



January 19, 2024

Financial Services Regulatory Authority of Ontario  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6

**Re: Consultation Paper on Potential FSRA Rule on Family Law Matters**

Following the recent consultation published November 14, 2023, on the *Potential FSRA Rule on Family Law Matters*, Normandin Beaudry has taken note of the proposed rule and would like to present you with our comments.

We first want to thank the Financial Services Regulatory Authority of Ontario (“FSRA”) for the opportunity to provide feedback and comments on the benefits in developing a rule on Family Law matters. Our comments below reflect elements which we feel may be beneficial to consider or include in the various aspects of the proposed rule.

Founded in 1992, Normandin Beaudry is a leader in actuarial and total rewards consulting services. Nearly 350 employees serve clients across Canada in eight areas of expertise: Pension and Savings, Pension Plan Administration, Investment Consulting, Group Benefits, Compensation, Health, Performance, and Communication. The firm helps clients achieve their human capital and financial performance objectives by offering practical and innovative total rewards solutions, enabling them to stand out with creative strategies for talent attraction, engagement, and retention.

**TOPIC #1: LIFT AND SHIFT**

We understand that FSRA does not possess rule-making authority over all family law matters in the current Regulation.

While a “lift and shift” approach to move certain family law requirements from legislation into a rule would require plan administrators to consult multiple documents to access all rules for marriage breakdown issues, we concur that such an approach would alleviate uncertainty and enhance efficiency. Furthermore, this approach may allow FSRA to clarify grey areas which may exist and thus, facilitate the administration of marriage breakdowns in pension plans.

## **TOPIC #2: FEES THAT PLAN ADMINISTRATORS MAY CHARGE FOR A DB STATEMENT OF IMPUTED VALUE**

The maximum fees prescribed by the PBA have remained unchanged for the last decade or so. We agree that fees an administrator can charge to spouses for the preparation of marriage breakdown statement may be below actual costs.

If FSRA is considering increasing these fees, we would suggest that these be adjusted to account for inflation rather than being subject to a one-time significant increase and not adjusting them afterwards.

In order to alleviate costs for pension plans, as an alternative or in addition of indexing fees following inflation as mentioned above, FSRA could also consider introducing fees for the partition of the plan member's benefits.

For reference purposes, if the pension plan allows it, Quebec legislation permits to charge spouses a fee for the preparation of the statement and an additional fee for the execution of the partition of benefits. The combination of these two fees under the Quebec legislation for a pension plan with a defined benefit portion are approximately 150% lower than the one-time fee permitted by the Ontario legislation. Please note that these fees have although not been indexed for approximately 25 years.

Having said this, it is important to highlight that, based on our experience, fees often dissuade spouses from requesting a marriage breakdown statement. We believe that not having the proper information of the plan member's pension plan value is detrimental to the spouse as an accurate understanding and appropriate estimation of family property is lacking. Increasing the cost would discourage more members for seeking these statements and we would recommend that FSRA considers this while determining an appropriate balance.

Considering varying fees for low-income applicants is a commendable idea, we believe its application could be complex and might not be necessary fair in all situations. How would low-income applicants be defined? Would low income for a particular year or for a number of years be considered as earnings can fluctuate from one year to another? Would the net worth of an applicant be considered as she/he could have low income, but possess considerable assets? Considering this complexity, we would recommend to not distinguish between different various income applicants in order to set fees.

## **TOPIC #3: PAYMENT OF ARREARS – DIVISION AND REVALUATION OF A RETIRED MEMBER'S PENSION**

We agree that uncertainty surrounds the division and revaluation of a retired member's pension where arrangements are made between spouses before the actual division.

We believe a rule could be implemented to provide guidance and allow the plan administrator to exercise judgment in these type of situations in order to ensure a fair partition of benefits between spouses. However, it is important for the plan administrator to ensure that the arrangements are clearly stated in the divorce judgment or in a documented and signed agreement between spouses.

#### **TOPIC #4: PAYMENT OF INTEREST ON LUMP SUM TRANSFERS**

We agree that there should be no uncertainty regarding the application of interest on a lump sum transfer to a member's spouse. We encourage FSRA to develop a rule on this matter.

From our perspective, we however believe that interest should be applied on all lump sum transfers unless explicitly stated otherwise in the divorce judgement. As the commuted value is determined at a separation date of marriage breakdown date, accumulating interest would be coherent with the treatment of applying interest after the date of termination of membership. For information purposes, this approach would align with guidance provided for Quebec regulated pension plans.

#### **TOPIC #5: FORMS**

We agree that a rule allowing greater flexibility with respect to the forms used would be more convenient for stakeholders. For instance, a Word-format form enabling the use of mail merge functionality would facilitate administrators in automating their templates.

Even with increased flexibility in the forms used, administrators must however ensure compliance with the law. A notice of changes to the model proposed by FSRA could be posted on the website to alert administrators of necessary adjustments to their templates.

#### **TOPIC #6: VARIABLE BENEFITS**

We agree that FSRA should develop a rule pertaining to family law matters in the area of variable benefits, similar to the proposed rules for other pension plans.

We hope that this document will contribute to the review of the proposed rule.

It is with pleasure that we can, at your convenience, discuss in more details or answer your questions regarding this document.

On behalf of Normandin Beaudry's Ontario Legislation Committee,



Louis Duranleau, FSA, FCIA  
Senior Principal



Marie Voyer, FSA, FCIA  
Consultant