



October 17, 2022

Holly Ballan
Pensions Division, FCAA
601-1919 Saskatchewan Drive
Regina, Canada S4P 4H2

RE: Comments – *The Pension Benefits Act, 1992* Consultation Paper – Enforcement Tools and Other Potential Amendments

We appreciate the opportunity to provide feedback on the above-mentioned consultation paper. Generally, we are in support of modernizing *The Pension Benefits Act, 1992* to promote efficient and effective regulation, as well as alignment with other Canadian jurisdictions and Saskatchewan. We do, however, identify some risks associated with items 2, 3 and 4. The risks can be mitigated through communication and consultation with plan administrators, and we suggest updating the amendments to include these steps. Please see below for responses to the specific questions included in the consultation paper.

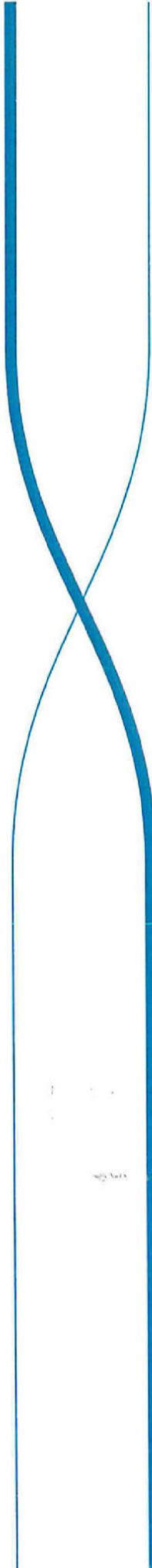
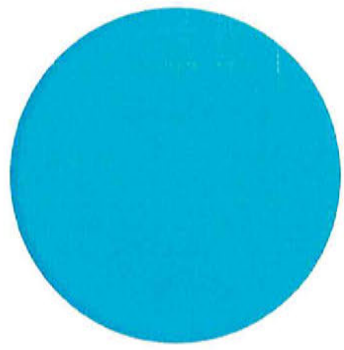

1. *Do you agree that the Superintendent should have the authority to impose terms and conditions on approvals, consents, and permissions pursuant to the PBA as available in other Canadian jurisdictions?*

Yes. Imposing terms and conditions is an efficient approach.

2. *Do you agree that the Superintendent should be able to sever a part of an amendment that does not comply with the PBA or PBR and register the part of an amendment that does comply?*

We generally agree with this recommendation, however there is some risk that by severing part of an amendment the overall intent of the amendment may be compromised.

To mitigate this risk, we encourage the Superintendent to implement consultations with plan administrators prior to severing certain parts of an amendment and approving the remainder. This can help ensure the integrity and intent of the amendment remains intact.

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3. *Do you agree that the Superintendent should have the authority to cancel the registration of a plan amendment or part of a plan amendment that does not comply with the PBA?*

On the surface this recommendation seems preferable to the only other option noted which is cancelling the registration (and therefore wind-up) of an entire plan. However, we have a concern with respect to plan amendments being registered and transactions carried out under that amendment for an extended period before the amendment is finally rejected (example: what if the period is measured in years). We encourage consultation with plan administrators prior to cancelling a plan amendment to work through the impact of rejecting an amendment and reversing transactions on plan members and other stakeholders. These impacts should be considered before the decision is formally made by the Superintendent.

4. *Do you agree that the Superintendent should be able to reverse transactions which were completed based on an assumption that an amendment to a pension plan would remain registered?*

Like question 3 above, we encourage consultation with plan administrators prior to reversing transactions to mitigate the risk of negative impacts to plan members and other stakeholders.

5. *What enforcement tools should be added to the PBA?*

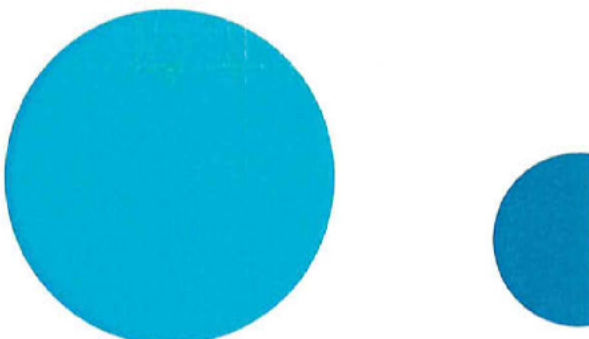

Alignment with other Canadian jurisdictions and other Saskatchewan legislation on enforcement tools to promote flexibility and effective regulation makes sense.

6. *Do you agree that the Superintendent should have the authority to impose compliance orders where a person is not complying with the PBA, the PBR or the plan documents? Do you agree that the Superintendent should have the authority to impose compliance orders where a person's activities or neglect to undertake activities with respect to a plan are contrary to safe and sound pension practices?*

Yes, to both.

7. *Do you agree that the Superintendent should have the authority to impose administrative penalties where a person is not complying with the PBA, the PBR of the plan documents?*

Yes.



8. *Do you agree that the Superintendent should have the authority to impose special penalties on late filings as an efficient enforcement mechanism?*

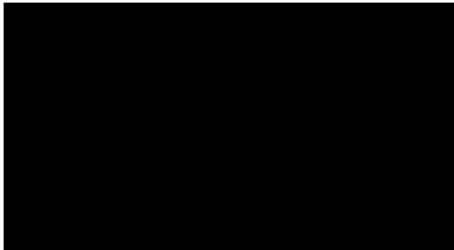
Yes.

9. *Do you agree that the Superintendent should have the authority to impose costs of proceedings where the Superintendent is satisfied that the person who was the subject of the proceeding has not complied with a provision of the PBA?*

Yes, so long as the subject of inspection is not in compliance with the PBA.

Thank you for the opportunity to comment.

Sincerely,





GBL Inc.
5720 - 4th Street SE, Suite 130
Calgary, Alberta T2H 1K7

T 403.249.1820 1.877.249.2999 F 403.246.2431
www.gblinc.ca

Re: Consultation: Enforcement Tools and Other Potential Amendments under The Pension Benefits Act, 1992

We received notification of a new consultation paper and to provide comments to the Financial and Consumer Affairs Authority (FCAA). On review of the consultation paper, we noted a strong emphasis on aligning *The Pension Benefits Act, 1992* (PBA) with that of other provincial jurisdictions.

The Canadian Association of Pension Supervisory Authorities, has long supported the coordination and harmonization of pension regulation across Canada and common standards in pension policy, legislation and regulation among Canadian jurisdictions.

While the changes noted in the consultation paper will provide more harmonization, we note that Individual Pension Plans (IPPs) are still administered without distinction under the PBA which is not in line with the other provincial jurisdictions.

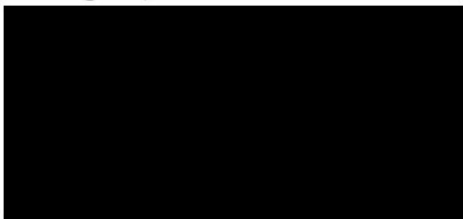
Several provinces provide exemptions from registration requirements, leaving IPP plans to the jurisdiction of CRA. Alberta, British Columbia, Ontario, Manitoba, Nova Scotia, New Brunswick, and Quebec have all exempted plans for connected persons for registration and monitoring by the provincial regulatory body. Manitoba also provides exemptions for designated plans for specified individuals. Newfoundland is the only other province without an exemption for IPP plans, however it does have specific rules and leniency for these plans. This leaves Saskatchewan as the only province in Canada without a distinction for IPP plans in their PBA.

An exemption for connected persons pension plans would dramatically reduce overall pension sector costs and reduce administrative burden for both FCAA and plan sponsors which benefits all stakeholders. It would allow FCAA time and resources to focus on plans where benefit protection is of utmost importance. This includes non-connected and non-specified individuals in Saskatchewan whose employee benefits are truly at risk, especially with the current economic pressures.

Typically, IPP sponsors are professional corporations and small businesses, the increase in minimum Annual Information Return Fees from \$150 to \$300, and the introduction of the \$300 filing fees for every plan amendment and funding report, have made the costs of saving for retirement too much for some businesses to bear. While not the focus of the consultation, an exemption provides an overall benefit as it encourages business owners and professionals to save for retirement while ensuring that their organizations remain viable without the added pressure of enforced funding and considerable fees.

Thank you for taking our above feedback into consideration. We are happy to discuss in more detail should you have further questions or concerns.

Regards,





SHEPP

People. Pensions. Results.

October 20, 2022

Lauren Ellis, Legal Counsel
Financial and Consumer Affairs Authority of Saskatchewan, Legal Branch
601-1919 Saskatchewan Drive
Regina, SK S4P 4H2

Dear Lauren:

RE: Response to Enforcement Tools and Other Potential Amendments consultation

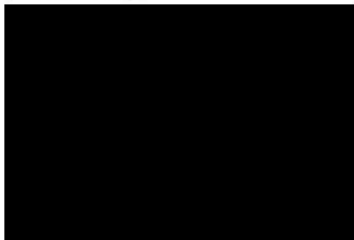
On behalf of the Saskatchewan Healthcare Employees' Pension Plan (SHEPP), I am pleased to provide our response to the above-mentioned consultation paper.

SHEPP agrees with all the proposed amendments included in the Enforcement Tools and Other Potential Amendments consultation. SHEPP believes the recommendations will align FCAA's authority with other jurisdictions across the country. We also support the increased flexibility and authority in order to promote compliance amongst pension plan administrators within Saskatchewan.

We believe the changes discussed in questions 1 through 4 of the paper will allow for greater administrator effectiveness. Specific to question 3 and 4, SHEPP would expect the regulator would work with the plan administrator prior to cancelling and/or severing part of a plan amendment. Also, if recommended administrative penalties discussed throughout the paper can be directed to those persons non-compliant with the PBA, we look forward to seeing the positive impact this may have on other services FCAA provides.

If you have any questions, please feel free to contact me directly at 306.737.6651 or via email at amckay@shepp.ca.

Sincerely,



102 - 4581 Parliament Ave
Regina, SK S4W 0G3

sheppinfo@shepp.ca

Phone: 306.751.8300
Fax: 306.751.8301
Toll Free: 1.866.394.4440

www.shepp.ca

Sent via email

October 21, 2022

Financial and Consumer Affairs Authority of Saskatchewan
Legal Branch
C/O Lauren Ellis, Legal Counsel
1919 Saskatchewan Drive, Suite 601
Regina, Saskatchewan S4P 4H2
pensions@gov.sk.ca

Re: Consultation Paper – Enforcement Tools and Other Potential Amendments

We are writing in response to the Consultation paper related to Enforcement Tools and Other Potential Amendments. We thank the Financial and Consumer Affairs Authority of Saskatchewan for the opportunity to comment on aspects of the consultation paper and the subject of pension plan regulations in the province.

With over 350 employees, working from six offices in Canada, Eckler Ltd. is the country's largest independent actuarial consulting firm. Our roots trace back to 1927, making us one of the oldest firms in the industry.

Eckler Ltd. is generally in favour of the proposed enforcement tools. We agree that the Superintendent should have the authority and discretion to impose terms and conditions, sever or cancel part of an amendment, or reverse transactions completed based on an assumption that an amendment to a pension plan would remain registered.

We are also in favour of increasing the authority of the Superintendent to impose compliance orders, administrative penalties, or special penalties where a person is not complying with the Pension Benefits Act, Regulations, or plan documents. This would include any potential penalties on late filings.

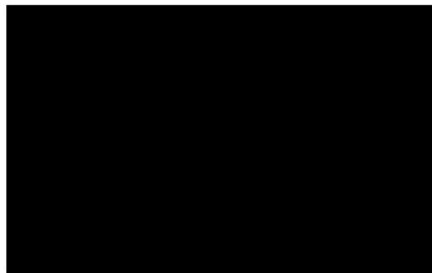
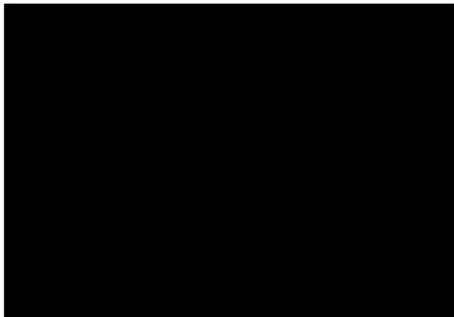
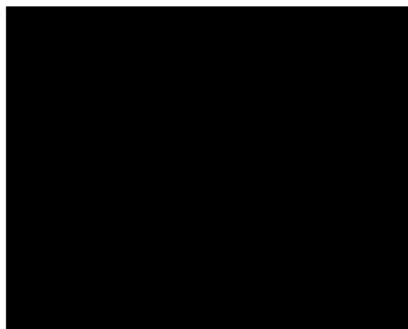
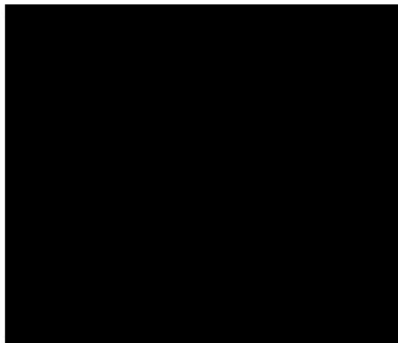
We would suggest that in instances where a dispute over penalties arises between parties, the penalty should not be imposed until the dispute is resolved.

As a general comment, we would suggest that Saskatchewan review jurisdictions in Canada that have implemented similar amendments granting the Superintendent more authority and engage those

jurisdictions in discussions to solicit feedback on any unintended issues or consequences that have arisen, and to adjust the proposed amendments accordingly.

We thank you again for the opportunity to provide our comments on the Consultation paper related to Enforcement Tools and Other Potential Amendments. Should you have any questions on the topics discussed above or wish to discuss any other aspect of the consultation, please feel free to contact Dean Taylor at dtaylor@eckler.ca or 416-696-4947.

Regards,





October 21, 2022

Lauren Ellis, Legal Counsel
Financial and Consumer Affairs Authority of Saskatchewan, Legal Branch
601-1919 Saskatchewan Drive
Regina, SK S4P 4H2
Email: pensions@gov.sk.ca

Dear Ms. Ellis:

RE: The Pension Benefits Act, 1992 Consultation Paper - Enforcement Tools and Other Potential Amendments

ACPM is the leading advocacy organization for a balanced, effective and sustainable retirement income system in Canada. Our private and public sector retirement plan sponsors and administrators manage retirement plans for millions of plan members, including both active plan members and retirees.

The Pensions Division of the Financial and Consumer Affairs Authority (FCAA) is considering recommending amendments to the Pension Benefits Act, 1992 (the PBA) to the Saskatchewan government and consulting interested parties and organizations on those potential amendments.

As mentioned in the consultation paper, the amendments being considered may include provisions respecting the imposition of terms and conditions on approvals, consents and permissions, enhanced enforcement tools, the severance of parts of plan amendments for registration purposes, the cancellation of registration of plan amendments or parts of plan amendments, as well as other miscellaneous administrative amendments.

We generally support the amendments being proposed because modernization of the PBA and Regulations to reflect the tools and powers found in pension legislation in other Canadian jurisdictions as well as other regulatory legislation administered by the FCAA is both warranted and welcomed.

While we generally support the direction being considered, we have provided some brief comments on questions 2, 3 and 4; we have not commented on other questions.

Question 2: Do you agree that the superintendent should be able to sever a part of an amendment that does not comply with the PBA or PBR and register the part of an amendment that does comply?

We generally agree with this ability being added to the authority of the Superintendent if consideration is given to the over-all intent of the amendment in question. More specifically: severing and rejecting a part of an amendment in question may compromise the intent of the remaining parts of the amendment or the intent of the pension plan. Depending on the circumstances, it may be more beneficial to reject the entire amendment rather than only parts of the amendment. To that end, we would suggest that, before the Superintendent severs and rejects certain parts of an amendment and approves the remainder, the Superintendent consults with the plan administrator and ensures that severing and rejecting certain parts of the amendment would not be contrary to the overall intention of the amendment and the pension plan. This may be more desirable than using a formal appeal process involving the courts.

Question 3: Do you agree that the superintendent should have the authority to cancel the registration of a plan amendment or part of a plan amendment that does not comply with the PBA?

and

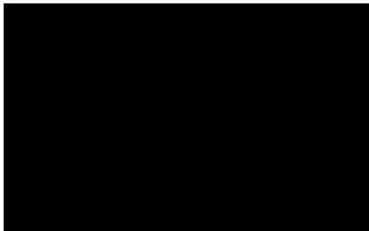
Question 4: Do you agree that the superintendent should be able to reverse transactions which were completed based on an assumption that an amendment to a pension plan would remain registered?

We feel the general rule is that administrators can assume in good faith that their amendment is acceptable and can act accordingly until advised otherwise by the pension regulator. Therefore, the ability for the superintendent to cancel the registration of a plan amendment (or part thereof), and then enforce the reversal of transactions that were based on the amendment in question, is a double-edged sword.

While we understand why the FCAA would want to include these abilities in its authority, we are concerned whether the authority could extend to amendments that have been filed and administered for an extended period of time before the amendment is rejected (ex.: what if the period of time is measured in years?). The reversal of transactions can be problematic and, in some cases, impossible; for example, in the case of transfer value payments on termination or pre-retirement death. It is for that reason that we would expect a consultation with the plan administrator (that does not need to involve a formal appeal to the courts) to work through the impact of rejecting an amendment – this should be considered before the decision is formally made by the superintendent.

Thank you for the consideration of our comments and we are available if we can be of further assistance.

Sincerely,





October 21, 2022

Lauren Ellis, Legal Counsel
The Financial and Consumer Affairs Authority of Saskatchewan
pensions@gov.sk.ca

**Re: Segal Submission Regarding Enforcement Tools and Other Potential Amendments
under the Pension Benefits Act, 1992**

Segal is pleased to offer its submission on this core topic for our constituents.

Our concerns and comments are as follows:

Question 1: Do you agree that the superintendent should have the authority to impose terms and conditions on approvals, consents, and permissions pursuant to the PBA as available in other Canadian jurisdictions?

Segal believes the proposed methodology to be broadly acceptable.

Question 2: Do you agree that the superintendent should be able to sever a part of an amendment that does not comply with the PBA or PBR and register the part of an amendment that does comply?

This is acceptable in principle. However, it may complicate the administration of the plan if certain sections of amendments are accepted and others are not. We believe that prior to severing an amendment, the FCAA should engage the plan to see if severing the amendment would be acceptable or if it may be amended to comply with the PBA or PBR.

Question 3: Do you agree that the superintendent should have the authority to cancel the registration of a plan amendment or part of a plan amendment that does not comply with the PBA?

Segal does not oppose this proposal provided the cancellation of a plan amendment does not retroactively affect benefits.

Question 4: Do you agree that the superintendent should be able to reverse transactions which were completed based on an assumption that an amendment to a pension plan would remain registered?

Segal does not support granting the superintendent the ability to reverse past transactions that would negatively affect the plan or its members. Reversing transactions can be costly and cumbersome and should only be done if it is in the best interest of the parties involved.

Question 5: What enforcement tools should be added to the PBA?

We do not believe that any additional enforcement tools other than those proposed in Questions 6,7,8 or 9 should be added to the PBA.

Question 6: Do you agree that the superintendent should have the authority to impose compliance orders where a person is not complying with the PBA, the PBR or the plan documents? Do you agree that the superintendent should have the authority to impose compliance orders where a person's activities or neglect to undertake activities with respect to a plan are contrary to safe and sound pension practices?

Question 7: Do you agree that the superintendent should have the authority to impose administrative penalties where a person is not complying with the PBA, the PBR or the plan documents?

Question 8: Do you agree that the superintendent should have the authority to impose special penalties on late filings as an efficient enforcement mechanism?

With respect to the enforcement tools proposed in Questions 6, 7, 8, Segal believes that any enforcement tool framework should have the following characteristics:

- Penalties are fair and reasonable;
- A simple and meaningful appeal process is available when penalties are imposed; and
- A simple and rapid process for requesting extensions for filings.

Question 9: Do you agree that the superintendent should have the authority to impose costs of proceedings where the superintendent is satisfied that the person who was the subject of the proceeding has not complied with a provision of the PBA?

Segal does not support this proposal. Forcing the plan to cover the costs of proceedings is harmful to the plan and its members and may be particularly harmful to smaller pension plans.

Thank you for the opportunity to express our views in this submission.

Chopra, Rachana FCAA

From: [REDACTED]
Sent: Monday, September 26, 2022 2:13 PM
To: Pensions FCAA
Subject: RE: Feedback Requested - Enforcement Tools and Other Potential Amendments under The Pension Benefits Act, 1992 Consultation

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Below is feedback on the proposed amendments on behalf of the City of Moose Jaw:

Question 1 - Expanding superintendent's authority seems to make sense and the reasoning appears to benefit plan administrators.

Question 2 – Agreed. Makes sense

Question 3 - Agreed. Makes sense

Question 4 - Agreed. Makes sense

Question 5 – All enforcement tools seem reasonable.

Question 6 - Agreed. Makes sense

Question 7 – Agreed. Penalties are likely loss costly and resource intensive than court proceedings.

Question 8 - Agreed. Makes sense

Question 9 – Agree in principle that having non-compliers pay for the costs makes sense but would be concerned if this was something automatically triggered in every single case. This seems like a reasonable enforcement tool where other less severe tools have failed. If there was evidence of intent or malice or is it involved repeat offenders this would be fine. But for a first offense where the administrator is honest and makes required changes upon direction, this seems like an excessive penalty. Would prefer is this was based on discretion and the circumstances rather than being applied in every single case.



City of Moose Jaw | 228 Main St. N | Moose Jaw SK | S6H 3J8 | www.moosejaw.ca



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From: Ballan, Holly FCAA <holly.ballan@gov.sk.ca>

Sent: September 22, 2022 2:59 PM

To: [REDACTED]

Subject: Feedback Requested - Enforcement Tools and Other Potential Amendments under The Pension Benefits Act, 1992 Consultation

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Good afternoon,

You are receiving this email because you have been identified as an interested party of the below mentioned consultation paper.

Please visit <https://fcaa.gov.sk.ca/whats-new/consultations/pension-consultation-papers> to find a consultation paper with respect to:

- Imposition of terms and conditions on approvals, consents and permissions;
- Severance of parts of plan amendments for registration purposes;
- Cancellation of the registration of a plan amendment or parts of plan amendments;
- Reversal of transactions in certain circumstances;
- Enhanced enforcement tools; and
- Costs orders.

The Financial and Consumer Affairs Authority is interested in receiving your comments respecting the questions found in this paper. In addition, please feel free to provide any additional and relevant information.

Please provide your comments by **October 21, 2022** by email to pensions@gov.sk.ca.

Sincerely,

Holly Ballan (she/her)

Financial and Consumer Affairs Authority of Saskatchewan

Director

Pensions Division

601-1919 Saskatchewan Drive

Regina, Canada S4P 4H2

Bus: 306-787-2458

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Chopra, Rachana FCAA

From: [REDACTED]
Sent: Wednesday, October 12, 2022 6:31 AM
To: Pensions FCAA
Subject: FCAA - Consultation Paper - Enforcement Tools and Other Potential Amendments - Comments

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Hi there,

Here are my responses:

Question 2: Do you agree that the superintendent should be able to sever a part of an amendment that does not comply with the PBA or PBR and register the part of an amendment that does comply?: Yes.

Question 3: Do you agree that the superintendent should have the authority to cancel the registration of a plan amendment or part of a plan amendment that does not comply with the PBA?: Yes.

Question 4: Do you agree that the superintendent should be able to reverse transactions which were completed based on an assumption that an amendment to a pension plan would remain registered?: Yes.

Question 5: What enforcement tools should be added to the PBA?: Compliance orders, administrative penalties.

Question 6: Yes.

Question 7: Yes.

Question 8: Yes.



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Chopra, Rachana FCAA

From: [REDACTED]
Sent: Friday, October 21, 2022 9:57 AM
To: Pensions FCAA
Subject: Feedback Requested - Enforcement Tools and Other Potential Amendments under The Pension Benefits Act, 1992 Consultation

Follow Up Flag: Follow up
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Hello,

The below is feedback regarding the amendments to the Pension Benefits Act:

Question 1: Do you agree that the superintendent should have the authority to impose terms and conditions on approvals, consents, and permissions pursuant to the PBA as available in other Canadian jurisdictions? **Yes, I do agree that this authority should be granted. I would be concerned about what type of fees would be administered for which "certain matters".**

Question 2: Do you agree that the superintendent should be able to sever a part of an amendment that does not comply with the PBA or PBR and register the part of an amendment that does comply? **Yes, I do agree that the superintendent should be able to sever a part of an amendment.**

Question 3: Do you agree that the superintendent should have the authority to cancel the registration of a plan amendment or part of a plan amendment that does not comply with the PBA? **Yes, I do agree that the superintendent should have this authority.**

Question 4: Do you agree that the superintendent should be able to reverse transactions which were completed based on an assumption that an amendment to a pension plan would remain registered? **Yes, I do agree the superintendent should be able to reverse transactions.**

Question 5: What enforcement tools should be added to the PBA? **Powers to issue orders of compliance; however, penalties or administrative costs only incurred if non-compliance by deadlines.**

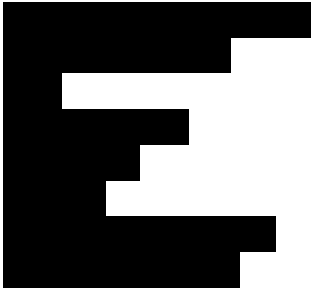
Question 6: Do you agree that the superintendent should have the authority to impose compliance orders where a person is not complying with the PBA, the PBR or the plan documents? Do you agree that the superintendent should have the authority to impose compliance orders where a person's activities or neglect to undertake activities with respect to a plan are contrary to safe and sound pension practices? **Yes.**

Question 7: Do you agree that the superintendent should have the authority to impose administrative penalties where a person is not complying with the PBA, the PBR or the plan documents? **Yes, as long as the contravention has been communicated and the organization has not made any actions to remedy by certain deadlines.**

Question 8: Do you agree that the superintendent should have the authority to impose special penalties on late filings as an efficient enforcement mechanism? **Yes; however, I would like to see a longer window (i.e. filing penalties starts at \$25/day, with it increasing to \$250/day after the fifth day).**

Question 9: Do you agree that the superintendent should have the authority to impose costs of proceedings where the superintendent is satisfied that the person who was the subject of the proceeding has not complied with a provision of the PBA? **Yes, as long as they have not complied with a provision of the PBA.**

Thanks,



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The Pension Benefits Act, 1992
Consultation Paper
Enforcement Tools and Other Potential Amendments

Consultation Period:
September 22, 2022 – October 21, 2022

The Pensions Division of The Financial and Consumer Affairs Authority (FCAA) is considering recommending amendments to The Pension Benefits Act, 1992 (the PBA) to the Saskatchewan government and consulting interested parties and organizations on those potential amendments.

As mentioned in the consultation paper, the amendments being considered may include provisions respecting the imposition of terms and conditions on approvals, consents and permissions, enhanced enforcement tools, the severance of parts of plan amendments for registration purposes, the cancellation of registration of plan amendments or parts of plan amendments, as well as other miscellaneous administrative amendments.

We generally support the amendments that are being proposed because harmonizing the PBA and Regulations to reflect the tools and powers found in pension legislation in other jurisdictions across Canada as well as making changes that brings the PBA and Regulations in line with other regulatory legislation administered by the FCAA is both warranted and welcomed.

We generally support the direction being considered and so we are not responding to all of the questions posed. Instead, we are providing brief comments only on questions 2, 8 and 9.

Question 2: Do you agree that the superintendent should be able to sever a part of an amendment that does not comply with the PBA or PBR and register the part of an amendment that does comply?

We would generally agree with this ability being added to the authority of the Superintendent, with consideration being given to the over-all intent of the amendment in question. More specifically: severing and rejecting a part of an amendment may compromise the intent of the remaining parts of the amendment or the intent of the pension plan. Depending on the circumstances, it may be more beneficial to reject the entire amendment rather than only parts of the amendment. To that end, we would suggest that, before the Superintendent does sever and reject certain parts of an amendment and approves the remainder, the Superintendent consults with the plan administrator and ensures that severing and rejecting certain parts of the amendment would not be contrary to the overall intention of the amendment and the pension plan. This may be more desirable than using a formal appeal process that involves the courts.

Question 8: Do you agree that the superintendent should have the authority to impose special penalties on late filings as an efficient enforcement mechanism?

While we understand the rationale to impose penalties on late filings, as a mechanism to both discourage late filings and to help compensate for the additional work that late filings create, we would suggest that there be an opportunity for the plan administrator to request an extension of a filing deadline and thus avoid a late penalty, if there are good reasons for needing an extension and the request is made in advance of the filing deadline.

Question 9: Do you agree that the superintendent should have the authority to impose costs of proceedings where the superintendent is satisfied that the person who was the subject of the proceeding has not complied with a provision of the PBA?

We believe that ordering a party to pay costs should only be considered in non-routine situations where a party is appealing an initial decision from the regulator, and that any decision to order a party to pay costs should consider factors such as whether novel issues were raised, the conduct of the parties, and whether any aspect of the proceeding was improper, vexatious, or unnecessary.

In addition to the above comment, we believe a number of questions should be address if this change is made. The following are two such questions:

- Would there be a procedure to contest the costs levied if the person in question does not agree?
- How would the costs be calculated?