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TITLE:	Electronic Communications Between Plan Administrators and Plan Beneficiaries
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”), Regulation 909, R.R.O. 1990 (“Regulation”) or Electronic Commerce Act, 2000, S.O. 2000, c. 17 (“ECA”), the FSCO Act, PBA, Regulation or ECA govern.

Note: For your convenience, the electronic version of this policy contains hyperlinks to the ECA and CAPSA Guideline #2 as they exist at March 14, 2003. Changes to the linked websites are not the responsibility of FSCO and may result in the failure of these hyperlinks or accessing a version of the document other than that which existed at March 14, 2003.

In February 2002, the Canadian Association of Pension Supervisory Authorities (“CAPSA”) released [CAPSA Guideline #2, Electronic Communication in the Pension Industry](#). CAPSA Guideline #2 is intended to help pension plan administrators, and members, former members and other beneficiaries (the “plan beneficiaries”) apply the provisions of the respective electronic commerce legislation for each jurisdiction to communications required under pension benefits legislation. The electronic commerce legislation for Ontario is the [Electronic Commerce Act, 2000](#), which came into force on October 16, 2000.

The Financial Services Commission of Ontario (“FSCO”) takes the position that communications between pension plan administrators and plan beneficiaries required under the PBA may be provided electronically, if they comply with all of the relevant requirements under the PBA, ECA and CAPSA Guideline #2. A plan administrator may consider, for example, electronically providing documents such as the annual statement, the explanation of the pension plan provisions and prescribed notices to plan beneficiaries, so long as the documents and their distribution comply with the PBA, ECA and CAPSA Guideline #2. It should be noted that the electronic exchange of information is entirely voluntary on the part of both the administrator and the plan beneficiary. Particular attention should be paid to the consent provisions of the ECA and CAPSA Guideline #2. CAPSA Guideline #2 explains what plan beneficiary consent should entail. Consent, together with other requirements, must also be valid at the time that the communication is made.

CAPSA Guideline #2 does not apply to electronic communications between plan administrators and pension regulators, and it is not yet possible for FSCO to receive or ensure the integrity of documents in electronic formats. Consequently, any documents in respect of the pension plan or the pension fund required to be filed with or provided to FSCO, including any documents the Superintendent of Financial Services is required to make available under section 30 of the PBA, must continue to be provided to FSCO in the traditional hard copy format.

Frequently Asked Questions about Electronic Communications Between Plan Administrators and Plan Beneficiaries

Must a plan beneficiary receive documents electronically?

No. Plan beneficiaries will continue to receive documents in paper form unless they consent, or are deemed to consent as provided under CAPSA Guideline #2, to receiving the documents electronically. A plan beneficiary must designate an electronic medium, such as providing an email address, for receiving these documents electronically.

In deciding whether to receive documents electronically, a plan beneficiary should consider how to store and maintain these documents to ensure future access to the information. For example, if the plan member designates his/her office computer for receipt of documents, might access to and storage of these personal documents be restricted by the employer's policy on the use of computer resources or by changes in the employment relationship?

Must the administrator provide documents electronically?

No. There is no requirement under the PBA, ECA and CAPSA Guideline #2, to offer any documents electronically. If the administrator chooses to provide documents electronically, the administrator would determine which documents to offer in electronic format to plan beneficiaries.

Once a plan beneficiary has consented to receive documents electronically, can the beneficiary withdraw the consent?

Yes. A plan beneficiary may revoke a consent or a deemed consent at any time, by so advising the plan administrator either in writing or electronically.

Can the administrator rely on the provision of the document electronically as a valid delivery to the plan beneficiary?

Yes, provided the administrator has complied with requirements of the PBA, the ECA and CAPSA Guideline #2 in the creation and transmission of the electronic document. However, if the administrator has received a message that the electronic document is non-deliverable, or if the administrator is otherwise aware that the plan beneficiary cannot receive the document through the electronic means previously identified, the administrator would know that the recipient cannot retrieve and process the electronic document. Therefore, the requirements of the PBA, the ECA and CAPSA Guideline #2 would not have been fulfilled.

Must the administrator provide a paper copy of the document, in addition to an electronic copy, once the plan beneficiary has consented to electronic communication?

No. The administrator need not provide a paper copy of the document, so long as the consent of the plan beneficiary remains valid. However, the electronic communication must be able to be printed and retained by the plan beneficiary.

Where a plan beneficiary continues to have a right to receive pension documents following termination of employment or retirement, can these documents be requested electronically?

Yes, assuming the plan administrator offers to provide the documents electronically. To receive the documents electronically, the plan beneficiary must provide consent and designate an electronic medium for the receipt of documents.