



SECTION:	Multi-jurisdictional Issues
INDEX NO.:	MJ300-100
TITLE:	When and How to Change the Province of Registration for a Multi-jurisdictional Pension Plan - PBA ss. 5.1, 6(1) and 100(1) - Regulation 909 ss. 1.4 and 1.5 - Agreement Respecting Multi-jurisdictional Pension Plans s. 5 - 1968 Memorandum of Reciprocal Agreement
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (November 2013)
EFFECTIVE DATE:	July 1, 2011
REPLACES:	I300-100

This policy replaces I300-100 (How to Change Province of Registration) 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.fsrao.ca. All pension policies can be accessed from the **Pensions** section of the website through the **Pension Policies** link.*

Purpose

This policy provides information on when a multi-jurisdictional pension plan must change province of registration, and what process must be followed.

Background

The PBA requires that all pension plans with members who have employment in Ontario (Ontario members) be registered with the Financial Services Commission of Ontario (FSCO). The PBA does not apply to members who are included employment (as defined in section 2 (1) of the *Pension Benefits Standards Act, 1985* (Canada) (PBSA)). These members are subject to the federal PBSA instead. Generally, the registration of a pension plan that has members in only one particular jurisdiction is straightforward. For example, a pension plan that has only Ontario members would be registered with FSCO and a pension plan that has only Quebec members would be registered with the Régie des rentes du Québec. However, what happens when a pension plan has members in more than one jurisdiction?

If a pension plan has members in more than one jurisdiction, it is called a multi-jurisdictional pension plan (MJPP). An MJPP must usually be registered in the jurisdiction that has the plurality of active plan members. This is in accordance with the 1968 Memorandum of Reciprocal Agreement (Memorandum) between the Canadian provinces with pension legislation, the similar bilateral agreements between those provinces and the federal government and the more recent Agreement Respecting Multi-jurisdictional Pension Plans (Agreement).

The Agreement, although released by the Canadian Association of Pension Supervisory Authorities in 2009, was not effective for (or applicable to) any jurisdiction until July 1, 2011. On this day, the Agreement came into effect for MJPPs where the major authority (province of registration) is Ontario or Quebec, and the pension plans have both Ontario and Quebec plan members. The existing Memorandum and/or bilateral agreements with the federal government will remain in effect for all members and plan beneficiaries (former members, retired members, deferred vested, etc.) of pension plans in the jurisdictions that have not yet signed the Agreement. This would apply to a pension plan that has members in Ontario, Quebec and another jurisdiction, but neither Ontario nor Quebec is the major authority.

Plan membership in an MJPP can shift from one jurisdiction to another over time. Such a shift may affect the plurality of active plan members in a jurisdiction. If this occurs, the registration of the MJPP may be transferred from the original jurisdiction (major authority) to the one having the plurality.

Under the Memorandum, there are no fixed rules which dictate **when** the major authority should be changed. Pension supervisory authorities will only change the major authority when they are satisfied that the change in plurality is permanent.

Under the Agreement however (section 5), the major authority must change whenever one of the following situations occurs.

Note: The following situations are for illustrative purposes only and are based on the assumption that all jurisdictions in the examples were signatories to the Agreement on December 31, 2008

Situation 1: For three consecutive fiscal year ends, the number of active members of a pension plan employed in relation to the major authority's jurisdiction is less than the number of active members who were employed in relation to any other jurisdiction or jurisdictions.

Example 1 – Active Members employed by jurisdiction of pension plan 1

Year End	Ontario	Quebec	Alberta
December 31, 2008	1000	800	500
December 31, 2009	800	500	1000
December 31, 2010	800	500	1000
December 31, 2011	800	1000	500

In example 1, as at December 31, 2008, Ontario was the major authority as it had the most number of active plan members. However, in three consecutive years after 2008, either Alberta or Quebec had more active members than Ontario. Note however that although Alberta had the most number of active members in 2009 and 2010, the major authority would shift to Quebec because at the end of the three year period Quebec had the most active number of plan members.

Situation 2: The number of active members of the pension plan employed in relation to the major authority's jurisdiction is, at its fiscal year end, less than 75 per cent of the number of active members who were employed in relation to any other jurisdiction.

Example 2 – Active Members employed by jurisdiction of pension plan 2

Year End	Ontario	Quebec	British Columbia
December 31, 2008	1000	800	400
December 31, 2009	700	1000	400

In example 2, as at December 31, 2008, Ontario was the major authority as it had the most number of active plan members. As at December 31, 2009, the active membership decreased to 700 in Ontario while it increased to 1000 in Quebec. Since the number of active members in Ontario is less than 75 per cent of the number of active members in Quebec, the major authority would shift to Quebec. Note that the three year test does not apply in this example.

Situation 3: The number of active members of the plan employed in relation to the major authority's jurisdiction is zero and there are active members of the plan employed in relation to any other jurisdiction.

Example 3 – Active Members employed by jurisdiction of pension plan 3

Year End	Ontario	Quebec	Manitoba
December 31, 2011	200	150	100
December 31, 2012	0	150	100

In example 3, as at December 31, 2011, Ontario was the major authority as it had the most number of active plan members. However, it had zero active membership in the following fiscal year end, while there is active membership in Quebec and Manitoba. Of these, Quebec had the most active members. Therefore, the major authority would shift to Quebec.

For more details on **when** a change of major authority must occur under the rules dictated by the Agreement, see section 5 of the Agreement as well as the Commentary Guide to the Agreement.

FSCO - change from major authority to minor authority

FSCO has a process in place to review the annual information returns (AIRs) for all MJPPs it has on file so that it can identify any change in the plurality of plan membership for currently employed (active) members. FSCO will determine whether a change of registration in jurisdiction is needed based on the requirements of the Memorandum and/or Agreement, as applicable. If a change is required, FSCO will provide notice to specified parties (see Notice below).

Likewise, plan administrators of MJPPs should also have a process in place to review their plans' AIRs so that they may identify any shift in plan membership that they believe will be permanent, and which would require changing the jurisdiction of plan registration. Once the plan administrator becomes aware that a change of registration is or may be necessary, the plan administrator should advise FSCO in writing about this. FSCO will review the requirements of the Memorandum and Agreement and will confirm in writing whether a change in registration is required.

In either case, if FSCO agrees that a change in registration is needed, it will bring the pension plan file up-to-date and ensure that the minor authorities (the other pension supervisory authorities that have supervisory or regulatory powers with respect to the plan) and the plan administrator receive notice of the upcoming change. To ensure that all records are up to date, the plan administrator of an MJPP that is undergoing a change of major authority may be required to provide any missing:

- AIRs
- financial statements
- investment information summaries
- actuarial valuation reports
- actuarial information summaries
- plan amendments

- other plan documents

If applicable, FSCO will also require that Pension Benefits Guarantee Fund filings and assessments are up-to-date.

FSCO – change from minor authority to major authority

Generally, the pension supervisory authority that is being replaced as a major authority sends FSCO a notice indicating that FSCO is now the major authority for a certain MJPP and that all documents pertaining to the plan will be transferred to FSCO. After assuming its functions as a major authority, FSCO will notify the plan administrator and each of the minor authorities of the date on which it assumed the functions as a major authority, as discussed below under “Notice”.

Timing of Transfer and Outstanding Transactions

Where an MJPP is subject to the **Memorandum** and FSCO is the current major authority, FSCO will ensure that all outstanding transactions relating to the plan are resolved before transferring the plan’s registration to another jurisdiction.

Where an MJPP is subject to the **Agreement**, any unresolved transactions relating to the plan will remain before the old major authority (FSCO in the example above) until they are resolved. Regardless of whether there are any outstanding transactions remaining with the old major authority, it must provide all relevant records, documents or other information that it has pertaining to the plan to the new major authority.

Notice

Where an MJPP is subject to the **Memorandum** and FSCO is the current major authority, FSCO will notify the new major authority and the plan administrator of the impending change. FSCO will also require that the plan administrator provide notice of the change in the same manner and to the same parties who would receive notice under the requirements dictated by the **Agreement** as described below under “*Notice from plan administrator to all participating employers and collective bargaining agent*” and “*Notice from plan administrator to all employers participating in the plan and persons entitled to an annual benefits statement*”. Furthermore, FSCO will require that the plan administrator provide FSCO with confirmation that notice has been distributed, and the date notice was distributed.

Where an MJPP is subject to the **Agreement**, the timeframe within which notice must be provided to specified parties about the change of major authority is dictated by the terms of sections 5(6) to 5(8) of the Agreement, as summarized below.

Notice from old major authority to all minor authorities and plan administrator

Section 5(6) of the Agreement provides that as soon as possible after the old major authority receives information indicating that a change of a major authority is necessary, it must notify the plan administrator, all minor authorities of the plan and the new major authority of the impending change.

Notice from plan administrator to all participating employers and collective bargaining agent, if any

Section 5(8)(a) of the Agreement states that within 90 days of receiving notification about the change of major authority from the old major authority, the plan administrator must notify each employer that is party to the plan and any collective bargaining agent that represents any person who has rights and benefits under the plan.

Notice from new major authority to all minor authorities and plan administrator

Section 5(7) of the Agreement states that as soon as possible after assuming the role of major authority, it must notify all minor authorities of the plan and the plan administrator of the date it assumes the role as major authority.

Notice from plan administrator to all employers participating in the plan and persons entitled to an annual benefits statement

Section 5(8)(b) of the Agreement states that after the change in major authority has occurred, the plan administrator must provide notice about the change of major authority to all employers participating in the plan and all persons entitled to receive an annual statement of benefits. This notice must be provided no later than the expiry of the period for providing such persons with their next annual statement of benefits.