



SECTION:	Assets
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TITLE:	Withdrawal of Application for Consent to a Transfer of Assets - PBA ss. 80 and 81
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 is intended to assist an applicant who wishes to withdraw an application for consent to a transfer of assets under section 80 or section 81 of the PBA that has not yet been approved or refused by the Superintendent of Financial Services.

When a decision has been made to withdraw an application for consent to a transfer of assets before it has been approved or refused, there are a number of issues and concerns that should be addressed if they apply to the facts of the situation. If the applicant intends to withdraw the application, the applicant should submit a proposal to FSCO setting out the request to withdraw the application and how the applicant intends to address these issues.

Please note that the issues and concerns identified here should not be considered all-inclusive. There may be others that apply in each particular situation that need to be dealt with, and these too should be addressed in the applicant's proposal.

Applicants are reminded that they must comply with the requirements of the PBA and the Regulation, and should address all applicable FSCO pension policies.

The following issues should be addressed in the proposal to withdraw the application for consent to an asset transfer:

Notice to affected members

1. All members, former members and other beneficiaries who may be affected (the “affected individuals”) and their collective bargaining agent(s), if any, should be notified that the application for consent to an asset transfer is being withdrawn and that the proposed merger of plans is not proceeding. This should be done as closely as possible to the time that the decision is made to withdraw the application. It is up to the applicant to determine which individuals may be affected. If there is doubt as to whether certain individuals should be notified (e.g., those who joined the plan after the application was made), the applicant should include them in the group of affected individuals and notify them.

Address changes in benefits

2. If higher benefits were to be provided under the successor plan, the applicant should set out how it will deal with the higher benefits. All affected individuals should be advised of how the higher benefits will be credited.
3. If any affected individuals will suffer any loss of benefits because the asset transfer will not proceed, the applicant should address how it will deal with this loss, including a loss involving a “wrap-around” benefit (that is, where the benefits in one plan are offset by the benefits in another plan). Care should be taken to ensure that any accrued benefit is not reduced, as any such reduction may be void under section 14(1) of the PBA.

Address pertinent amendments that have been made

4. With respect to any amendment that pertains to any plan affected by the asset transfer, whether filed at or subsequent to the time the asset transfer application was made, the applicant should address how it intends to deal with the amendment now that the application is being withdrawn. This should be addressed in light of the wording of the amendment, the specific facts of each case and the plan provisions. Care should be taken to ensure that any accrued benefit is not reduced, as any such reduction may be void under section 14(1) of the PBA.

Restore plans to previously funded position

5. If the plans involved were administered on the assumption that the asset transfer would be approved, the applicant’s proposal should address how it intends to restore the plans to the funded position they would have been in if the transaction had not been contemplated. Specifically, the proposal should address:
 - Whether it is necessary to transfer assets from the successor plan(s) back to the predecessor plan(s). If so, this would be done under section 81(8) of the PBA. The completion of [FSCO’s asset transfer checklist](#) would not be necessary.
 - Whether the number of plan members has changed from the time the application for consent to a transfer of assets was filed to the fiscal year end of the plans that immediately precedes the date of the proposal to withdraw the application.
 - Whether any additional contributions are required to restore the funded position of the affected plans and, if so, the proposal for making these contributions.
 - Whether there is any amount that may be owed to the Pension Benefits Guarantee Fund (PBGF). If so, an addendum to the previously filed PBGF Assessment Certificate(s) should be filed.

6. The proposal should include actuarial support pertaining to the determination of any of these items, including but not limited to:
- The funded position that each of the affected plans would have been in if the asset transfer had not been contemplated.
 - A reconciliation of the membership for each of the affected plans between the effective date of the initial transfer and the fiscal year end of the plan immediately preceding the date of the proposal.
 - A list of the prior actuarial reports which have been referred to in making the determination.

Address new plans

7. If any new plans were created expressly to receive the assets being transferred, the applicant should address how it intends to treat these new plans and any filings made to them.

Address subsequent activities or events

8. If any subsequent activities or events have occurred that affect the plans after the effective date of the initial asset transfer, such as a partial wind up, the applicant should address how it intends to deal with them.

Filings

9. It is not FSCO's intention to require the re-filing of any Annual Information Return, PBGF Assessment Certificate, Investment Information Summary, financial statement or actuarial report that was filed after the effective date of the initial asset transfer, provided that the applicant provides FSCO with the information set out in this policy and any other information that may be required.