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Court Proceedings - Frequently Asked Questions

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.

Q1. If I bring an application or other proceeding before a court for an order relating to a pension plan or pension fund, or concerning compliance with, or interpretation of, a provision of the *Pension Benefits Act (PBA)*, do I need to inform the Financial Services Commission of Ontario (FSCO) of the application or proceeding?

A1. Yes. FSCO should be informed of any application or other proceeding before a court that involves an interpretation or application of the PBA or Regulation 909, or an application under the Companies' Creditors Arrangement Act (CCAA) or the Bankruptcy and Insolvency Act that involves a plan sponsor. Such proceedings may include, but are not limited to, applications in respect of whether the pension plan provides for the payment of surplus to the employer on the wind up of the pension plan, a filing for CCAA protection by a plan sponsor, or a matter before a family law court that involves an interpretation of a section of the PBA, including the division of pension benefits on marriage breakdown.

A court's decision on a specific case may have a broad impact on the administration and enforcement of the PBA and Regulations. Therefore, the Superintendent of Financial Services (Superintendent) should be given an opportunity to become involved in the proceeding.

A copy of all relevant documents filed with the court by the applicant/plaintiff/moving party, or by the defendant/respondent where available, should be provided to the Pension Division staff member assigned to the pension plan, no later than the date that the proceeding is commenced or as soon as practicable after that date. FSCO will review the documentation and determine what action, if any, FSCO will take, given the circumstances and the facts provided. It is not necessary to name FSCO or the Superintendent as a party to the proceeding. If appropriate, FSCO will apply to the court to be added to the proceeding.

Also see [FSCO's policy on Court Proceedings](#).

Any further questions should be referred to the Pension Division staff member assigned to the pension plan. Up-to-date information on Pension Division staff assignments is available through FSCO's [Pension Plan Information Access](#). – 06/2015

Q2. Does FSCO need to be informed of a legal proceeding that concerns a family law matter?

A2. FSCO should be informed of a proceeding in a family law court where it involves the interpretation of the Pension Benefits Act and Regulation 287/11 (Family Law Matters). This could include, for example, the

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determination of a former spouse's share of the Family Law Value (imputed value) on marriage breakdown. – 06/2015

Q3. Will the Superintendent apply to intervene in every application or proceeding?

A3. The Superintendent will not necessarily decide to apply to intervene or become involved in every application or proceeding. The Superintendent will assess each case on its own facts and the risk factors involved. – 06/2015

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