

Re: opinion

From: "Orencsak, Greg (TBS)" <greg.orencsak@ontario.ca>
To: "Hatzis, Len (TBS)" <len.hatzis@ontario.ca>
Cc: "Veinot, Cindy (TBS)" <cindy.veinot@ontario.ca>, "Petsche, Nadine (TBS)" <nadine.petsche@ontario.ca>, "Kaufman, Paul (TBS)" <paul.kaufman@ontario.ca>, "Kearney, Sean (TBS)" <sean.kearney@ontario.ca>, "MacIntyre, Kyle (TBS)" <kyle.macintyre@ontario.ca>, "Hughes, Karen (TBS)" <karen.hughes@ontario.ca>
Date: Mon, 19 Sep 2016 20:32:58 -0400
Attachments: image001.gif (671 bytes); image002.gif (1.45 kB); image003.jpg (5.23 kB)

Thanks...keep us posted if Oslers is willing to refine based on feedback and add'l info.

Greg

On Sep 19, 2016, at 8:22 PM, Hatzis, Len (TBS) <Len.Hatzis@ontario.ca> wrote:

Greg

Chatting with Cindy now, we think we need a call before it goes more broadly as the opinion may not provide enough support for Deloitte and after our call, we may have an opportunity to attempt to persuade oslers to clarify some issues etc....

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Orencsak, Greg (TBS)
Sent: Monday, September 19, 2016 8:11 PM
To: Hatzis, Len (TBS)
Cc: Veinot, Cindy (TBS); Petsche, Nadine (TBS); Kaufman, Paul (TBS); Kearney, Sean (TBS); MacIntyre, Kyle (TBS); Hughes, Karen (TBS)
Subject: Re: opinion

Thanks Len - feel free to share more broadly, time is of the essence.

I'm wondering if any of the draft's conclusions would be a surprise to us or Deloitte, based on the phone check-ins so far. If so, we should probably discuss. Otherwise, I don't think we need a call tonight.

Greg

On Sep 19, 2016, at 7:57 PM, Hatzis, Len (TBS) <Len.Hatzis@ontario.ca> wrote:

We have received the draft opinion from Osler. We are still reviewing but note the following:

- The opinion makes it clear that neither party has a legally enforceable unilateral right to utilize the surplus in the OTPP and the provisions in the FMP relating to utilization of surplus do not give rise to a

legally enforceable right to a portion of the surplus

- The opinion does however note the past practice of 50/50 sharing, the overall legislative framework that contemplates sharing in surpluses, and the fact that the requirement for good faith bargaining
- The opinion also specifically notes that since neither party can unilaterally decide how to utilize a surplus the Sponsors have "an equal opportunity to benefit from surplus utilization"

Should we set up a call to discuss before oslers finalizes. Also, would you like me to send immediately to bigger group - ie SoC/William Bromm and Scott?

Thanks

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Hatzis, Len (TBS) <Len.Hatzis@ontario.ca>
Sent: Monday, September 19, 2016 7:23 PM
To: Veinot, Cindy (TBS); Petsche, Nadine (TBS)
Cc: Kaufman, Paul (TBS); Smook, Nick (TBS); Kearney, Sean (TBS)
Subject: Fw: opinion

Can you review - we are reviewing as we speak.
Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Rienzo, Douglas <DRienzo@osler.com>
Sent: Monday, September 19, 2016 7:06 PM
To: Hatzis, Len (TBS)
Cc: Marin, Jon; Kaufman, Paul (TBS); Steele, Jana
Subject: RE: opinion

Len:

Please find enclosed the draft opinion. Please let us know if you have any comments or questions; subject to your comments we can prepare it in final form. Please note that due to time restrictions we are still reviewing it internally, so there may be some minor changes to be made before finalizing.

Doug

<image001.gif>

Douglas Rienzo
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Chair, Diversity Committee

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<[image002.gif](#)>

<[image003.jpg](#)>

From: Hatzis, Len (TBS) [<mailto:Len.Hatzis@ontario.ca>]
Sent: Monday, September 19, 2016 3:15 PM
To: Rienzo, Douglas <DRienzo@osler.com>
Cc: Marin, Jon <jmarin@osler.com>; Kaufman, Paul (TBS) <Paul.Kaufman@ontario.ca>;
Steele, Jana <JSteele@osler.com>
Subject: opinion

Hi
Any update on delivery of draft opinion . thanks

Len Hatzis
Deputy Director
Legal Services Branch | Treasury Board Secretariat
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416.327.6393

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<Draft Osler Opinion re OTPP surplus.pdf>