FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.

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Effective Date of a Plan Amendment that Reduces Benefits - Questions and Answers

Q: When is the earliest date that an amendment to a pension plan that reduces benefits can be made effective?

A: The effective date of an amendment that is intended to reduce the amount or commuted value of a pension benefit, pension, deferred pension or ancillary benefit cannot be earlier than the date that the amendment is filed with FSCO for registration. An amendment is considered to be filed with FSCO when the amendment, an Application for Registration of a Pension Plan Amendment (Form 1.1), notice to members and former members (as applicable), plus any other required documents have been received by FSCO. - 03/10

Q: What would be the impact if an amendment that intends to reduce the amount or commuted value of benefits has an effective date that precedes the date the amendment is filed with FSCO for registration?

A: Section 14(1) of the PBA provides that an amendment to a pension plan is void if it reduces the amount or commuted value of:

- a pension benefit accrued under the pension plan with respect to employment before the effective date of the amendment;
- a pension or deferred pension accrued under the pension plan; or
- an ancillary benefit for which a member or former member has met all eligibility requirements under the pension plan necessary to exercise the right to receive payment of the benefit.

However, the prohibitions against the reduction of benefits under section 14(1) of the PBA do not apply to:

- a multi-employer pension plan that is established by a collective agreement or trust agreement;
- a defined benefit pension plan where an employer's obligation to make contributions is limited

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to a fixed amount set out in a collective agreement; or

- a member of a defined benefit pension plan who is a significant shareholder, where the member and the employer providing the pension plan file a written consent that waives section 14(1) requirements. - 03/10

Q: What about amendments that reduce accrued benefits, which must be filed with FSCO to avoid revocation of the registration of the pension plan under the Income Tax Act (Canada) by the Canada Revenue Agency? Will these amendments be considered as void under section 14(1) of the PBA?

A: Section 47(11) of the Regulation provides that section 14(1) of the PBA does not apply to amendments that are required to avoid revocation of registration of the pension plan under the Income Tax Act (Canada). The process for filing such amendments is explained under FSCO Policy **A400-500 (Reduction of Accrued Benefits and/or Refunds or Payments to Avoid Revocation by Canada Revenue Agency of Registration of a Pension Plan).** - 03/10