



SECTION:	Transfer Values
INDEX NO.:	T800-402
TITLE:	Commuted Value Transfers - PBA ss. 42 and 43 - Regulation 909 s. 19
APPROVED BY:	Superintendent of Financial Services
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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.*

This policy describes the limitations, prescribed in section 19 of the Regulation, in relation to the transfer of the commuted value of a pension, deferred pension or ancillary benefit to which a member or former member is entitled under section 42(1) of the PBA and provides guidance in obtaining the approval of the Superintendent to effect the transfer, where required.

General

Generally the rules that apply to commuted value transfers under section 42 and annuity purchases under section 43 of the PBA are as follows:

1. For the purposes of section 42(1), the commuted value of a pension, deferred pension or ancillary benefit must not be less than the value determined in accordance with section 3800 of the *Canadian Institute of Actuaries Standards of Practice*, effective April 1, 2009.
2. Section 43(2) provides that the purchase of an annuity by the administrator is subject to the same limitations as a transfer under section 42(1).
3. Section 19(2) of the Regulation limits the amount of the commuted value that the administrator can transfer to the amount of the commuted value multiplied by the lesser of the most recently determined transfer ratio of the plan or 1.0.

4. Section 19(6) of the Regulation provides that where the most recently determined transfer ratio is less than 1.0, the administrator may still transfer 100% of the commuted value of the plan if:
 - a. the amount of the transfer deficiency is paid into the pension fund in a lump sum prior to the payment of the commuted value, or
 - b. the total of all transfer deficiencies for transfers since the valuation date of the most recently filed valuation report is less than 5% of the assets of the plan at that time.

As provided in sections 19(7), 19(7.1) and 19(7.2) of the Regulation, if the administrator transfers less than the full commuted value, the balance, with interest, must be transferred within 5 years after the date of the initial transfer.

However, section 19(6) of the Regulation has been amended so that in situations where the administrator knows or ought to know that the transfer ratio in the most recently filed valuation report has declined by 10% or more, the administrator is required to seek the prior approval of the Superintendent before transferring any funds under section 42 or 43 of the PBA.

The requirements for seeking the approval of the Superintendent and the process for submitting such a request are set out below.

Most Recently Determined Transfer Ratio Equal to or Above 1.0

- Where the transfer ratio set out in the most recently filed valuation report was equal to or greater than 1.0 and the administrator knows that the transfer ratio remains at or above 0.9, the administrator may transfer the full commuted value of a pension, deferred pension or ancillary benefit in respect of a terminating member without referral to the Superintendent.
- Where the transfer ratio set out in the most recently filed valuation report was equal to or greater than 1.0 and the administrator knows, or ought to know, that the transfer ratio has dropped to a value less than 0.9, the administrator **shall not** transfer any part of the commuted value of a pension, deferred pension or ancillary benefit in respect of a terminating member without obtaining the prior approval of the Superintendent.

Most Recently Determined Transfer Ratio Less Than 1.0

- Where the transfer ratio set out in the most recently filed valuation report was less than 1.0 and the administrator knows, or ought to know, that the transfer ratio has dropped by 10% or more of that ratio, the administrator **shall not transfer any part** of the commuted value of a pension, deferred pension or ancillary benefit in respect of a terminating member without obtaining the prior approval of the Superintendent.

Timing of Transfer Ratio Review

- While the PBA does not specify a time period for the review of the transfer ratio, it would be appropriate for the plan administrator to review the plan's transfer ratio on a regular basis to determine if a request pursuant to section 19(4) or 19(5) of the Regulation is required. It would be appropriate for the administrator to review the transfer ratio whenever a transfer under section 42 or 43 of the PBA is to be made, unless a review has been done in the prior three months.

Request for the Approval of the Superintendent under section 19(4) or 19(5) of the Regulation

The [Request for Approval form](#) is to be signed by both the Actuary (actuarial certification) and the Plan Administrator (declaration of the plan administrator).

Actuarial Certification

The Actuarial Certification that accompanies the request for approval **must** include:

- the effective date of the updated transfer ratio calculation (the “determination date”),
- the market value of the plan assets as of the determination date,
- the prior year credit balance, if any,
- the solvency liabilities of the plan,
- the liabilities for benefits, other than pension benefits and ancillary benefits payable under qualifying annuity contracts, that were excluded in calculating the solvency liabilities,
- the updated transfer ratio,
- a statement of opinion from the actuary certifying that the updated transfer ratio has been determined in accordance with accepted actuarial practice.

The liabilities included in the Actuarial Certification may be determined on the basis of a solvency valuation as at the determination date or a reasonable projection of the liabilities to the determination date.

The updated transfer ratio set out in the Actuarial Certification shall be deemed to have amended the transfer ratio in the most recently filed report and shall be deemed to be the “most recently determined transfer ratio” for the purposes of section 19 of the Regulation.

Where a valuation report is filed subsequent to the filing of a request for approval that has a determination date on or after the valuation date of the report being filed, the transfer ratio set out in the report must not be greater than the most recently determined transfer ratio at the determination date of the request under section 19(4) or (5) of the Regulation. For example, a valuation report with a valuation date of January 1, 2009 is filed on September 30, 2009. A request for approval was filed in July 2009. The transfer ratio set out in the report filed in September 2009 must consider the request for approval filed in July 2009, and the transfer ratio for purposes of section 42(1) or for section 43 may not be greater than the most recently determined transfer ratio set out in that request for approval.

Other Requirements

The administrator must indicate a proposed method to address the transfer deficiencies resulting from the decline in the transfer ratio of the plan.

Where a request for approval has been filed, in determining if a transfer may be made under section 19(6)(b) of the Regulation, the administrator must consider if the total of all transfer deficiencies for transfers since the valuation date of the most recently filed valuation report is less than 5% of the market value of the assets as of the most recent determination date.

Pursuant to section 42 of the PBA and section 19 of the Regulation, the Superintendent may approve the transfer of the full commuted value, or a lesser amount, to terminating members with terms and conditions as are considered appropriate in the circumstances. The Superintendent may also approve the transfer to purchase annuities by the administrator pursuant to section 43 of the PBA.

The Superintendent's approval to the request will remain in effect until the earlier of, the date the next valuation report under section 3 or 14 of the Regulation is filed or the date a subsequent request is made pursuant to section 19(4) or (5) of the Regulation, which will set out an updated transfer ratio.

Requests for the approval of the Superintendent must be on the [Request for Approval form](#) and forwarded to the [Pension Plans Branch staff member](#) assigned to the plan:

Pension Plans Branch
Financial Services Commission of Ontario
5160 Yonge Street
Box 85
Toronto ON M2N 6L9