



SECTION:	Wind Up
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TITLE:	Filing Requirements and Procedure on Full or Partial Wind Up of a Pension Plan - PBA ss. 22, 44, 50, 52, 68, 70, 72-75.1, 77, 77.2 79, 80, 81 and 83(1) - Regulation 909 ss. 15, 16, 28, 29 and 32
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This policy replaces W100-102 (Filing Requirements and Procedure on Full or Partial Wind Up of a Pension Plan) as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fSCO.gov.on.ca. All pension policies can be accessed from the Pensions section of the website through the Pension Policies link.

Pension Plan Wind Up – Filing Requirements and Procedure

This policy identifies the filing requirements and procedure to be followed on the full or partial wind up of a pension plan. The PBA was amended on July 1, 2012 to eliminate any partial wind up with an effective date that is on or after July 1, 2012. A plan may still be wound up in part, if the effective date of the partial wind up is prior to July 1, 2012. The effective date of the partial wind up may be determined after July 1, 2012.

Where a plan is wound up in part, certain sections of the PBA and Regulation that relate to a full wind up of the plan apply, with modifications, to the partial wind up of the plan.

The considerations involved and the procedure followed for the partial wind up of a defined benefit pension plan are substantially similar to those that apply to a full plan wind up. Unless specifically noted otherwise, the term “wind up” refers to both the full and partial wind up of a pension plan.

The following material deals with key wind up requirements and procedure. Plan administrators and their agents are reminded that the provisions of each pension plan are unique and there are various circumstances that trigger the wind up of a pension plan. Therefore, it is not possible to identify in this policy, all issues that may be relevant to every plan’s situation. Further, the purpose of the administrative and actuarial guidelines that are set out in this policy is to assist administrators and their agents in the preparation of required wind up filings and to assist FSCO in reviewing the filings. These guidelines do not rule out the use of other bases, if deemed appropriate in the circumstances. It is the responsibility of administrators and/or their agents to demonstrate that the bases chosen are in compliance with the PBA and Regulation. For questions about plan wind ups, please refer to the relevant sections of the PBA and Regulation.

Additional information may be obtained from other FSCO policies that deal with related wind up issues. Policies are intended to clarify how the PBA and Regulation are interpreted in certain situations and to assist administrators and their agents in understanding the requirements of the PBA and Regulation.

Excluded Plans

This policy does not address multi-employer pension plans or defined benefit pension plans where the employer’s obligation to contribute is limited to a fixed amount that is set out in a collective agreement.

While every attempt has been made to be thorough, it is not possible to anticipate and address all wind up situations. Administrators, therefore, are reminded that the application of the PBA and Regulation is subject to the facts of each case. Accordingly, the contents of this policy should not be construed as legal, actuarial or professional advice. Independent professional advice should be obtained, if there is a particular interest in any of the matters addressed in this policy.

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SECTION I Wind Up Process

For all pension plans, the wind up process consists of five stages. However, there is a sixth stage if a surplus remains after basic benefits have been distributed. For most stages, some specific action is required by either the administrator or the employer. Administrators should become familiar with this process in order to avoid delays that occur when a wind up report or other required filings do not comply with the PBA and Regulation, and to ensure that all relevant information from FSCO policies, procedures and administrative practices is considered.

1.1 Overview of the Wind Up Process

Stage 1 – The employer decides to wind up the pension plan or the Superintendent of Financial Services (Superintendent) orders the wind up of the pension plan.

The administrator is required to give notice of intention to wind up the pension plan, as identified under section 1.2 (Legislative Requirements and Current FSCO Practice) of this policy.

Stage 2 – The administrator files a wind up report and other wind up documentation.

The wind up report is a key document, a copy of which must be provided to the union that represents affected members, former members and retired members. The contents of the wind up report will vary based on the type of benefits (i.e., defined benefit or defined contribution) that are provided by the pension plan.

The wind up report for a defined benefit pension plan should include information about the funded status of the plan and the proposed methods of allocating and distributing assets.

For pension plans that provide only defined contribution benefits, the Standardized Wind Up Report for Defined Contribution Plans may be used. This form is available on FSCO's website at www.fSCO.gov.on.ca.

FSCO staff will review the submitted wind up documents. If the documentation is incomplete or deficient (e.g., documentation was not certified or not signed), staff will write to the administrator or to the administrator's agent, to request for additional documents or information. Upon receipt and review of the additional documents or information, FSCO staff will make a recommendation to the Superintendent on whether the wind up report complies with the requirements of the PBA and Regulation.

Stage 3 – The administrator issues benefit statements.

The administrator is required to provide a statement that sets out the benefits and options that are available to each person who is entitled to a benefit or refund on the wind up of the plan. The statement will also indicate that the member will be deemed to have selected a deferred pension if they do not actively select one of the options. Depending on the situation, the administrator may decide to issue benefit statements after the Superintendent approves the wind up report (also see stage 4 below).

Stage 4 – The Superintendent approves the wind up report or approves only the payment of basic benefits.

Where the wind up report complies with the requirements of the PBA and Regulation:

- If there is a surplus issue to address, the Superintendent will approve only the payment of basic benefits until surplus disposition has been determined. Once surplus disposition is addressed in accordance with the PBA and Regulation, the Superintendent will approve the wind up report.
- If the pension plan has a funding deficit on a wind up date and the employer intends to fund the deficit in accordance with section 75 of the PBA (instead of making a lump sum payment into the pension fund that will cover the amount of the shortfall or deficit), and section 31 of the Regulation, the Superintendent will approve the wind up report. However, until the Superintendent receives a report certifying the deficit under section 75 of the PBA has been fully funded:
 - the administrator is required to file annual reports and make special payments as required by section 32 of the Regulation; and
 - the pension plan is prohibited (under section 29(8) of the Regulation) from using its assets to purchase single premium life annuities, or paying out the commuted value of the pension benefits of any person that is affected by the wind up, except for the current value of any additional voluntary and/or required contributions that were made by the employee prior to the wind up date.

Where the wind up report does not comply with the requirements of the PBA and Regulation, the Superintendent will refuse to approve it.

Stage 5 – The administrator distributes benefits.

When the administrator receives the Superintendent's approval of the wind up report, or approval of only the payment of basic benefits pursuant to section 70(3) of the PBA, the distribution of benefits can take place in accordance with the wind up report and the options elected, subject to any restrictions imposed by the Superintendent or prescribed by the PBA and Regulation.

Stage 6 – The administrator distributes surplus (if any).

If a decision has been made to distribute all of the surplus that is available on wind up among plan members, former members, retired members or other eligible persons, the formula for distribution should be included in the wind up documentation.

Alternatively, if the surplus is to be paid to the employer or shared by the employer and the persons affected by the wind up, a surplus application must be made to the Superintendent. See policy [S900-510 \(Application by Employer for Payment of Surplus on Full Wind Up of a Pension Plan\)](#) or policy [S900-511 \(Application by Employer for Payment of Surplus on Partial Wind Up of a Pension Plan\)](#) for information on the surplus application process.

1.1.1. Other Considerations

1) *When a notice of intention to wind up a pension plan has been given*

Under section 70(2) of the PBA, once a notice of intention to wind up a plan has been given, no payments or expenses can be paid out of the pension fund until the Superintendent has approved the wind up report. However, there is an exception under section 70(3) of the PBA for the continuation of a pension payment, or any other benefit, if payment began before the notice of intention to wind up the plan was issued. The administrator or agent of the administrator may request that the Superintendent authorize payment of other benefits or expenses pursuant to section 70(3) of the PBA, before the wind up report is approved.

2) *Wind up of hybrid plans (defined benefit/defined contribution)*

On the wind up of a pension plan that provides benefits on both a defined benefit and defined contribution basis, the two parts are generally seen as separate. Once the pension fund receives all contributions that are required up to the date of the wind up for the defined contribution part of the plan, it is fully funded for the portion that offers defined contribution benefits. The part of the plan that offers defined benefits may have a surplus, a deficit or neither, based on the assets and liabilities of this portion of the plan.

3) *Wind up of jointly sponsored pension plans*

If a jointly sponsored pension plan (JSPP) is wound up in whole or in part, and a surplus issue needs to be addressed, the Superintendent will only approve the payment of basic benefits until the disposition of the surplus has been determined. Once the disposition of the surplus has been addressed and the wind up report has been prepared in accordance with the PBA and Regulation, the Superintendent will approve the wind up report.

If the JSPP has a funding deficit on the wind up date, the employer or the person or entity on behalf of the employer and the members are required by sections 75.1(1) and 75.1(2) of the PBA, respectively to fund the deficit in accordance with section 31.1 of the Regulation. Such payments shall be made into the pension fund and if the wind up report complies with the Act and Regulation the Superintendent will approve the wind up report. However, until the Superintendent receives a report certifying that deficit under section 75.1 of the PBA has been fully funded, the administrator is required to file annual reports as required by section 32.1 of the Regulation.

4) *Split of assets and liabilities on partial wind up*

As at the effective date of a partial wind up, the liabilities and assets related to the members, former members, retired members and other persons affected by the partial wind up must be identified. The split of the pension plan assets between the wound up portion and the on-going portion of the pension plan must be determined as if the total pension plan were wound up on the partial wind up date. Section 2.5.2 of this policy describes how the asset split should be determined.

5) *Approval of the wind up report and distribution of assets*

Once a wind up report is approved by the Superintendent, assets must be distributed in accordance with the wind up report, subject to the requirements of sections 29(7), 29(8) and 29(9) of the Regulation, and the payment of any deficit in accordance with section 75 of the PBA. A pension plan wind up is not complete until all assets in the pension fund, or in the case of a partial wind up all assets related to the wound up portion of the pension fund, have been distributed in accordance with the wind up report that was approved by the Superintendent.

1.2 Legislative Requirements and Current FSCO Practice

1.2.1 Effective Date of the Wind Up

Section 68(5) of the PBA provides that the effective date of the wind up cannot be earlier than the date member contributions cease to be deducted for contributory pension plans, or in any other case, on the date the notice of wind up is given to plan members. Where a wind up results from a specific event (e.g., a plant closure, bankruptcy or purchase and sale), the effective date may not be earlier than the date of the specific event that triggers the wind up, unless the requirements of section 68(5) of the PBA have been met before that date.

The Superintendent may change the effective date of the wind up by order, if there are reasonable grounds for such a change (section 68(6) of the PBA). The effective date of the wind up may not be obvious in some circumstances, such as where there are a series of terminations of employment related to downsizing. In these situations, the administrator or agent is encouraged to submit a written proposal that supports the selection of both the effective date of the wind up, and the time period during which termination of employment of a member will result in the member being included in the wind up. FSCO staff will consider the proposal in light of legislative requirements.

1.2.2 Notice of Intention to Wind Up a Pension Plan

An employer who intends to wind up a pension plan in whole or if the effective date is prior to July 1, 2012, in part must give notice of intention, as required under section 68(2) (applicable to partial wind ups under section 77.2) of the PBA to each of the following:

- the Superintendent;
- all members, former members and retired members who are affected by the intended wind up;
- any trade union(s) that represent such members;
- the advisory committee (if any) and;
- any other person who is entitled to a payment from the pension fund and who is affected by the intended wind up.

The notice must contain the information prescribed in section 28(1) of the Regulation. At a minimum, the administrator should provide FSCO the following:

- a certified copy of the wind up notice;
- a statement outlining who received the notice (this includes any union, if applicable); and
- the last date the notice was distributed.

In the event an employer declares bankruptcy, is placed in receivership, or otherwise ceases operations, the administrator or the administrator's agent should notify FSCO staff immediately.

1.2.3 Persons Who Must be Included in the Wind Up

When a pension plan is being fully wound up, all members, former members, retired members and other persons entitled to payments from the plan on the effective date of wind up must be included in the wind up. In situations where a plan is partially wound up, only those members, former members, retired members and other persons affected by the partial plan wind up are included.

Where a wind up results from an event that affects the employment of the members (e.g., a plant closure), all members who are affected by the event and who are participating in the plan on or after the date notice of the event is given, must be included as members for the purpose of the wind up. This requirement applies even if a member terminates or is terminated after the notice date but before the event actually occurs.

If there has been a series of staggered layoffs before and/or after the partial wind up date, the administrator or the administrator's agent should submit a written proposal to identify which employees are entitled to be included in the wind up. This should include persons who may have terminated before the wind up date, and/or may terminate after the wind up date.

For more information relating to partial wind ups, please refer to [policy W100-304 \(Guideline for Notice of Full or Partial Wind Up of Pension Plan\)](#).

1.2.4 Wind Up Documentation

In addition to the notice of intention to wind up the plan, the following documentation must be filed.

Wind up report

Section 29(3) of the Regulation requires that, within six months following the effective date of the wind up, the administrator must file a wind up report pursuant to section 70(1) of the PBA. Under sections 15 and 29(1) of the Regulation, the report must be prepared by an actuary (a Fellow of the Canadian Institute of Actuaries), except for the following types of plans:

- a plan that only provides defined contribution benefits;
- a fully insured pension plan that was established before January 1, 1987, that was underwritten by a contract with an insurance company and that does not require employee contributions; or
- a pension plan that was underwritten by a contract issued under the Government Annuities Act (Canada).

The specific items that need to be included in a wind up report are set out under section 70(1) of the PBA. Section II of this policy provides additional information that will assist actuaries in preparing wind up reports on pension plans that provide defined benefits.

Amendments, resolutions and form 1.1

Appropriate plan amendments and resolutions that affect the wind up should be filed in conjunction with the wind up report. The proposals in the wind up report must conform with the provisions of the plan and amendments as filed.

If an amendment is required (e.g., if there are benefit improvements in conjunction with the wind up), [Form 1.1: Application for the Registration of a Pension Plan Amendment](#) should be included with the wind up documentation. (Form 1.1 is available on FSCO's website at www.fSCO.gov.on.ca.)

Superintendent's checklist for compliance on plan wind up for defined benefit plans

The administrator should file a completed [Superintendent's Checklist for Compliance on Plan Wind Up for Defined Benefit Plans](#). (To download this checklist, visit FSCO's website at www.fSCO.gov.on.ca.) This checklist is designed to assist administrators and their agents in compiling the required submissions. It also aids FSCO in reviewing the wind up documentation. A poorly completed checklist may delay the wind up review.

Wind up report for defined contribution pension plans

The administrator of a defined contribution pension plan that will be wound up may wish to complete and file the [Wind Up Report for Defined Contribution Pension Plans](#). (This standardized report is available on FSCO's website at www.fSCO.gov.on.ca.) The report sets out the information that is required by FSCO and expedites the review of defined contribution plan wind ups.

Other required filings for a full wind up

Pursuant to section 29.1 of the Regulation, the administrator must file the following documents within six months after the effective date of the wind up, for the period from the most recent fiscal year end to the effective date of wind up:

- an Annual Information Return (AIR), including the Pension Benefits Guarantee Fund Assessment Certificate, where applicable; and
- financial statements for the pension plan or fund.

The administrator is responsible for ensuring that all AIRs required up to the effective date of the full wind up are filed, and that all prescribed and outstanding fees and assessments are paid (section 29(4) of the Regulation).

1.2.5 Distribution of Benefits

Under section 72 of the PBA, the administrator is required to provide each person who is entitled to a benefit or refund from the plan on wind up, with a statement that sets out the person's benefits under the plan, the options available and other information, as prescribed under section 28(2) of the Regulation. In accordance with section 28(2)(19) of the Regulation, the statement should indicate that the benefits and options are subject to the approval of the Superintendent and the Canada Revenue Agency, and may be subject to adjustments.

The statement containing the information prescribed under section 28(2) of the Regulation must be given to the specified persons within 60 days after the administrator receives notice that the Superintendent has approved the wind up report (section 28 (2.1)). If the Superintendent has approved the payment of benefits under section 70(3) of the PBA, the notice must be given to the persons who are affected by that approval within 60 days of the approval date (section 28(2.2)).

A recipient of a statement issued in accordance with section 28 of the Regulation has 90 days after receipt of the statement to make an election and forward it to the administrator. If the recipient fails to make the required election within 90 days, he or she shall be deemed to have elected to receive an immediate pension if he or she is eligible to receive one. If the recipient is not eligible to receive an immediate pension, he or she shall be deemed to have elected to receive a deferred pension commencing at the earliest date mentioned in section 74(1.3)(b) of the PBA. Information setting out the effect of failing to make an election including the resulting deemed election should be specified in the statement in accordance with section 72(2) of the PBA and section 28(2)15 of the Regulation.

The administrator has 60 days to make payment in accordance with an election made (or deemed to have been made) by a person on wind up. The administrator must make payment within 60 days after the later of the date on which the administrator:

- receives the person's election (or if no election has been made, the day the person is deemed to have made the election), or
- receives notice that the wind up report has been approved by the Superintendent.

However, where the Superintendent approves the payment of benefits under section 70(3) of the PBA before approving the wind up report, the administrator must make payment within 60 days after the later of the date the administrator:

- receives the person's election (or if no election has been made, the day the person is deemed to have made the election); or,
- receives notice of the Superintendent's approval to pay basic benefits under section 70(3) of the PBA.

If the plan has a deficit, payment of basic benefits that are described in the statements given in accordance with section 28 of the Regulation are also subject to the requirements of sections 29(7) and (8) of the Regulation. In addition, they may be delayed due to these requirements.

In accordance with section 29(9)(a) of the Regulation, where a pension plan is wound up in whole or in part, and the assets of the pension plan are not sufficient to pay all pensions, deferred pensions or ancillary benefits, the amount of benefit that a person would otherwise be entitled to receive would be reduced to an amount proportionate to the extent that the benefits had been funded.

In addition, if the Superintendent makes an order that the Pension Benefits Guarantee Fund applies to the pension plan (section 83(1) of the PBA), ancillary benefits requiring the consent of the employer (74(7) of the PBA) cannot be included in the determination of the benefits referred to in section 29(9)(a) above. For more information, see policy [P200-001 \(Filing Requirements and Procedure\)](#).

1.2.6 Distribution of Surplus

Where there is surplus on the full or partial wind up of the plan, the administrator is required to provide a statement that sets out the information and options that are available for the distribution of the surplus, as prescribed under section 28.1(2) of the Regulation. This statement must be given to each person who is entitled to a benefit or refund from the plan on wind up, within 60 days after the administrator receives notice that the Superintendent has approved the wind up report.

A recipient of a statement issued in accordance with section 28.1 of the Regulation has 90 days after receipt of the statement to make an election (if the recipient has an election to make) and forward it to the administrator. If the recipient fails to make an election within 90 days, he or she shall be deemed to have elected the method of distribution that is specified in the statement, in accordance with section 28.1(4) of the Regulation.

The administrator must make payment within 60 days after the later of the date on which the administrator:

- receives the person's election (or if no election has been made, the day the person is deemed to have made the election); and
- receives notice that the wind up report has been approved by the Superintendent.

Depending on when the basic benefits are to be distributed relative to the distribution of surplus, the administrator may be able to combine the statement requirements for the wind up and the surplus distribution into a single document.

NOTE: Surplus matters are only briefly referenced in this policy, as FSCO has issued other policies on this subject. These policies are available on FSCO's website at www.fSCO.gov.on.ca.

1.2.7 Final Distribution of Assets and Confirmation of Distribution

Within 30 days after final distribution of the assets of the pension plan, the administrator must give the Superintendent written notice that all plan assets have been distributed as required under section 29.1(4) of the Regulation. Similarly, on a partial wind up, the administrator must provide written notice to the Superintendent of the final distribution of assets from the wound up portion of the pension plan.

SECTION II Preparing the Wind Up Report

A wind up report filed under section 70(1) of the PBA must comply with the prescribed requirements of the PBA and Regulation. As well, in preparing a wind up report for a defined benefit plan, section 16(1) of the Regulation requires that an actuary "...shall use methods and actuarial assumptions that are consistent with accepted actuarial practice and with the requirements of the Act and this Regulation." As at the date of publication of this policy, applicable professional standards are set out in the *Standards of Practice* that have been adopted by the Actuarial Standards Board and published by the Canadian Institute of Actuaries (the "CIA Standards").

Under section 70(1) of the PBA, the wind up report must set out at least the following:

- the assets and liabilities of the pension plan;
- the benefits to be provided under the pension plan to members, former members, retired members and other persons;
- the methods of allocating and distributing the assets (including any surplus) of the pension plan and determining the priorities for payment of benefits and;
- such other information as is prescribed.

2.1 Compliance Items

Where an actuary is required to prepare a wind up report, the actuary should confirm compliance with respect to the following legislative requirements, where applicable:

- Minimum value of employee contributions with interest for pre-1987 benefits.....PBA s. 39(1) & (2)
- Minimum 50% cost rule for post-1986 contributions.....PBA s. 39(3) & (4)
- Early retirement options.....PBA s. 41
- Transfer options provided (including deferreds).....PBA s. 42
- Joint and 60% survivor option.....PBA s. 44
- Lump sum payment, small amount (survivor benefit).....PBA s. 44(7)
(If the pension plan provides for payment of a small amount)

- Lump sum payment or unlocking of a small amount.....PBA s. 50(1)
(If the pension plan provides for payment of a small amount)
- Full vesting, including bridge benefits where applicable.....PBA s. 36, 37 & 73(1)(b)
- Grow-in rights.....PBA s. 74(1)1., 74(1.3), 74(2)-74(4)
- Notice period under the Employment Standards Act, 2000.....PBA s. 74(5)
- Deemed consent of ancillary benefits.....PBA s. 74(7)
- Benefits accrued under all prior plans included in the report.....BA s. 80(2) & 81(2)
- Minimum credited interest from date of wind up to date of payment..... Regulation s. 24.4
- Minimum commuted value of a pension, deferred pension
or ancillary benefit.....Regulation s. 29(2)
- Transfer options provided, including commuted values.....PBA s. 73(2)
- Locking-in Requirements.....PBA s. 63

2.2 Membership Data

The CIA Standards contain the following provisions concerning membership data:

- “3330.13 The membership data are the responsibility of the plan administrator. The actuary would, however, report on the sufficiency and reliability of the membership data, specifically including the commuted values used in the valuation whether or not the plan administrator was the calculator thereof.”
- “3330.14 The finality of wind-up would call for the actuary to obtain precise membership data.” (The balance of the paragraph goes on to address the situation where precise data on membership is not available.)
- “3330.15 The reported membership data would include details of the amounts and terms of payment of each member’s benefits.”

Note: “Membership data” and “member data” for the purposes of the CIA standards would include data about members, former members, retired members and other persons entitled to benefits, as defined in the PBA.

The following information is required by FSCO to complete the review of a wind up report. This information should be provided in an anonymous form (i.e., no names, social insurance numbers, or other personal identifiers should be provided).

For members, former members and retired members who have not begun receiving a pension payment:

- age or date of birth;
- sex;
- years of continuous service, or date of hire (members only);
- years of credited service (pre-1987 and post-1986, members only);
- years of membership, or date of plan entry (members only);
- date of termination (if it is different than the effective date of wind up);
- accumulated (pre-1987 and post-1986) employee contributions with interest, if any;
- salary upon which the benefits are based (members only), if applicable;

- accrued (pre-1987 and post-1986) pension;
- bridging benefit (pre-1987 and post-1986), if any;
- any other benefits provided under the plan;
- commuted values of accrued (pre-1987 and post-1986) pension, bridging (pre-1987 and post-1986) and other benefits;
- excess contributions due to 50 per cent cost rule;
- additional voluntary contributions with interest, if any; and
- date of pension commencement, if applicable.

For retired members who are receiving pension payments and other beneficiaries:

- age or date of birth;
- spousal age or spousal date of birth;
- sex;
- date of pension commencement;
- amount of pension payable;
- bridging benefit, if any;
- any other benefits provided under the plan;
- form of pension payment; and
- wind up liabilities or commuted values of pension, bridging and other benefits.

The wind up report should include a reconciliation of plan membership from the valuation date of the last filed actuarial report to the effective date of the wind up.

In the case of a partial wind up, a summary of the statistics pertaining to members who remain in the on-going portion of the plan should also be provided. However, if there have been no significant changes in membership since the valuation date of the last filed actuarial report, a reference to that report for the remaining members is acceptable.

2.3 Plan Provisions

The report must include a summary of plan provisions that were reflected in the wind up valuation. The actuary should ensure that the summary is consistent with the plan documents filed with FSCO.

2.4 Commuted Values of Benefit Entitlements

Appendix A sets out the actuarial guidelines that are currently followed by FSCO in the review of the determination of the commuted values of members' benefit entitlements on wind up. These guidelines do not rule out the use of any other actuarial basis, if it is deemed appropriate by the actuary. However, the actuary should justify the basis that is used and demonstrate that the commuted values which are calculated using such a basis comply with the PBA and Regulation.

2.5 Financial Position of the Plan on Wind Up

The wind up report must provide information on the financial position of the pension plan as a result of the wind up. Determination and reporting of the financial position of a defined benefit pension plan must comply with the PBA, the Regulation and the CIA Standards.

2.5.1 Valuation Balance Sheet in Respect of a Full Wind Up

In the case of a full wind up, the wind up report should provide a valuation balance sheet that includes the assets and the wind up liability of the plan as of the effective date of the wind up.

Assets

Assets should be valued at market, with adjustments for receivables or payables at the effective date of the wind up. The actuary should describe in detail any estimates that were made of market values. In particular, if the actuary has reason to believe that there may be items which might adversely affect the value of the assets, the actuary should disclose this information and quantify the impact, to the extent possible. In making this determination, the actuary may rely on or use the opinion of another person, if such reliance or use is justified in the circumstances. Cash out value should be used for insurance company guaranteed annuity contracts and general fund deposit administration contracts.

If expenses are expected to be paid from the pension fund and the payment of these expenses is permitted under the plan, a reasonable allowance for wind up expenses should be identified and deducted from the value of plan assets. In determining the wind up funded ratio of the plan, this net asset value is taken as the numerator in the funded ratio formula. If expenses are to be paid outside the fund by the company, the wind up report should state this.

The report should include a reconciliation of plan assets from the valuation date of the last filed actuarial report.

Wind up liability

The wind up liability must reflect all benefits provided under the plan and the applicable legislation on wind up, and should be separately summarized for each major category of membership. For members, former members and retired members who are assumed to receive a commuted value, the wind up liability must be consistent with the individual commuted values of the benefit entitlements that are determined in accordance with section 29(2) of the Regulation. For members, former members and retired members who are receiving or are expected to receive a pension benefit, the wind up liability should reflect the estimated cost of purchasing the pension benefits. The assumptions should indicate the percentage or category of members/former members for whom benefits will be settled by an annuity purchase.

2.5.2 Valuation Balance Sheet in Respect of a Partial Wind Up

The partial wind up report should provide a valuation balance sheet for each of the wound up and on-going portions of the plan, as of the effective date of the wind up.

Where a plan covers only persons who are employed in Ontario, FSCO will accept, as a matter of practice, the splitting of assets between the wound up and on-going portions of the plan, in proportion to the wind up liabilities as of the effective date of the wind up (the standard method). FSCO may also accept asset splitting based on another method, if the actuary can confirm that, in his/her opinion, such a split would not result in an asset allocation that is materially different than that under the standard method. If the actuary uses a method other than the standard

method, comments supporting the appropriateness of the alternate method used should be included in the report.

For the on-going portion of the plan, the actuary should confirm whether the funding requirements as set out in the last filed funding actuarial report would continue to apply. If otherwise, the new funding requirements should be set out in a separate actuarial cost certificate or funding actuarial report.

2.6 Actuary's Statements of Opinion

The actuary must provide statements of opinion in accordance with the CIA Standards.

SECTION III Treatment of Surplus/Deficit

The term "wind up" is defined in the PBA as the termination of a pension plan and the distribution of the assets of the pension fund. Therefore, in addition to establishing the benefits that will be provided to affected members, former members and retired members, the wind up report should identify any excess or shortfall of assets that exist after satisfying the liabilities (the surplus or deficit).

3.1 Surplus

If the pension plan is in a surplus position on full wind up, or the wound up portion of the pension plan is in a surplus position on a partial wind up, the administrator should indicate how the surplus assets will be dealt with. Distribution of the assets must conform with the proposals set out in the wind up report that was approved by the Superintendent. If the wind up report does not indicate how the surplus will be dealt with, a supplement to the wind up report that deals with the surplus assets will be required.

3.2 Deficit

If the wind up report reveals that the plan does not have sufficient assets to pay the liabilities on wind up, the employer must pay the amounts required under section 75 of the PBA into the pension fund.

Pursuant to section 75(1)(b) of the PBA, the amount of the deficit to be funded is calculated as:

- the amount by which the Ontario wind up liability as defined in the Regulation, exceeds
- the value of plan assets allocated for payment of pension benefits that were accrued with respect to employment in Ontario.

Pursuant to section 29(9)(a) of the Regulation, where payments are being made in accordance with section 75 of the PBA, the employer can only pay an amount that is proportionate to the extent that the pensions, deferred pensions and ancillary benefits had been funded.

Where the employer funds the deficit by a lump sum payment and the actuary files a certification that the obligations under section 75 of the PBA have been fully funded, the benefits can be paid. At a minimum, the deficit must be funded in accordance with section 31 of the Regulation by special payments, payable annually in advance, over a maximum period of five

years starting on the effective date of the wind up (for qualifying plans, by monthly special payments over one year). Under section 32 of the Regulation, the administrator is required to file a report annually until the employer's obligation under section 75 of the PBA has been fulfilled. This annual report must be prepared by an actuary and must satisfy all standards that are normally applicable to a valuation report. In addition, the report should provide a gain and loss analysis since the last filed report. It should also specify the special payments that are required to liquidate the remaining liability obligation under section 75 of the PBA. Where a report shows that no further amount needs to be funded, section 32(4) of the Regulation provides that any surplus may revert to the employer, subject to the requirements of section 62.1 of the PBA.

Sections 29(7) and (8) of the Regulation set out the restrictions on cashing-out benefits, transfers and annuity purchases prior to the plan being fully funded. For more information, see [policy W100-441 \(Restrictions on Payments in Deficit Situations\)](#).

SECTION IV Specific Issues Related to a Wind Up

In this section, a few specific issues related to wind ups are discussed, along with FSCO's current practice for dealing with these issues.

4.1 Payments Approved by the Superintendent

Before FSCO reviews a wind up report, the Superintendent may approve under section 70(3) of the PBA, various kinds of payments, including: the payment of expenses, the start of monthly pension payments to retirees under a defined benefit plan, and the purchase of immediate annuities for eligible retirees under a defined contribution plan. Death benefits will also generally be approved if FSCO is satisfied that the plan will be fully funded.

The administrator may obtain approval from the Superintendent for the payment of expenses out of the plan fund. However, the administrator must ensure that such payment would not contravene section 22.1 of the PBA. For more information, see [policy A200-803 \(Fees and Expenses for Wind Ups and Surplus Refund Applications\)](#).

The Superintendent will also grant approvals under section 70(3) of the PBA for payment of all benefit entitlements, once FSCO has reviewed the wind up report and is satisfied that all benefits have been properly provided for. However, an outstanding issue related to surplus may remain: either the administrator has not determined how the surplus will be dealt with, or there is a pending surplus refund proposal that requires the Superintendent's consent.

Once the wind up report is approved, all payments must be made in accordance with it.

4.2 Prior Plans

If a person who is entitled to benefits of a plan that is being wound up and has accrued benefits in a prior plan in circumstances described in section 80 of the PBA (sale, assignment or other disposition of business), and those benefits have **not** been transferred to the plan that is being wound up, then the wind up of the pension plan results in the termination of the person's plan membership in the prior employer's pension plan. In this situation, the payment of the benefits in the prior plan will be triggered.

Benefits under a prior pension plan that was sponsored by the same employer are deemed to be benefits associated with the current plan, whether or not the assets were consolidated, as set out under section 81(3) of the PBA. To the extent these apply to persons who are affected by the wind up, the benefits under such prior plans must also be included for the purposes of the wind up.

4.3 Notice of Termination of Employment

Under sections 74(5) and (6) of the PBA, membership in a non-contributory plan should include the notice period for termination of employment that is required under the Employment Standards Act, 2000. This notice period is included for both benefit eligibility and benefit calculation purposes. For contributory plans, members must be given the option to make the required contributions in respect of the notice period, in order to have the period included for benefit purposes.

4.4 Grow-in under Section 74 of the PBA

In accordance with section 74(1.3) of the PBA, if a member's age, plus years of service or plan membership equals 55 or more (also known as the "rule of 55") on the effective date of the activating event (An activating event includes amongst other events, a wind up with an effective date that is on or after April 1, 1987), the member will be eligible to receive one of the following:

- a) an immediate pension, if eligible under the plan;
- b) a pension beginning at the earlier of the normal retirement date under the plan, or the date on which the member would be entitled to an unreduced pension under the plan had the plan not been wound up and had his/her membership continued to that date;
- c) a reduced pension in the amount payable under the plan, beginning on the date on which the member would be entitled to the reduced pension under the plan, as if the pension plan were not wound up and his/her membership had continued to that date.

The benefit entitlements for the rule of 55 members must reflect this grow-in provision.

Under section 74(3) of the PBA, if a rule of 55 member has at least 10 years of continuous service, or has been a member of the pension plan for at least 10 years at the wind up date, the bridging benefits to which the member would have been entitled to receive if the plan were not wound up and if his/her membership continued, must be included in the member's benefit entitlements. This would be subject to proration under section 74(4) of the PBA.

4.5 Treatment of Special Benefits

Certain benefits require specific treatment on wind up. In addition, grow-in to these benefits should be provided in accordance with section 74 of the PBA, where applicable. The treatment of these special benefits is outlined below:

- **Consent benefits** must be provided on a plan wind up, as required under section 74(7) of the PBA

- **Escalated adjustments or indexation** (including adjustments that have not been made) are not considered to be ancillary benefits. They are part of the pension benefit under the plan, and thus must be included in the wind up benefits.
- **Early retirement window benefits** should be included to the extent that a member would have become eligible for the benefits before the window closed, had the plan not been wound up and had his/her membership continued.
- **Plant closure benefits and permanent layoff benefits** should be included for wind up purposes where the wind up is in conjunction with, or accompanied by, one of these events.
- **Prospective benefit increases** are not required to be included on plan wind up.

4.6 Allocation of Assets for the Wind up of Multi-Jurisdictional Plans

In the case of a wind up covering members in more than one jurisdiction in which there are insufficient assets to cover all liabilities, the method for allocating assets among the various jurisdictions is prescribed in section 30 of the Regulation. The assets that are allocated to another jurisdiction should be dealt with in accordance with the requirements of that jurisdiction. However, for pension plans that are subject to Agreement Respecting Multi-Jurisdictional Pension Plans (Agreement), currently plans that have members in Ontario or Quebec and a plurality of members in one of those jurisdictions, the method for allocating all or part of the assets between these two jurisdictions will be governed by the Agreement.

4.7 Application of the Pension Benefits Guarantee Fund

Where the Superintendent has declared that the Pension Benefits Guarantee Fund applies to a pension plan, there are other requirements that apply to the wind up process of the pension plan, in addition to those above. These are set out in [policy P200-001 \(Filing Requirements and Procedure\)](#).

APPENDIX A: Specific Guidelines on Actuarial Assumptions and Methods for the Calculation of the Commuted Value of Individual Benefit Entitlements on Plan Wind Up

Section 29(2) of the Regulation currently prescribes that, for a pension plan that is being wound up in whole or in part, the minimum commuted value of a pension, deferred pension or ancillary benefit is the amount determined as of the effective date of the wind up, in accordance with section 3500 (“CIA Pension Commuted Value Standards”) of the *Standards of Practice* adopted by the Actuarial Standards Board, published by the Canadian Institute of Actuaries. These guidelines will remain in effect until section 29(2) of the Regulation is amended to refer to any other basis.

A.1.1 Interest

For non-indexed pensions and indexed pensions, the assumed interest rates should not be higher than the respective rates determined in accordance with the CIA Pension Commuted Value Standards.

A.1.2 Mortality

For valuation dates on or after February 1, 2011, the mortality assumption should not be weaker than the UP-94 Table with generational projection scale AA, as published in Volume XLVII (1995) of the Transactions of the Society of Actuaries. For valuation dates prior to February 1, 2011, the mortality assumption should not be weaker than the mortality table prescribed by the CIA Pension Commuted Value Standards that are in effect at the valuation date.

Pre-retirement Death Benefits

If the only pre-retirement death benefit is the commuted value of the member’s pension, it is appropriate to assume there is no mortality before retirement. Otherwise, a full description should be provided of how the pre-retirement death benefit, if any, is valued.

Unisex Table

In compliance with section 52 of the PBA, a unisex mortality table must be used to determine the commuted values of post-1986 benefits. The report should clearly state the mix of the male and female rates, and indicate the basis from which the mix is derived (e.g., relative to the number of members or liabilities).

As a matter of practice, FSCO will also accept the use of unisex rates for pre-1987 benefits.

A.1.3 Retirement Age

The report should explicitly state the retirement age assumption for each category of membership. FSCO will not accept statements which simply state that there has been compliance with section 74 of the PBA.

Reference should be made to section 4.4 of this policy (Grow-in under Section 74 of the PBA). For the purpose of section 74 of the PBA, members who meet the rule of 55 should be assumed to retire at the retirement age that produces the highest commuted value.

To be consistent with the CIA Standards, if a plan provides that a former member has the right to elect an earlier start date with a subsidized early retirement pension (a pension that exceeds the amount which is of actuarial equivalent value to the pension payable at normal retirement age), then the assumed retirement age should reflect the full value of the subsidy for all persons, and not just the rule of 55 members.

A.1.4 Spousal Status

If a plan provides a contingent benefit to a plan member's spouse, the spousal status assumptions (i.e., the likelihood of there being an eligible spouse and the age of the spouse) should be determined in accordance with section 3530 (Demographic Assumptions) of the CIA Standards and be disclosed in the report.

A.1.5 Date of Computation

Individual commuted values of benefit entitlements should normally be calculated as of the effective date of the wind up using the basis that is in effect on that date. If warranted by the wind up circumstances, other computation date(s) may be used.