvency funding ratio of the Aveos Unionized (IAMAW) pension plan is unknown at this time.
- 9) Under the terms of the 2007 *PBA* Air Canada was responsible for the past service solvency funding contributions for all Airframe employees transitioned to Aveos up to the date of transition – July 14th, 2011.
- 10) Aveos was responsible for the solvency funding deficit payments associated with all of its employees after the transition date – July 14th, 2011. Aveos was also responsible for the solvency funding deficit for all EMC and CMC employees since October 2007. None of these payments would have been made prior to the initial solvency funding valuation of the new Unionized (IAMAW) pension plan having been completed.
- 11) There are two reasons these payments would not have been made. First, until the valuation is done, Aveos and OSFI would have no way of knowing what the solvency funding deficit was. Without knowing what the deficit was, they would have no way of knowing the amount of any required payments. Second, a company is prohibited from paying into another company's pension plan. All current Aveos employees were Air Canada employees and members of the Air Canada pension plans up to the transition date, July 14th, 2011. Therefore, even if the solvency funding deficit associated with the EMC and CMC employees had been known, Aveos would have been prohibited from paying any money into the Air Canada pension plans.
- 12) Section 24 of the 2007 *PBA* defines the requirement for Air Canada to pay their share of the required solvency funding deficit payments over 20 quarterly payments (5 years) effective from the transition date. The IAMAW and our legal counsel will be ensuring that these payments are made in their entirety to the benefit of the Aveos IAMAW pension plan as and when required by OSFI.
- 13) I am working with our pension lawyer, Mr. Hugh O'Reilly, to get the legal answers as to the impact of the Aveos insolvency filing on the pension plan and your ability to access your pension.
- 14) The IAMAW and our legal counsel will be working to ensure that all of your pension contributions will be accounted for and that all pension benefits earned and owing will be paid to the fullest extent possible.

I do not want to raise any alarms or cause a panic. Your pension will be protected by the PBSA and OSFI. I am just not able to answer any more detailed questions about the impact of these legal court protection filings by Aveos on your immediate access to the pension plan at this time. I would rather give no information to members than give wrong information.

Respectfully,

Christopher Hiscock, President
Canadian Airways Lodge 764