



SECTION:	Conversion
INDEX NO.:	C200-101
TITLE:	Conversion of a Plan from Defined Benefit to Defined Contribution - PBA ss. 14(1)(c), 26(1), 41, 42, 48 and 63(7) - Regulation 909 s. 19(1)
APPROVED BY:	Superintendent of Financial Services
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REPLACES:	C200-100

This policy replaces C200-100 (From Defined Benefit to Defined Contribution) as of the effective date of this policy.

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.*

Defined Benefit to Defined Contribution Plan Conversion

The conversion of a defined benefit plan to a defined contribution plan alters the fundamental pension agreement between the employer and the plan members. The PBA does not expressly address such plan conversions. It is recognized that plan sponsors are entitled to change the basic structure of a pension plan for future benefits. However, plan members should receive full information with respect to the conversion and the options available to them. While each case presents its own circumstances, the following guidelines are set out to assist such conversions.

Plan conversions are effected by means of a plan amendment. Generally, such an amendment will be registered only if it complies with these guidelines. The guidelines deal with the conversion of accrued benefits.

1. Application of this Policy

This policy is directed at plan conversions where the plan is changed from a defined benefit to a defined contribution plan, the members' benefits that have accrued up to the date of conversion are commuted and the commuted value is credited toward the members' accounts under the subsequent defined contribution plan.

2. Means of Effecting Conversion

The conversion is effected by a plan amendment, for which notice must be given prior to implementation in accordance with section 26(1) of the PBA. The effective date of the plan amendment may not be earlier than the date of the notice.

As soon as possible after the members' entitlements and commuted values under the defined benefit plan have been determined, each member being affected by the conversion must be given a Statement of Benefits and Options. This Statement must contain at a minimum the information set out in Schedule A.

3. Option of Members

All members of the plan to whom the conversion applies must be given the option of preserving their accrued benefits in the form of a defined benefit. If no election is made, the member is considered not to have elected to convert his or her accrued benefits to a defined contribution form.

If the plan sponsor elects to purchase an annuity for the members who choose to preserve their benefits in the form of a defined benefit, the annuity must comply with all requirements of the plan and the PBA, such as early retirement provisions (section 41), transfer rights (section 42) and pre-retirement death benefits (section 48).

4. Minimum Commuted Value

The commuted value of the accrued benefits as of the date of conversion must be determined for each member. The method used to determine the minimum commuted values must comply with the requirements of section 19(1) of the Regulation.

The value of ancillary benefits (such as bridge benefits or early retirement benefits for which the member has met all eligibility requirements under the pension plan as of the date of conversion) must be taken into account in determining the commuted value of the member's accrued benefits in order to ensure compliance with section 14(1)(c) of the PBA.

In the case of a contributory pre-1987 accrued benefit, the commuted value must not be less than the member's required contributions plus interest.

Please also refer to Salary Projections in section 5 of this policy below.

5. Salary Projections

Where a plan is structured such that benefits are related to final earnings or best earnings of a member, a projection of salary increases must be taken into account in calculating the commuted value of the accrued benefits unless the plan clearly provides that salary projection need not be taken into account on a plan conversion. However, the probability of termination may also be recognized in the determination of the commuted values. FSCO staff may also approve an approximate method for the determination of the commuted value which will produce a reasonably similar result.

If the plan is amended to freeze the salary level at which the accrued benefits are determined as of the date of conversion, notice of this amendment to freeze the salary level must be included as part of the notice of amendment given to all affected plan members.

6. Application of the 50% Rule and Treatment of the Excess

In a contributory plan, the amount by which the member's contributions plus interest exceed 50% of the commuted value of the pension as of the date of conversion must be added to the member's defined contribution account for:

- all benefits which accrued from January 1, 1987 to the date of conversion, and
- pre-1987 accrued benefits where the 50% rule applies to such benefits.

The plan sponsor may determine that this excess amount either be:

- retained in the member's required contribution account, in which case the amount is treated in the same manner as the other monies in the accounts, or
- treated as an additional voluntary contribution.

The amendment effecting the conversion must specify how such excess amounts are to be treated. If the excess is deemed to be an additional voluntary contribution, the plan must be amended to so allow and an application must be made to the Superintendent under section 63(7) of the PBA for a notional refund to the member of what had, before the amendment, constituted required member contributions.

7. Amounts in Excess of the *Income Tax Act* Limits

In accordance with section 21.1 of the Regulation, a member who elects to convert his or her defined benefits to defined contribution benefits is entitled to require the administrator to pay to the member that portion of the amount of the commuted value of defined benefits that exceeds the maximum transfer limit prescribed under the *Income Tax Act* (Canada) for such a conversion.

8. Vesting

Conversion of the plan does not affect the date on which vesting of benefits occurs. The defined contribution account is subject to the vesting rules of the plan, and the member must be informed that the vesting rules of the plan continue to apply.

9. Refunds

Where, in connection with the conversion, the plan is to be amended to provide for a refund of a member's contributions, application for a refund of contributions to members must be made to the Superintendent under section 63(7) of the PBA.

10. Funding

If the assets of the plan are not sufficient to cover the commuted value of the benefits that are to be converted and the annuities purchased pursuant to the conversion, the sponsor must contribute the shortfall to the plan in a lump sum. Furthermore, the sponsor must, if necessary, make a lump sum payment to ensure that the solvency ratio (the ratio of market value of assets to the solvency liabilities) of the plan in respect of the defined benefit portion of the plan that remains after the conversion is not less than the plan's solvency ratio before the conversion was implemented but need not exceed 1.0.

11. Conversion Report

A conversion report is required to be filed at the time the plan amendment is filed.

SCHEDULE A

**STATEMENT OF BENEFITS AND OPTIONS FOR MEMBERS
ON PLAN CONVERSION**

The following information must be included in the Statement of Benefits and Options given to each member upon determination of the member's entitlements and commuted values from the defined benefit plan:

- 1) A statement that the member may elect not to convert the accrued pension and instead retain all entitlements under the existing defined benefit plan.
- 2) If the member elects to convert the accrued pension, the amount of the accrued pension and the commuted value that will be credited to the member's defined contribution account must include the amount and value of:
 - ancillary benefits for which the member has satisfied all eligibility requirements; and
 - any benefit improvement granted in conjunction with the conversion.
- 3) The amount of any excess member contributions resulting from application of the 50% rule and the treatment of such contributions.
- 4) A statement that the member will no longer be entitled to the benefits under the defined benefit plan, and that the member's pension benefit will depend on the earnings of the defined contribution plan and the annuity rates in effect at the time the member has terminated employment and chooses to annuitize the benefit, except with respect to benefits not converted.
- 5) Identification of ancillary benefits for which the member has not met the eligibility requirements, and that these ancillary benefits will no longer be offered in the defined contribution plan.
- 6) A statement that the defined contribution account is subject to the vesting rules of the plan, and specification of the amount that is vested as of the date of the conversion.