



May 2, 2024

Andrew Fung
A/Executive Vice President, Pensions
Financial Services Regulatory Authority of
25 Sheppard Avenue West, Suite 100
Toronto, ON M2N 6S6

Andrew.Fung@fsrao.ca

Dear Andrew Fung,

Re: Proposed Guidance on Pension Plan Amendments (Identifier No. PE0301INT)

This is the submission of the Ontario Public Service Employees Union/Syndicat des employés de la fonction publique de l'Ontario (OPSEU/SEFPO) regarding FSRA's Proposed Guidance on Pension Plan Amendments (Identifier No. PE0301INT) (the Guidance). OPSEU/SEFPO is one of Ontario's largest labour unions, representing over 180,000 union members. OPSEU/SEFPO jointly sponsors many defined benefit Ontario registered pension plans representing almost one quarter of a trillion dollars in pension assets. This includes two of the "Maple 8" pension plans: HOOPP and OMERS.

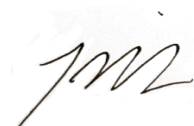
OPSEU/SEFPO broadly supports FSRA's Guidance on Pension Plan Amendments. However, we would like to see the Guidance provide additional clarity surrounding plan amendments, specifically the prohibition of the reduction of accrued benefits. As a Sponsor to many registered Ontario Pension Plans, OPSEU/SEFPO is familiar with and is opposed to Plan administrators attempting to push through retro-active adverse amendments in an attempt to circumvent non-compliance with the Pension Benefits Act ("PBA") or its plan documents. OPSEU/SEFPO fully endorses FSRA's attempts to mitigate this issue through the Guidance and would like to see the OFL suggestions further incorporated into the proposed Guidance. As outlined in FSRA's proposed Guidance, the role of FSRA, under the Act (FSRA Act) is to enforce the standards of the PBA: to protect pension plan beneficiaries and to promote good administration of pension plans. Given their legislative obligations it is not only within FSRA's mandate, but it is their obligation to safeguard Pension Plans and their beneficiaries from non-compliance with the PBA. This would include protecting members and their pension plans from circumventing administrative requirements outlined in the PBA, which are specifically designed to protect plan members. Retroactive, adverse amendments are not permissible under the PBA based on the general proposition that statutory provisions are presumed to not permit the interference with the rights of individuals, who in this case are plan members, with retroactive adverse effect. It is clearly within FSRA's mandate to prevent the registration of retroactive amendments that bypass the administrative requirements and member protections contained in the PBA. The proposed Guidance provides the required clarification to ensure compliance with Section 26 of the PBA and enshrines transparency to both the regulator and plan beneficiaries.

While OPSEU/SEFPO recognizes that different considerations may apply to MEPPs, it regards the Guidance as necessary for the good administration of single employer pension plans (“SEPPs”), and in most instances, JSPPs as well, and we support the interpretation of the relevant provisions of the PBA contained in Appendix A. However, as laid out in the Ontario Federation of Labour’s (OFL) submission, we encourage FSRA to further clarify the Guidance as recommended by the OFL. We will not reiterate those recommendations here.

We will however comment that OPSEU/SEFPO strongly opposes the suggestion by some plan sponsors that retroactive adverse amendments should be considered. Plan members should be able to rely on official plan documents as written. To allow plan documents to be retroactively changed to the detriment of the plan members, seems to contradict the entire point of having minimum standards legislation. Plan members must be able to rely upon the documents because if not, what is the point of having those documents in the first place?

We trust that the foregoing and the OFL’s submission will be given due consideration in finalizing the Guidance. As we stated above, we are strongly supportive of the Guidance in general terms, and we see it as necessary for advancing FSRA’s statutory mandate.

Sincerely,

A handwritten signature in black ink, appearing to be 'JP Hornick', written in a cursive style.

JP Hornick
President
Ontario Public Service Employees Union /
Syndicat des employés de la fonction publique de l’Ontario