



---

SECTION: Surplus

INDEX NO.: S900-875

TITLE: Surplus Distribution in Cash in Continuing Plan

PUBLISHED: Bulletin 6/3 (Winter-Spring 1996)

EFFECTIVE DATE: When Published [No longer applicable - replaced by S900-876 – August 2010]

---

*Taken from the "Your Questions Answered" column published in the PCO Bulletin. Please see the disclaimer at the beginning of the directory.*

*Note: Due to legislative changes, references to "the Commission" should refer to "the Superintendent of Financial Services."*

**May a continuing pension plan provide for a distribution of surplus to the members and former members in the form of cash if no payment is made to the employer?**

A continuing plan may be amended, if permitted by the plan documents, to provide for a distribution of surplus to the members, former members and other persons who are entitled to a payment under the pension plan in the form of cash provided that no payment is being made to the employer. The amendment should identify the amount of surplus to be distributed, and the persons to whom surplus will be paid. The prior consent of the Commission is not required in these circumstances (please see the announcement on page 8 of this issue dealing with refunds of member contributions and deemed AVCs). However, the amendment is required to be registered by the Superintendent.

The main consideration for the Superintendent is whether the pension plan and the fund are being administered prudently. Therefore, the Superintendent must be satisfied that a surplus exists as determined in accordance with section 26 of Regulation 909. For certainty, the plan administrator may wish to consider the minimum surplus reserve criteria identified in clauses 79(1)(c), (d) and (e) of the Act which apply where a payment of surplus is made from a continuing plan to an employer.

On a case-by-case basis, the Superintendent may conclude that an amendment is adverse in accordance with subsection 26(1) of the Act. This may occur where surplus is not allocated to all of the members, former members and any other persons who are entitled to receive a payment under the plan, or the method of allocation is not determined on a basis that is consistent for each class of employee.

Please refer to the policy series S900-700 for policies that deal with a surplus distribution from a continuing pension plan where a payment to an employer is contemplated. In such circumstances, an application for the Commission's consent is required in accordance with section 79 of the Act and section 10 of Regulation 909 under the Act.