

## Not registered retroactive amendments (up to March 31, 2025)

Summarized below are retroactive amendments that were reviewed by FSRA and **not** registered under the PBA as filed, or where FSRA provided direction that FSRA would not register such an amendment if it were filed, based on submissions from the plan administrators and FSRA's expectations and approach under the Guidance.

Decisions made in this context are specific to the individual circumstances in question and should not be considered as setting a precedent for future cases. FSRA will continue to evaluate each situation based on its unique factors and merits.

	Brief summary of issue	FSRA's rationale for decision
1.	An amendment to reduce the benefit formula under a defined benefit pension plan was filed 6 months after the effective date of the amendment.	<p>FSRA did not exercise its discretion to register the amendment as filed.</p> <p>The plan administrator indicated that the reason for the late filing was due to internal sign off processes taking 6 months to complete, but these processes are governed and controlled by the plan administrator and should have been accounted for in order to file the amendment on time. Plan members were made aware of the changes in advance of the amendment, but full transparency was not demonstrated as the members were not aware that they were entitled to the higher benefit formula under the</p>

		<p>plan terms for 6 more months. The plan administrator did not sufficiently demonstrate immaterial impact to members and did not provide arguments of equitability in their submission.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date it was filed, and for the affected members to be given the higher benefit amount for the 6-month period.</p>
<p><b>2.</b></p>	<p>An amendment to remove additional employer contributions under a defined contribution pension plan was filed 11.5 months after the effective date of the amendment.</p>	<p>FSRA did not exercise its discretion to register the amendment as filed.</p> <p>The plan administrator advised that members were made aware of the changes, but did not demonstrate full transparency as the members were not aware that they were entitled to higher employer contributions under the plan terms for the 11.5-month period. The plan administrator argued that the third-party service provider was responsible for plan administration and fulfilling regulatory requirements, but the administrator is ultimately responsible for ensuring compliance with the legislative requirements. No arguments were made by</p>

		<p>the plan administrator on the equitability or materiality of the amendment.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date it was filed, and for the affected members to be given the higher employer contributions with related investment earnings for the 11.5-month period.</p>
<p><b>3.</b></p>	<p>An amendment reducing employer contributions under a non-contributory defined contribution pension plan was filed 7 months after the effective date of the amendment.</p>	<p>FSRA did not exercise its discretion to register the amendment as filed.</p> <p>The plan administrator argued that members were informed of the amendment and given ample time to provide feedback before the change took effect, but did not demonstrate full transparency as the members were not aware they were entitled to higher employer contributions under the plan terms for the 7 month period. The administrator advised that a miscommunication between the administrator's 2 agents lead them to believe the other agent would be filing the amendment, but the administrator is ultimately responsible for ensuring compliance with the legislative requirements.</p>

The plan administrator argued that the plan terms only required the employer to contribute at the end of the members' year of membership (not monthly) and therefore the members would not have been entitled to the higher contribution rate during the 7-month period. However, the terms of the plan indicated that employer contributions would be remitted periodically throughout the year (not at the end of the year) and paragraph 4(4)3.1 of Regulation 909 requires employer defined contributions to be made on at least a monthly basis.

Finally, the plan administrator advised that the amendment was the result of the impact of Covid-19 on the employer's revenues, but the amendment was filed in 2023 and FSRA's Covid-19 Pension Sector Emergency Management Response guidance released in April 2020 clearly addressed the requirement for defined contribution pension plans to comply with the requirements of the PBA when amending plans to reduce contributions. Specifically, the guidance stated that "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

		<p>and notice to affected plan members. Such an amendment must be filed with FSRA before its effective date”. This was consistently enforced by FSRA during the Covid-19 pandemic.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date it was filed, and for the affected members to be given the higher employer contributions with related investment earnings for the 7-month period.</p>
<p><b>4.</b></p>	<p>A contributory defined contribution pension plan was amended to apply a limit to a member’s earnings that are used to calculate member and employer contributions. The amendment was filed 9 years after its effective date.</p>	<p>FSRA did not exercise its discretion to register the amendment.</p> <p>The plan administrator advised that the amendment was filed retroactively to ensure the terms of the plan aligned with how the plan had been administered over the previous 9 years. The administrator argued the amendment was not a retroactive adverse amendment without providing any reasoning to support that argument.</p> <p>The plan administrator advised that it had consulted with plan members who confirmed they were aware of the</p>

		<p>past plan amendment (although not previously filed), and argued that requiring contributions under the prior plan terms for the 9 year period would be an unfair and inequitable advantage for those members who can afford to retroactively contribute, and a financial burden on some members.</p> <p>The plan administrator's submission relied mostly on the fact that the members were aware of the earnings maximum prior to joining the plan, and that any requirement to remit additional contributions would be a burden on some members of the plan.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date it was filed, and for the affected members to be given the opportunity to contribute and receive the employer matching contributions without the earnings limit (as well as related investment earnings) for the 9-year period.</p>
<p><b>5.</b></p>	<p>A contributory defined contribution pension plan was amended to cease contributions for non-union members (who would henceforth participate in a group RRSP with the same contribution rates as the</p>	<p>The plan administrator acknowledged that the amendment was a retroactive adverse amendment and that corrective action was required.</p>

	<p>pension plan) and cease enrolling new non-union employees into the plan (who would instead be enrolled in the group RRSP with the same contribution rates as the pension plan). The amendment was filed 5 months after its effective date.</p>	<p>The plan administrator advised that notice of the changes had been provided to the members and employees, and that the affected members and employees received the same contributions to the group RRSP that they would have received under the pension plan during the 5-month period.</p> <p>The plan administrator proposed that, in order minimize disruption to the affected members and employees while ensuring the contributions in question are subject to the PBA, that all of the affected contributions to the group RRSP be locked-in consistent with the locking in requirements of the PBA. That proposal was acceptable to FSRA.</p> <p>FSRA also required the effective date of the amendment to be corrected to no earlier than the date it was filed.</p>
<p><b>6.</b></p>	<p>An amendment to freeze members' earnings for future service benefit calculations under a defined benefit pension plan was filed 2 months after the effective date of the amendment.</p>	<p>The plan administrator did not make a submission to FSRA as to why FSRA should exercise its discretion to register the amendment as filed.</p> <p>FSRA requested information from the plan administrator on the number of members impacted and the quantum of</p>

		<p>the impact for each member, which showed some members' pension benefits were impacted because their earnings increased between the effective date of the amendment and the date the amendment was filed.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date it was filed, and for the affected members to be given the higher benefit amount for the 2-month period.</p>
<p>7.</p>	<p>An amendment reducing the employer contributions to a non-contributory defined contribution pension plan with only one member (who is also the plan administrator and owner of the employer sponsoring the plan) was filed 3 years after the effective date of the amendment.</p>	<p>FSRA did not exercise its discretion to register the amendment as filed.</p> <p>The plan administrator advised that the changes were due to business difficulties during Covid-19, the member was aware of the changes and the late filing of the amendment was due to inadvertence. However, the material impact of the changes were significant for the member's benefits under the plan.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date it was filed.</p>

<p><b>8.</b></p>	<p>A pension plan administrator sought FSRA's views on a draft amendment to the contributory defined contribution portion of a pension plan that provides both defined benefits and defined contribution benefits. The draft amendment would have retroactively corrected a drafting error in a previously filed restated plan text, whereby an increase in employer contributions that was only intended to apply to members hired after a certain date was mistakenly applied to all members. The draft amendment would have been filed more than 2 years after the restated plan text had been filed.</p> <p>The plan administrator indicated that the drafting error was inadvertent, and the plan members understood the benefits they were intended to receive under the plan. The members had been informed about the draft amendment and no members had raised concerns with the draft amendment.</p>	<p>FSRA expressed doubts that the draft amendment would be registrable under the PBA if filed. Although the members had been informed about the draft amendment, it was not clear that the members were informed that they were entitled to higher employer contributions under the plan terms for the 2-year period. And as noted in the Guidance, FSRA does not have authority to rectify drafting errors in a pension plan's terms, which is within the jurisdiction of the courts.</p> <p>The plan administrator eventually sought rectification of the plan terms through the courts.</p>
<p><b>9.</b></p>	<p>A restated plan text was filed for a defined contribution pension plan that amended the definition of "Earnings" on which contributions were based to exclude certain compensation. The amendment</p>	<p>FSRA did not exercise its discretion to register the amendment as filed.</p>

<p>purported to be effective more than 4 years before the restated plan text was filed.</p>	<p>The plan administrator advised that the plan had been administered consistent with the changes and the member booklet had been revised to reflect the changes, so members had no expectation of any greater benefit. However, full transparency was not demonstrated as the members were not aware that they were entitled to higher contribution under the plan terms for the 4-year period.</p> <p>The plan administrator also argued the changes did not materially affect the pension benefits, rights or obligations of the affected members, to which FSRA disagreed.</p> <p>FSRA required the effective date of the amendment to be corrected to no earlier than the date the restated plan text was filed, and for the affected members to be given the higher contribution amounts with related investment earnings for the 4-year period.</p>
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