

# Information



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## Pension Sector Emergency Management Response

### Purpose and Scope

This Guidance outlines information for pension sector stakeholders and plan members during the COVID19 pandemic.

This Information Guidance replaces Information Guidance PE0201INF issued May 22, 2020. Changes have been identified with **\*UPDATED\*** or **\*NEW\*** where information is updated relative to PE0201INF, or new to this Guidance.

### Rationale and Principles

We are receiving and listening to your input on the challenges brought on by the pandemic, and we are working with other regulators and the Government of Ontario so that we can support the sector with appropriate and timely measures during emergency and other extraordinary circumstances. This Guidance aims to promote good administration of pension plans by assisting plan administrators in their ongoing administration and other pension-related obligations during this disruption, while not losing sight of the need to protect and safeguard benefits and rights of plan beneficiaries.

This Guidance provides FSRA's responses to questions received from pension stakeholders during this unprecedented and challenging time. We ask you to bear in mind that we are facing a unique and rapidly evolving situation and our position on any given matter may change as the situation progresses. This Guidance may be updated to reflect clarifications, new responses to questions and updated positions. Please refer to the section "Effective Date and Future Review" towards the end of this document for more information.

Our answers below are subject to the general principle that, during this disruption, we expect pension plan sponsors and administrators to focus on managing risks while meeting obligations to:

- Pay benefits
- Make and remit contributions
- File required filings, or advise us immediately where you need extensions
- Provide member communications in a timely manner, or advise us immediately if you're unable to comply with the requirements

**Note:** Where this Guidance conflicts with the *Financial Services Regulatory Authority of Ontario Act, 2016*, S.O. 2016, c. 37, Sched. 8 (FSRA Act), the *Pension Benefits Act*, R.S.O. 1990, c. P.8 (PBA) or the regulations thereunder, the FSRA Act, PBA or regulations govern.

## Contacting FSRA

During this disruption, we ask plan administrators and sponsors, and their advisors to please email your FSRA Pension Officer as the first point of contact for questions or concerns. Plan members can do that also, or they can contact our contact centre at 416-250-7250 or toll free at 1-800-668-0128 or email us at [PensionInquiries@fsrao.ca](mailto:PensionInquiries@fsrao.ca). You can check who your Pension Officer is by going to this [FSRA Pension Plan Information Access](#) and searching for your pension plan. Given current working arrangements during the COVID-19 pandemic, our response may take longer than normal. Thank you for your patience and understanding where you experience delays.

Please note that FSRA staff will respond to matters regarding the administration of and obligations under the *Pension Benefits Act* (PBA), but **do not provide professional advice**. You should obtain professional advice from your actuary, lawyer, accountant, insurer, investment advisor or other relevant professional as appropriate.

When contacting FSRA with a question, we ask that you do so by email, outlining the facts of your situation and setting out your question. You should also include your own (or your advisor's) analysis of the issue and conclusion, and attach any relevant documents to your email. If the size of attachments is a problem, please contact the Pension Officer, who will assist you to submit those documents.

## Information

This page includes responses and information related to:

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- [Pension Plan Administrators and their Advisors](#)
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- [Pension Plan Members](#)
- [Timing of Events, Consultations and Communications](#)

## Ontario Government Emergency Management Order

**Q1.** How does Regulation 73/20 under the ***Emergency Management and Civil Protection Act*** affect the pension sector?

**A1.** On March 20, 2020, the Ontario government issued an Order under the [Emergency Management and Civil Protection Act, R.S.O. 1990, c. E.9](#) (the "EMCPA Order").

At this time, it is FSRA's understanding that the EMCPA Order suspends statutory time periods within which steps must be taken in a proceeding or an intended proceeding. That is, the EMCPA Order impacts matters that are currently before the Courts or the Financial Services Tribunal (FST). See <https://www.fstontario.ca/en/index.html> for further information on the impact of the EMCPA Order on FST Hearings.

The EMCPA Order also suspends timelines for the issuance of orders following from a “notice of intended decision” (or “NOID”) under the PBA. As a result, NOIDs (and orders following from NOIDs) under the PBA will generally not be issued or proceeded with, except in the circumstances described below, until the EMCPA Order expires or otherwise ceases to apply.

Despite the general effect of the EMCPA Order, the CEO of FSRA, or their delegate, retains a discretion to proceed with NOIDs, orders and related processes. If a NOID is issued while the EMCPA Order is in effect, the period to request a hearing before the FST will typically be extended until after the EMCPA Order has expired. However, FSRA also has the discretion to proceed using the normal FST hearing request period under the PBA. Given that the purpose of the EMCPA Order is to avoid prejudice to persons affected by an emergency, FSRA will exercise this discretion in limited circumstances where the benefit of proceeding outweighs any potential prejudice. In making this determination, FSRA will consider a number of factors including whether proceeding with the NOID or order will impact procedural rights and whether and the extent to which there will be any prejudice if FSRA does not immediately proceed to issue a NOID or order.

If any person feels that a specific matter may qualify for the exercise of FSRA’s discretion to proceed with a NOID or an order following from a NOID, they should email the Pension Officer responsible for the pension plan that is or would be the subject of the NOID or order, and provide their analysis in support of proceeding with the NOID or order.

Please note that the EMCPA Order does not:

- Suspend regulatory timelines for granting consent or approval that do not require a NOID or order. For such matters, FSRA will proceed with approvals or consents where it considers it appropriate or required. However, please contact the designated Pension Officer if you think there could be prejudice if FSRA proceeds with any such non-NOID consents and approvals in light of current circumstances.
- Impact filings, reporting and fees, etc. The treatment of such filings and fees are separately discussed in other Q&As. Please contact your designated Pension Officer to discuss matters applicable to specific plans.

## Pension Plan Administrators and their Advisors

FSRA recognizes that employers across the province are facing unprecedented challenges. We understand plan sponsors and administrators have deployed business continuity plans and are assessing their adequacy, including with service providers where applicable.

We expect plan administrators and their agents to continue, despite the disruption, to meet the standard of care set out in the *Pension Benefits Act* (PBA) and to exercise good risk management and plan administration practices.

Where staff availability or resources impact your ability to pay benefits or process retirements or to otherwise fulfill PBA or plan obligations, please contact your designated Pension Officer immediately.

**Q2.** Plan administrators may need **extensions for upcoming regulatory filings** (for example, financial statements, valuation reports, etc.). Will FSRA grant extensions?

**A2.** **\*UPDATED\*** On June 18, 2020, the government filed Regulation 287/20 and Regulation 288/20, which amended Regulation 909 and Regulation 310/13 respectively. The regulation changes provide extensions to deadlines for certain filings.

Many provisions in Regulation 287/20 and 288/20 are effective on June 18, 2020 or some period relative to that date. FSRA recognizes this may mean that the regulation changes will not provide relief to some administrators because their deadlines are outside the relief period.

[See Q11](#), below, for more information on the extensions.

Where the regulations do not provide an extension in the circumstances of a particular plan, administrators should contact their Pension Officer and describe the circumstances and relief sought.

Section 105 of the *Pension Benefits Act* (PBA) allows pension plan administrators and their authorized agents to request a filing extension of up to 60 days beyond the prescribed timeline under the PBA. Plan administrators or their authorized agents who are registered on FSRA's Pension Services Portal (PSP) may submit filing extension requests of up to 60 days via the PSP. If the filing extension request is for a period beyond 60 days, we ask you to submit your request **by email (preferably) or regular mail** to your designated Pension Officer.

If extensions are not available under section 105 of the PBA, and an administrator has contacted FSRA with respect to its difficulty complying with a deadline in advance of the deadline, where appropriate, FSRA will not levy administrative monetary penalties for non-compliance. However, the administrator should still consider other possible effects of filing late.

- Q3.** Plan administrators may be unable to provide **member disclosure information** within the prescribed timelines of the PBA (for example, annual and biennial pension benefit statements, termination statements and retirement statements). How will FSRA respond?
- A3.** **\*UPDATED\*** Member statements are an important tool for plan members. Receiving complete, accurate and timely information about pension benefits and available options is key to making well-informed decisions.

On June 18, 2020, the government filed Regulation 287/20 and Regulation 288/20, which amended Regulation 909 and Regulation 310/13 respectively. The regulation changes provide extensions to deadlines for issuing certain member notices and statements.

Regulation 287/20 requires administrators to provide notice to FSRA in advance of when statements would otherwise have been required that statements issued to plan members, former members or retired members will be delayed. Administrators should email this notice to their Pension Officer as soon as they know statements will be delayed and note:

- Pension plan name and registration number
- When they expect to send the statements
- Whether notice of delays has been provided to bargaining agents, if applicable

[See Q11](#), below, for more information on the extensions.

For member-focused communications for which the deadlines have not been extended, FSRA understands many businesses are operating under their business continuity plans and disruption to regular course operations may cause delays in the production of member disclosure information within the prescribed timelines of the PBA. If a plan administrator or their agents are facing challenges in complying with the prescribed timelines, we ask that you let your designated Pension Officer know via email as soon as possible and in advance of the deadline.

While in most cases FSRA does not have discretionary powers to extend the prescribed timelines as they relate to member disclosures, provided FSRA has been notified of challenges and received a reasonable proposed plan of action, administrative monetary penalties will not be levied with respect to late member communications. However, in some scenarios sending a notice to a member by a certain deadline is a pre-condition to receiving FSRA's consent. A decision by FSRA not to impose a penalty does not result in that application being compliant.

- Q4.** We are a plan administrator and we have become aware that the **transfer ratio** of our defined benefit pension plan may have deteriorated by 10% or more and is now below 0.9. What should we do?
- A4.** Financial market conditions are changing rapidly and may result in significant volatility in the funded status of pension plans. As always, the security of pension benefits remains a priority. If the administrator of a defined benefit pension plan registered in Ontario knows or ought to know that the plan's transfer ratio may have fallen by 10% or more since the most recently determined transfer ratio (or if the most recently determined transfer ratio was above 1 and may have fallen to 0.9 or less), the administrator shall not transfer any part of the commuted value of a pension, deferred pension or ancillary benefit to which a member or former member is entitled, without first obtaining FSRA's prior approval.

Please use our [Pension Form 10](#) to seek FSRA's approval, and where possible, please submit the form electronically to [CVTransfers@fsrao.ca](mailto:CVTransfers@fsrao.ca). Please refer to section 19 of Regulation 909 made under the PBA and to FSRA's new Approach Guidance, Limitations on Commuted Value Transfers and Annuity Purchases [Limitations on Commuted Value Transfers and Annuity Purchases \(DB Pension Plans\)](#) for further detail with respect to this requirement.

**Q5.** I am a pension consultant. My client's pension plan is in the process of requesting the CEO's consent to a **specific transaction** and has filed an application in that regard. Will that application continue to be processed?

**A5.** All pending transactions filed with FSRA such as pension asset transfers or wind up applications, will continue to be reviewed by FSRA staff, although we expect there will be some delay due to the current disruptions.

In addition, any transaction that requires a notice of intended decision ("NOID") to be issued under the PBA will generally not proceed until the emergency regulation made under the *Emergency Management and Civil Protection Act* expires or otherwise ceases to have effect (see [Q1](#) above). This is because that regulation has suspended the timeframe to request a hearing before the FST.

If you have any questions regarding pension transactions, please contact your designated Pension Officer via email by visiting the [FSRA Pension Plan Information Access](#) or submit your inquiries to our pension inquiries email at [PensionInquiries@fsrao.ca](mailto:PensionInquiries@fsrao.ca). If you are submitting new applications or additional documents, please do so electronically via email or through the FSRA portal, where available. If you are unable to submit your application electronically, please contact your designated Pension Officer to make alternate arrangements.

**Q6.** In preparing an **actuarial valuation report** for funding purposes as at December 31, 2019, that will be filed later this year, should the significant stock market and economic decline in 2020 ("market shock") be classified as a **subsequent event**?

**A6.** Yes, FSRA considers the market shock to be a subsequent event that provides additional information about the pension plan, because the shock impacts the outlook for the funded status of the plan for a significant period following this event. FSRA does not expect any changes in asset values after the valuation date to be reflected in the balance sheet. The actuary should exercise professional judgement to establish the best estimate assumptions for the valuation in accordance with the Canadian Institute of Actuaries ("CIA") Pension Standards ("Standards").



- Q7.** In preparing an **actuarial valuation report** for funding purposes as at December 31, 2019, that will be filed later this year, what **disclosures** related to the significant stock market and economic decline in 2020 (“market shock”) should be included in the valuation report?
- A7.** As noted in Q6, FSRA considers the market shock to be a subsequent event. The CIA Standards require the disclosure of subsequent events. In addition, subsection 3260 of the CIA Standards requires the actuary to select and make disclosures based on plausible adverse scenarios (“PAS”). The CIA’s Education Note entitled “*Guidance on Selection and Disclosure of Plausible Adverse Scenarios*” states that the selection and application of PAS is a stress-testing process on various risks to the funded status and service cost of a pension plan.

The CIA Standards relating to PAS enhances the usefulness of actuarial reports and makes it a valuable tool not only for measuring the financial position of a plan, but also for establishing appropriate contribution levels and providing information on plan risks. Consequently, FSRA considers the selection and disclosure of PAS to be very important for users of the report to understand the risks to the plan and enable plan fiduciaries to properly manage these risks and make prudent decisions to deliver on the pension promises made to plan beneficiaries. The PAS should reflect plan specific risks and be developed recognizing all known events such as the market shock and its potential financial impact on the pension plan. When developing a PAS, it may be appropriate in some circumstances (e.g. where there is more than an immaterial risk) to consider financial stresses to the employer that may affect its ability to make required pension plan contributions when due.

FSRA expects the following disclosures to be included in the valuation report based on any PAS that have been identified to the extent the information is available in performing the valuation or from other work created in connection with the risk of the funded status of the plan to risks outlined in a PAS:

- Impact on the funded status, including going concern, solvency, and wind up bases as well as the solvency and transfer ratios

- Impact on the required contributions to the pension plan in respect of the normal cost, going-concern and solvency special payments

FSRA may request the administrator to provide such information if it is not included in the valuation report.

**Q8.** Given the COVID-19 pandemic, our office is closed and we are unable to send certain required member communications by regular mail within the timeframe established by the PBA or its regulations. Can we send such **communications by electronic means**?

**A8.** FSRA understands that plan administrators may not have staff in offices to be able to prepare and send out required documents to members and other beneficiaries via regular mail as a result of the COVID-19 pandemic. We expect plan administrators and their advisors to understand the requirements of the PBA as it relates to electronic communications as well as the *Electronic Commerce Act, 2000*.

FSRA has no discretion over these requirements, and administrators should refer to the Q&A above regarding FSRA's approach to sending notices outside of prescribed timelines.

We also refer you to Q1 above regarding Regulation 73/20.

**Q9.** A financial institution holds Ontario locked-in retirement (LIRA) accounts and life income fund (LIF) accounts for individuals who wish to use the Financial Hardship Unlocking rules to access a portion of their LIRA or LIF funds. If the individuals cannot get a **witness** to sign the required form in the physical presence of the owner or other relevant person, what options are available? Can we proceed without a witness? We have the same questions for processing various family law forms.

**A9.** In the situations described above, FSRA will not object to institutions and administrators proceeding without a witness for these forms while businesses are operating under COVID-19 pandemic conditions, as long as there is no evidence on record that the person(s) signing the forms does not understand what they are signing.

Note, however, that we cannot comment on what a court or tribunal might decide if an owner, member or other affected person claims that his or her rights were not appropriately protected because of proceeding in this manner. We therefore understand that some financial institutions and plan administrators may consider using supplementary processes (e.g. follow-up correspondence; virtual witnessing using electronic means) where obtaining physical “wet ink” witnesses is not practicable during the disruption. Financial institutions and plan administrators should obtain appropriate legal advice in this regard.

**Q10.** Our company sponsors an Ontario registered pension plan and we need to file a plan amendment. Due to the COVID-19 pandemic, we are unable at this time to send in the actual board resolution or an original certified copy. Can we submit **a certified copy electronically**?

**A10.** Yes. You can submit the “certified copy” through the FSRA portal or via email to the Pension Officer for the plan. The submission or email must indicate that the certified copy of the document being submitted electronically is a true and complete copy of the original document.

The same approach applies to other requirements under the PBA to file a “certified copy” of a document.

We note that in order for a document to be a certified copy, the person certifying the document must have a copy of the original document or be otherwise able to certify that it is a true and complete copy of the original document.

**Q11. \*NEW\*** What filings and member communications have been extended by the government?

**A11.** Regulations 287/20 and 288/20 amended Regulation 909 and Regulation 310/13 under the PBA. A short summary is provided below. Administrators, sponsors and their advisors should consult the regulations for full details and limitations as ultimately the regulations will govern. “**Date filed**” means the date the regulations are filed with the Registrar of Regulations.

## Regulation 909 General, under the PBA

Item	Current Deadline	New Deadline
<b>Plan Amendment Valuation Report</b>	6 months after the date required for amendment to be submitted for registration	12 months if due date for amendment submission is on or after the day that is 6 months before <b>date filed</b> and before July 1, 2020
<b>Multi-Employer Pension Plan options when contributions not sufficient for benefits</b>	30 days after submitting to administrator and within 9 months of valuation date	30 days after submitting to administrators and within 12 months of valuation date if valuation date is December 31, 2019 or January 1, 2020
<b>Plan establishment: valuation</b>	90 days	180 days if effective date is 90 days before <b>date filed</b> and on or before July 1, 2020
<b>Valuation Report</b>	9 months after valuation date	12 months after valuation date if valuation date is December 31, 2019 or January 1, 2020
<b>Annual Information Return (AIR)</b>	6 months after plan fiscal year end for DC or 9 months for DB	December 31, 2020 if due on or after <b>date filed</b> and before December 31, 2020
<b>Wind Up Report and outstanding AIRs and post wind up AIR and financial statements</b>	6 months after effective date of wind up	9 months after effective date of wind up if effective date is on or after the day that is 6 months before <b>date filed</b> and before October 1, 2020

<b>Annual wind up valuation review report</b>	6 months after valuation date	Earlier of 9 months after valuation date and December 31, 2020 if valuation date is on or after January 1, 2020 and before July 1, 2020
<b>Notice to members of plan amendments</b>	60 days after registration	120 days if due on or after <b>date filed</b> and before November 1, 2020
<b>Member Annual Statements and Biennial statements to former and retired members</b>	6 months after plan fiscal year end	December 31, 2020 if due on or after <b>date filed</b> and before December 31, 2020 and FSRA is notified in advance that statements will be delayed
<b>Financial Statements and Auditors Report if required</b>	6 months after plan fiscal year end	December 31, 2020 if due on or after <b>date filed</b> and before December 31, 2020
<b>Investment Information Summary</b>	6 months after plan fiscal year end	December 31, 2020 if due on or after <b>date filed</b> and before December 31, 2020
<b>Statement of Investment Policies and Procedures (SIPP) and SIPP Amendments</b>	60 days after registration of plan or amendment of SIPP	120 days if due on or after <b>date filed</b> and before November 1, 2020

**Regulation 310/13 Asset Transfers Under Sections 80 and 81 of the *Pension Benefits Act***

<b>Application to CEO consent for asset transfers</b>	9 months after effective date of transfer	12 months if due on or after <b>date filed</b> and before November 1, 2020
<b>Filings when asset transfer is completed</b>	60 days after transfer complete	120 days if due on or after <b>date filed</b> and before November 1, 2020
<b>Complete transfer of assets after CEO consent</b>	120 days after consent	180 days if due on or after <b>date filed</b> and before November 1, 2020
<b>Notice to members and others (defined benefit and defined contribution)</b>	6 months after effective date of transfer	9 months if due on or after <b>date filed</b> and before November 1, 2020

## Pension Plan Sponsors

We understand that disruption of physical operations, economic uncertainty and supply chain issues may be impacting your business and putting strain on cash flow and operations, in particular if your business is temporarily closed. We also understand that offering a pension plan is voluntary; however, contributing to the pension plan once it has been established is not.

If you are experiencing challenges and may be unable to meet your obligations, contact FSRA immediately via your designated Pension Officer at the [FSRA Pension Plan Information Access](#).

**Q12.** Our company sponsors a **defined contribution (DC) pension plan** for our Ontario employees. Because of the COVID-19 pandemic, our corporate revenue has dropped drastically and we expect that we will not have sufficient funds to keep making our required contributions as set out in the pension plan text. Our employees also are facing reduced earnings and would rather not contribute at this time.

Can we **reduce or completely suspend our company's contributions as well as our employees' contributions**?

- A12.** Employers and plan members are required to contribute in accordance with the PBA and the plan text that governs their pension plan.

To the extent that member contributions are optional, members can choose to reduce or eliminate those optional contributions in accordance with plan rules – and any matching employer contributions will then be reduced accordingly.

Plan sponsors will need to determine if contributions must continue when an employee is on a form of leave or layoff where there are reduced earnings or no actual earnings being paid. The determination of the requirement to continue contributions (or not) will depend in part on employment law considerations, the specific fact situations involved and the terms of the plan text. Plan sponsors and administrators should obtain the necessary employment law and pension law advice in this regard.

Employers cannot simply stop making required contributions to DC pension plans that they participate in. Any change to employer or member-required contributions can only be on a go-forward basis and must be supported by an amendment to the plan text. Amending the provisions of a pension plan text requires careful consideration and analysis of a number of factors, including the plan specific amending provision and any collective agreements that govern the plan, as well as potential employment law implications and member notice requirements.

Until further notice, and subject always to our ability to act upon the facts of any particular case, FSRA will not order a plan to be wound up solely because the plan has, as a result of the Covid-19 disruption, been amended to temporarily suspend contributions for a portion of the 2020 calendar year.

- Q13.** Our company sponsors a **defined benefit (DB) pension plan** for our employees. The last valuation filed with FSRA has an effective date of December 31, 2017 and revealed that the ratio of the solvency assets to the solvency liabilities was above 85%, and therefore, the next filed valuation must have an effective date of not later than December 31, 2020.

Given the impact of the COVID-19 pandemic, we are considering filing a valuation report with an **effective date of December 31, 2019**. However, we anticipate having more difficulty than usual in obtaining the necessary data and our service providers have informed us that their activities will likely also take more time than usual due to the disruption of their work places and the expected demand for similar services from many clients.

Will we be able to obtain a filing extension for our off-cycle December 31, 2019 valuation report, that must otherwise be filed by September 30, 2020?

- A13. \*Updated\*** Regulation 287/20 under the PBA has amended the deadline for filing a valuation report for those reports with a valuation date of December 31, 2019, or January 1, 2020, only. Please note that filing this off-cycle valuation (or any valuation under an extended timeline) may result in a change in your PBGF assessment and the need to re-file a PBGF Assessment Certificate. The extension to the filing date for valuations with a valuation date of December 31, 2019 or January 1, 2020 applies whether the filing is off-cycle or not.

For off-cycle valuation reports with other valuation dates, in normal circumstances FSRA does not provide filing extensions for off-cycle valuation reports, but while businesses are operating under COVID-19 pandemic conditions, extensions may be granted. However, we do ask that you inform FSRA of your intention to file the off-cycle valuation report and to request the extension at least two weeks in advance of the filing deadline.

The normal filing extension that would be granted is for up to 60 days, and we expect that this should be sufficient for most plans in this situation. If a longer extension is required, a request for an additional extension can be made by email to your designated Pension Officer; your request should describe the reason why an additional extension is required. Such requests will be considered on a case-by-case basis.

This approach will be taken for off-cycle valuation reports with an original due date in the 2020 calendar year. We will revert to our usual position after this calendar year, subject to any future determination in this regard.



Finally, regardless of whether a plan administrator selects an on- or off-cycle valuation report, we note that FSRA has the power to order an administrator to prepare a new valuation report if the assumptions or methods used in the preparation of a report required under the PBA or Regulation regarding the pension plan are inappropriate or are not consistent with accepted actuarial practice. FSRA may also specify the assumptions and methods to be used.

**Q14.** We sponsor a single employer defined benefit pension plan. We are experiencing operational and financial disruptions as a result of the COVID-19 emergency. Are we able to delay the filing of our certificate of assessment for the Pension Benefits Guarantee Fund (PBGF) and the payment of our PBGF assessment?

**A14.** FSRA acknowledges that operational disruptions may cause an inability to file a PBGF certificate of assessment. Section 105 of the PBA permits FSRA, upon application, to extend the time limit for filing documents under the PBA and its regulations for 60 days or, if satisfied that extraordinary grounds exist and that no person will be prejudiced, for additional time. FSRA will use its discretion if you are unable to file your PBGF assessment certificate due to the COVID-19 disruption. Filing extensions can be obtained through the FSRA portal; please contact your Pension Officer if you require assistance.

While FSRA does not have authority to delay a PBGF assessment or to waive interest or penalties related to a late payment, [Regulation 187/20](#) has amended Regulation 909 to remove the 20% penalty that would otherwise be payable on the late payment of PBGF assessments that are due on or after April 30, 2020, if the PBGF assessment amount, plus interest, is paid on or before December 31, 2020. Interest will accrue on the outstanding amount, at the chartered banks' rate on prime business loans as of the date the amount is due, plus 3 per cent. Please notify your Pension Officer by email if your PBGF assessment payment will not be made within the usual 9-month timeframe.

## Pension Plan Members

We understand that your pension is an important asset in planning for your retirement and that economic uncertainty may result in anxiety and stress. We encourage you to be knowledgeable, seek professional advice and exercise caution before taking any action which may affect this important asset.

**Q15.** I am a **retiree from a defined benefit** pension plan regulated by FSRA and I have stopped receiving my pension payments. What should I do?

**A15.** We regret to learn of the disruption in your retirement income. We understand you are relying on your pension payments as a key source of income. As a first step, please contact your pension plan administrator right away to inform them of your situation. If the situation persists, please contact FSRA by sending an email to [PensionInquiries@fsrao.ca](mailto:PensionInquiries@fsrao.ca) and we will work with you to restore your pension.

**Q16.** I am experiencing a loss of income and inability to pay my bills due the COVID-19 pandemic. Can I **access the money in my pension plan or in a locked-in retirement account (“LIRA”) or life income fund (“LIF”)**, to help with my daily expenses?

**A16.** Generally, money held in a pension plan, LIRA, or LIF is required to be used to provide retirement income and cannot be withdrawn for other purposes. This restriction is often referred to as “locking-in”. That said, there are certain exceptions that are outlined below.

### **Pension Plan Members – Shortened Life Expectancy**

The PBA only permits money that is held in a pension plan to be accessed and used for non-retirement purposes (i.e., be “unlocked”) in limited situations of shortened life expectancy<sup>1</sup>. Depending on plan terms, this option may be available for active plan members, deferred vested members and retired members. If you think this option might be appropriate for you, please contact the administrator of the pension plan that holds your pension and they can advise you of any options that are available.

### **Terminated Members – if your benefit remains in the pension plan**

If you are a pension plan member whose employment and plan membership has terminated, then depending on the terms of your plan and your age, you may have the option to transfer the value of your pension to a LIRA or LIF. You should ask your plan administrator if this option is available to you.

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<sup>1</sup> If permitted by your plan, unlocking may also be available where the total value of the funds in your pension plan is less than 20% of the Year's Maximum Pensionable Earnings or for non-residents of Canada who have been living outside of Canada for at least 24 months and meet the requirements.

If you do have that option and elect to make that transfer, then the money held in the LIRA or LIF can be accessed as described below.

If you are eligible and elect to transfer to a LIF, then you are able to “unlock” up to 50% of the amount transferred into the LIF - but only if you do so within 60 days after the transfer. You should ask the financial institution that holds your LIF about this option.

If your pension benefit remains in the pension plan, it can only be accessed in limited situations of shortened life expectancy, as described under the “Shortened Life Expectancy” heading above.

### **Terminated Members who have already transferred their pension to a LIRA or LIF**

If a pension plan member terminated employment in the past and has already transferred the value of their pension into a LIRA or LIF, then, normally, the money held in the LIRA or LIF must remain “locked-in” and can only be used to provide retirement income. However, if you transferred money into a LIF less than 60 days ago, you may be able to “unlock” up to 50% of the transferred amount. You should ask the financial institution that holds your LIF about this option.

As well, the PBA and its regulations set out rules permitting the unlocking of specified amounts of money in LIRAs and LIFs in situations of financial hardship.<sup>2</sup> The “Financial Hardship” unlocking rules are administered by the financial institution that holds your LIRA or LIF (not FSRA), and they are flexible enough to apply to many situations resulting from COVID-19 pandemic.

For instance, a LIRA or LIF owner who has fallen behind on their rent, due to being laid off as a result of the COVID-19 pandemic, may apply to the financial institution to unlock enough money in the LIRA or LIF to pay the rent arrears and 12 months worth of future rent, as long as the owner has been given a written demand by the landlord to pay the arrears.

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<sup>2</sup> Unlocking may also be available where the total value of the funds in all of your locked-in accounts is less than 40% of the Year's Maximum Pensionable Earnings, or for non-residents of Canada who have been living outside of Canada for at least 24 months and meet the requirements.

Other situations of financial hardship that allow for unlocking of money in LIRAs and LIFs include low expected future income, family medical expenses and the need for first and last months' rent for a new rental residence.

LIRA and LIF owners applying for financial hardship unlocking should keep in mind that they can only make one unlocking application each calendar year per category of financial hardship and per individual (medical expenses do allow for withdrawals related to multiple individuals). However, COVID-19 financial hardship could lead to permitted unlocking under multiple categories – for example, an individual who is unlocking due to rent arrears may also qualify for unlocking due to low expected income.

It is also important to understand that when funds are withdrawn from a LIRA or LIF, those withdrawn funds will no longer be creditor protected by the PBA and will be included in taxable income for the individual in the year they are withdrawn; tax will be withheld from the withdrawn amount in accordance with Canada Revenue Agency requirements and the federal *Income Tax Act*.

Individuals who are having financial difficulties and who have a LIRA or LIF should discuss financial hardship unlocking options with the financial institution that holds their LIRA or LIF. Your financial institution can provide you with the necessary forms – which can also be obtained on our [website](#).

We encourage you to obtain independent financial and/or investment advice to discuss your personal circumstances before unlocking your LIRA or LIF.

- Q17.** I am nervous about the impact of COVID-19 on the **investments** that are held in my Ontario locked-in retirement account (“LIRA”) or life income fund (“LIF”) – do I have control over those investments?
- A17.** Individuals are able to change the investments that are held within their LIRAs or LIFs, if permitted in accordance with the contract they have entered into with their financial institution. Funds generally do not need to be withdrawn from a LIRA or LIF in order to change how they are invested – unless you have agreed to those terms. You should contact the financial institution that holds your LIRA or LIF to determine what investment options are available to you.

We encourage you to obtain independent financial and/or investment advice to discuss your personal circumstances before rebalancing your portfolio.

**Q18.** I recently requested a commuted value (CV) transfer, but I got less than I expected. Why did I not get my full CV?

**A18.** The COVID-19 pandemic has resulted in many pension plans experiencing a deterioration in their funded status and, with it, the transfer ratio of their plan (defined as the ratio of solvency assets to solvency liabilities). When a pension plan administrator knows or ought to know their plan's transfer ratio has declined by 10 per cent or more and the resulting transfer ratio is below 0.9, the legislation requires that they stop transferring CVs, until they apply for and obtain FSRA approval to continue.

FSRA's approval may come with certain conditions to protect the sustainability of the pension plan and the entitlements of beneficiaries. If your pension plan paid less than the full CV, the remainder must be paid over, at most, five years.

However, if you are a member of what is called, a multi-employer pension plan, then the plan is permitted to reduce benefits and sometimes does so in situations where the plan has insufficient assets. In this situation, your CV may be reduced, such that you have received the full amount you are entitled to.

FSRA has issued a new Approach for administrators on this subject, [Limitations on Commuted Value Transfers and Annuity Purchases \(DB Pension Plans\)](#). Please contact your administrator for more information.

## Timing of Events, Consultations and Communications

We are, during the COVID-19 disruption, temporarily suspending our on-site examinations, certain pension sector consultations, and certain stakeholder engagement activities to recognize the resource limitations of those we regulate. Further, we are using our resources, which have also been disrupted due to physical distancing, to focus on the responsibilities of FSRA which matter most given the current turmoil.

However, even during this unprecedented time, FSRA will still work to be transparent and consultative. For example, FSRA may call “ad hoc” meetings with our standing committees as a way to continue to engage and listen to the challenges faced by the sector. We are interested in hearing about the challenges faced by our stakeholders and will strive to develop appropriate and timely responses within the current legal framework. We will contact members of our committees directly when these “ad hoc” meetings are being scheduled.

## Effective Date and Future Review

This Guidance is effective June 18, 2020 and until further notice. Newly added content will be noted as such in updated versions of this Guidance. Please refer to the version date to ensure you have the most recent version.

## About this Guidance

This document is issued pursuant to FSRA’s [Guidance Framework](#). As Information guidance, it describes FSRA’s views on certain topics without creating new compliance obligations for regulated persons.

## Appendices and Reference

### References

- See FSRA’s existing pension unlocking webpages at <https://www.fsrao.ca/consumers/pensions/withdrawing-locked-accounts-because-financial-hardship> and unlocking forms at <https://www.fsrao.ca/industry/pension-sector/pensions-forms#unlocking>
- See additional resources on FSCO’s legacy website at [http://www.fSCO.gov.on.ca/en/pensions/financial\\_hardship/Pages/fhu.aspx](http://www.fSCO.gov.on.ca/en/pensions/financial_hardship/Pages/fhu.aspx)