

**FSRA**Financial Services Regulatory  
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March 26, 2021

James Walker  
[igwalker@ball.com](mailto:igwalker@ball.com)  
Manager, Retirement & Savings  
Ball Corporation  
9200 W. 108<sup>th</sup> Circle  
Westminster CO 80021  
U.S.A.**Re: Ball Packaging Products Canada Corp. Retirement Plan for BPPCC Employees  
Registration Number 0339523**

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Enclosed, please find the Notice of Intended Decision with respect to the above noted pension plan.

Yours truly,

A handwritten signature in black ink, appearing to be "Mitzi D'Souza".

Mitzi D'Souza  
Administrative Assistant, Pensions

Enclosure

c: Ashley Lerman, Willis Towers Watson  
Anne Moloney, Financial Services Regulatory Authority of Ontario

**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990, c. P.8, (the “Act”), in particular subsection 62.1(5);

**AND IN THE MATTER OF** the Ball Packaging Products Canada Corp. - Retirement Plan for BPPCC Employees, Registration Number 0339523 (the “Plan”).

### **NOTICE OF INTENDED DECISION**

**TO:** Ball Packaging Products Canada Corp.  
9200 W 108<sup>th</sup> Circle  
Westminster CO 80021  
USA

Attention: James Walker  
Manager, Retirement and Savings

*Employer and Administrator*

**TAKE NOTICE THAT** pursuant to subsection 62.1(5) of the Act, and by delegated authority from the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (the “Chief Executive Officer”), the Head, Pension Plan Operations and Regulatory Effectiveness (the “Head”), intends to consent to the payment out of the pension fund in respect of the Plan to Ball Packaging Products Canada Corp., in the amount of \$870,041.40 as at August 1, 2020, plus investment earnings thereon to the date of payment. Details of this intended decision are described below.

**SI VOUS DÉSIREZ RECEVOIR CET AVIS EN FRANÇAIS**, veuillez nous envoyer votre demande par courriel immédiatement à: [contactcentre@fsrao.ca](mailto:contactcentre@fsrao.ca).

**YOU ARE ENTITLED TO A HEARING BY THE FINANCIAL SERVICES TRIBUNAL (THE “TRIBUNAL”) PURSUANT TO SUBSECTION 89(6) OF THE ACT.** A hearing by the Tribunal about this Notice of Intended Decision may be requested by completing the enclosed Request for Hearing Form (Form 1) and delivering it to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you. The Request for Hearing Form (Form 1) must be mailed, delivered, faxed or emailed to:

Address: Financial Services Tribunal  
25 Sheppard Avenue West  
Suite 100,  
Toronto, ON M2N 6S6  
Attention: Registrar

Fax: 416-226-7750

Email: [contact@fstontario.ca](mailto:contact@fstontario.ca)

**TAKE NOTICE THAT if you do not deliver a written request for a hearing to the Tribunal within thirty (30) days after this Notice of Intended Decision is served on you, an order will be issued as described in this Notice of Intended Decision.**

For additional copies of the Request for Hearing Form (Form 1), visit the Tribunal's website at [www.fstontario.ca](http://www.fstontario.ca).

The hearing before the Tribunal will proceed in accordance with the *Rules of Practice and Procedure for Proceedings before the Financial Services Tribunal* ("Rules") made under the authority of the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22. The Rules are available at the website of the Tribunal: [www.fstontario.ca](http://www.fstontario.ca). Alternatively, a copy can be obtained by telephoning the Registrar of the Tribunal at (416) 590-7294, or toll free at 1-800-668-0128 extension 7294.

## **REASONS FOR INTENDED DECISION**

1. Ball Packaging Products Canada Corp. is the employer and administrator of the Plan (the "Employer").
2. The plan was wound up effective December 31, 2017.
3. The Plan had a wind up funding deficit of \$4,426,103 under section 75 of the PBA, as per the wind up report as at December 31, 2017, filed by the Plan's actuary. The Employer has been funding the liability by way of contributions under section 75 of the Act.
4. On July 2, 2019, the Employer, made a final lump sum contribution of \$1,234,579 to fully fund the wind up deficit.

5. Information provided by the Employer on August 26, 2020, as part of the Employer's application under section 62.1 of the Act, showed that there were assets in the amount of \$870,041.40 as at August 1, 2020, remaining in the Plan's pension fund after all benefits related to the wind up had been settled.
6. In these circumstances, subsection 32(4) of Regulation 909 states that the money remaining in the fund may be paid to the Employer in accordance with subsection 62.1 of the Act, as if the money was an overpayment into the pension fund by the Employer within the meaning of clause 62.1(1)(b) of the Act.
7. The Employer has applied for payment of \$870,041.40 as described in paragraph 5.
8. Subsection 62.1(4) of the Act states that if an employer makes an overpayment into the pension fund, the application for reimbursement for the payment must be filed before the later of: (a) 24 months after the date on which the employer made the overpayment; and (b) six months after the date on which the employer, acting reasonably, becomes aware of the overpayment.
9. The Employer's application for reimbursement of the overpayment was made on August 26, 2020. This date is within 24 months after the date on which the Employer made the over payment described in paragraph 4. Accordingly, the application has been filed within the time limits set out in subsection 62.1(4) of the Act.
10. Such further and other reasons as may come to my attention.

**DATED** at Toronto, Ontario, March 26, 2021.



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Jennifer Rook  
Head, Pension Plan Operations and Regulatory Effectiveness

By delegated authority from the Chief Executive Officer