Instruction guide

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Introduction

The Office of the Superintendent of Financial Institutions (OSFI) has issued this Instruction Guide for Disclosure Requirements for Defined Contribution Pension Plans (Disclosure Guide) to inform the pension industry of the requirements under the *Pension Benefits Standards Act, 1985* (PBSA) and the Pension Benefits Standards Regulations, 1985 (PBSR) regarding the disclosure of information to a plan member, former member, an employee eligible to join the plan, and that person's spouse or common-law partner. This Disclosure Guide also provides guidance in addition to the legislative requirements to assist plan administrators in providing adequate and appropriate information.

This Disclosure Guide replaces the Guideline titled "Disclosure of Information to Pension Plan Members and Former Members" issued on March 6, 1998 which included guidance related to both defined benefit and defined contribution plans. This previous Guideline has been replaced with two separate instruction guides – one for defined benefit plans and one for defined contribution plans. The two new Disclosure Guides include updates to reflect amendments to the PBSA and the PBSR to date.

If a pension plan includes a defined contribution and a defined benefit component, plan administrators are to follow the requirements outlined in the Instruction Guide for Disclosure Requirements for Defined Benefit Plans as well as any additional applicable requirements described in this Disclosure Guide. Disclosure requirements for plans registered under the *Pooled Registered Pension Plans Act* are not included in this Disclosure Guide.

The disclosure requirements are generally found in section 28 of the PBSA and sections 22 and 23 of the PBSR. The plan text may also contain disclosure requirements in addition to the legislative requirements.

The PBSA and the PBSR are the authoritative source for requirements regarding disclosure of information. If there is a discrepancy between this Disclosure Guide and the legislation, the legislation prevails.

1. General Principles

Effective communication promotes transparency and enables a member or former member and that person's spouse or common-law partner to make informed financial planning decisions, better understand how a pension plan works, recognize the value of their pension and have confidence in the administration of the plan.

The disclosure of information should be carried out in a manner that is consistent with the disclosure requirements of the PBSA and the PBSR and with the administrator's fiduciary responsibilities and applicable standard of care[1].

In carrying out their duties with regard to the disclosure of information, plan administrators should aim to make the disclosure of information timely, easily understood and accurate. Any document provided should give the name, address and telephone number for a contact person who can answer any follow-up questions.

2. Electronic Communications

Section 31.1 of the PBSA and sections 25 to 25.3 of the PBSR set out details regarding requirements when providing information to members electronically. The main requirements are described below.

Any information that an administrator is required by the PBSA or PBSR to provide to a member of the plan, an employee eligible to join the plan, and that person's spouse or common-law partner can be provided by way of an electronic document if consent is provided. Consent can be given to the plan administrator in writing (paper or electronic form) or orally. Consent may be revoked at any time either in writing (paper or electronic form) or orally. The individual who is receiving information electronically (the addressee) must designate an information system (typically an email address or a website) for the receipt of the electronic document and must inform the plan administrator of any changes to their electronic contact information.

The information in the electronic document must be accessible by the addressee and capable of being retained by the addressee, so as to be usable for subsequent reference. If an electronic document is provided on a generally accessible information system, such as a website, the administrator must provide the addressee with written notice that the electronic document is available and of where it can be found.

An electronic document is considered to have been provided to an addressee when it is entered into or made available on the information system designated by the addressee. If the plan administrator has reason to believe that an addressee did not receive an electronic document, then the plan administrator must mail a paper copy of the document to the mailing address that they have on file.

3. Canadian Association of Pension Supervisory Authorities

The Canadian Association of Pension Supervisory Authorities (CAPSA) is a national association of pension regulators whose mission is to facilitate an efficient and effective pension regulatory system in Canada. It has developed numerous guidelines to further the coordination and harmonization of pension regulation across Canada. The two CAPSA guidelines noted below are particularly relevant for defined contribution plans and OSFI recommends that these guidelines be followed by administrators of all defined contribution plans. All CAPSA guidelines are available

on the CAPSA web site .

3.1 CAPSA Guideline No. 8 Defined Contribution Pension Plans Guideline

This guideline applies to defined contribution components of registered pension plans. The guideline provides administrators with guidance regarding tools and information to provide to members of the plan.

3.2 CAPSA Guideline No. 3 Guidelines for Capital Accumulation Plans

This guideline applies to defined contribution components of registered pension plans where members are permitted to make investment choices from among two or more investment options. The guideline reflects the expectations of pension regulators regarding the responsibilities of employers, plan administrators and service providers to ensure that plan members receive the information necessary to make informed investment decisions.

4. Explanation of Plan Provisions and Plan Amendments

Paragraph 28(1)(a) of the PBSA requires that each plan member and each employee eligible to join the plan, and that person's spouse or common-law partner be given a written explanation of the provisions of the plan and any applicable amendments to the plan, within sixty days after the establishment of the plan or the making of the amendment.

OSFI expects plan administrators to apply paragraph 28(1)(a) of the PBSA broadly and assume that most amendments to a plan could be considered applicable to a member of that plan.

OSFI considers an amendment to a plan to be made as of the date that the decision regarding the amendment is properly adopted in accordance with the appropriate governance procedures for that plan.

Section 22 of the PBSR provides that the written explanation of the provisions of the plan be addressed to the plan member or employee and that person's spouse or common-law partner and is to be provided at the place of employment or mailed to the residence of the plan member or employee.

Plan administrators often prepare a standardized information booklet containing the information that is required by the PBSA and the PBSR. While the PBSA and the PBSR do not provide a detailed list of information that must be

provided with respect to plan provisions, OSFI expects the following to be included:

4.1 Description of the plan

- Official name of the plan
- The plan is registered under federal pension legislation and whether any members are subject to provincial pension legislation
- The date the plan was established and whether the plan was the result of any predecessor plans
- A defined contribution plan is an arrangement where the pension payments to be received by plan members at retirement are not predetermined and are dependent on contributions and investment returns
- If the plan is administered by a pension committee or if the plan has established a pension council, contact information for the committee /council
- Contact information for enquiries from members and former members

4.2 Eligibility to join the plan

- Whether membership in the plan is voluntary or mandatory
- Who is eligible to join the plan and when they are eligible to join the plan (i.e. the minimum period of employment required for membership for full-time and non-full-time employees)
- How to enrol in the plan

4.3 Contribution information

- Formula for any required member contributions
- Formula for employer contributions to the plan
- When contributions are deducted and remitted to the plan
- Treatment of additional voluntary contributions to the plan (if permitted)
- Amounts deducted by the employer from a member's remuneration and other amounts due to the pension fund by the employer are required to be kept separate and apart from the employer's own moneys

4.4 Investment options

If members of the pension plan are permitted to make investment choices:

- How members make their investment choices
- The investment tools that are available to assist in decision making
- Account balances will reflect the investment performance of the investment option, less fees
- Members should obtain investment advice from an appropriately qualified individual
- The plan's default investment option
- The administrator shall provide annually to any person permitted to make investment choices a written statement[2] that includes the following:
    - details of each investment option available to them
    - how the person's funds are currently invested
    - any timing requirements that apply to the making of an investment choice

If members are not permitted to make investment choices:

- How the pension fund is invested
- The purpose of the pension plan's Statement of Investment Policies and Procedures
- How members are able to obtain a copy of the Statement of Investment Policies and Procedures which they have a right to review annually

4.5 Plan expenses and fees

- What expenses or fees may be charged to the member's account, for example:
    - investment management fees
    - account fees
    - any fees for service providers
- How members may obtain more information regarding expenses charged to the plan

4.6 Benefits at retirement

- When a member is entitled to retire under the plan and receive an immediate pension benefit
- Annuity options at retirement and an explanation that the amount of the pension benefit to be provided by an annuity will depend on factors such as how much money has been accumulated, the age of the member (and spouse) and interest rates at the time of the annuity purchase
- Whether the pension plan offers retiring members the option of receiving a variable benefit (see Part 9 of this Disclosure Guide for further information on variable benefits)
- Whether transfer options are available at retirement. If yes, a transfer to a locked-in registered retirement savings plan, a life income fund or a restricted life income fund may be made only if the member's spouse or common-law partner notifies the administrator, in the prescribed form, of their consent (Form 3.1 of Schedule II of the PBSR3).
- The requirement for a joint and survivor annuity if the member has a spouse or common-law partner at the time of retirement
- The joint and survivor pension must not reduce on the death of the member or former member to less than 60% of the amount payable when both were alive unless the prescribed spousal waiver form has been completed (Form 4 of Schedule II of the PBSR)
- Entitlement of a retiring member and their spouse or common-law partner to a prescribed benefit statement within 30 days after the date of their retirement

4.7 Benefits on cessation of membership before retirement

- Entitlement to a deferred annuity from the plan unless the member transfers their pension benefit credit (account balance)
- For members who cease membership before eligibility for early retirement, their entitlement to
    - transfer their pension benefit credit to a locked-in registered retirement savings plan, life income fund, restricted life income fund or to another pension plan (including a pooled registered pension plan) willing to accept the funds; or
    - use the pension benefit credit to purchase an immediate or deferred annuity outside of the plan.

- Whether terminating members are entitled to the transfer options described above if they are eligible for early retirement. If yes[4], a transfer to a locked-in registered retirement savings plan, a life income fund or a restricted life income fund may be made only if the member's spouse or common-law partner notifies the administrator, in the prescribed for, of their consent (Form 3.1 of Schedule II of the PBSR).
- Whether terminating members are entitled to commence a variable benefit from the plan when they reach early retirement age
- When a terminating member's benefit is considered locked-in. A plan may provide for pension benefits to be locked-in prior to having completed two years of membership; upon two years of membership, pension benefits must be locked-in.
- How the member's account will be invested if they do not transfer their pension benefit credit or alternatively that a deferred annuity (see first bullet above) will be purchased for them by the plan administrator at the time of cessation of membership
- Entitlement of a terminating member and their spouse or common-law partner to a benefit statement, in the prescribed form, within 30 days after cessation of membership (Form 2 of Schedule IV)

4.8 Death benefits before retirement

- The death benefit payable to a survivor is the pension benefit credit to which the member or former member would have been entitled if they had terminated employment on the day of death. If there is no survivor, this benefit must be paid to the member's or former member's designated beneficiary or if there is none, to their estate or succession.
- Option for the survivor to surrender the death benefit and designate a beneficiary who is a dependant of the survivor, member or former member
- Entitlement of a survivor or a member's legal representative to a prescribed benefit statement within 30 days of the administrator being notified of the member's or former member's death

4.9 Non-assignment / commutation of pension benefits

- Benefits provided under the plan cannot be assigned, charged, anticipated or given as security with the exception that benefits may be assigned on marriage breakdown or the ending of a common law

relationship.

- Pension benefits cannot be surrendered or commuted during the lifetime of the member or former member or the lifetime of the member's or former member's spouse or common-law partner.

4.10 Marriage or common-law partnership breakdown

- Pension benefits of a member or former member are subject to applicable provincial property law in the event of their divorce, annulment, separation or breakdown of common-law partnership
- PBSA permits the division of pension benefits by a court order or an agreement between the parties
- In the event of an assignment of all or part of their pension benefit, the former spouse or common-law partner is deemed to have been a member of that pension plan and is deemed to have ceased to be a member of that plan as of the effective date of the assignment. Therefore, they would be entitled to a termination statement within 30 days of the effective date of the assignment and would have the same transfer options available to them as any other former member who has ceased membership.

4.11 Termination of the plan

- Options (including any transfer options) that will be available to members, former members and survivors on termination of the plan
- Statements they can expect to receive (see Part 10 of this Disclosure Guide for more information on the statement requirements on plan termination)

4.12 Additional information available on request

- List of the documents that may be examined or copies of which can be ordered. In accordance with paragraph 28(1)(c) of the PBSA, each member and former member, every other person entitled to pension benefits under the plan and their spouses or common-law partners may, once in each year of operation of the plan, either personally or by an agent authorized in writing for that purpose, order photocopies or examine, at the administrator's office, certain documents held by the plan administrator.
- The plan administrator may charge a reasonable fee for photocopies

5. Investment Information

Subsection 8(4.3) of the PBSA provides that if a pension plan permits members, former members, survivors or a former spouse or former common law partner of a member or former member to make investment choices, then the administrator must offer investment options of varying degrees of risk and expected return that would allow a reasonable and prudent person to create a portfolio of investments that is well adapted to their retirement needs.

Subsection 7.3(1)5 of the PBSR requires the administrator to provide annually to any person who is permitted to make investment choices a written statement that includes the following:

- A description of each investment option available to the person that indicates:
    - its investment objective
    - the type of investments and the degree of risk associated with it
    - its 10 largest asset holdings by market value, each expressed as a percentage of the total assets
    - its performance history
    - that its past performance is not necessarily an indication of its future performance
    - the benchmark that best reflects its composition
    - the fees, levies and other charges associated with it that reduce return on investment expressed as a percentage or a fixed amount
    - its target asset allocation
- A description of how the person's funds are currently invested
- An indication of any timing requirements that apply to the making of an investment choice

OSFI also expects the plan administrator to provide the information described in CAPSA's Guideline regarding topics such as decision making tools, fees and expenses, transfer options and performance reports. More information on CAPSA's Guidelines is provided in Part 3 of this Disclosure Guide.

6. Annual Statements to Members

It is important that members and beneficiaries receive timely and useful information regarding their plan and their pension benefits. In support of this, paragraph 28(1)(b) of the PBSA requires that each member of the plan and the member's spouse or common-law partner be given, within six months after the end of each plan year, a written statement that includes, among other things, the accumulated member and employer contributions.

The specific information that must be provided is set out in subsection 23(1) of the PBSR, and Appendix A to this Disclosure Guide contains a checklist of this information as it relates to defined contribution plans. The additional items required to be included in the annual statements that are due to be issued after July 1, 2016 have been noted on this checklist.

In addition to the requirements of subsection 23(1) of the PBSR, section 5 of the CAPSA Guideline No. 3 Guidelines for Capital Accumulation Plans titled Ongoing Communication to Members identifies additional information that should be provided to members who are permitted to make investment choices.

For defined contribution plans that do not permit members to make investment choices, subsection 23(1) of the PBSR requires that a summary of the pension fund's investment holdings as at the end of the year be provided. This summary must include the following information:

- A list of the pension fund's 10 largest asset holdings based on market value, each expressed as a percentage of total assets. The list should contain specific investments such as ABC Corp common shares or XYZ Canadian Equity Mutual Fund.
- The pension fund's target asset allocation expressed as a percentage of total assets. The investment categories used to show the target asset allocation should be related to the nature of the plan's investments and could include categories such as fixed income, Canadian equities, U.S. equities, and real estate.

7. Annual Statement to Former Members

Paragraph 28(1)(b.1) of the PBSA provides that each former member of the plan and the former member's spouse or common-law partner will be given, within six months after the end of each plan year, a written statement

showing the information as set out in subsection 23(1.1) of the PBSR. For purposes of this requirement, former members are defined as retirees and persons who have ceased membership and have not exercised portability rights.

Appendix B to this Disclosure Guide contains a checklist of the requirements of subsection 23(1.1) as they relate to a defined contribution plan. Unlike most former members of defined contribution plans, those receiving a variable benefit from the plan receive detailed information on the benefit they are receiving. This information is also set out in Appendix B.

As noted in Part 6 of this Disclosure Guide, section 5 of the CAPSA Guideline No. 3 Guidelines for Capital Accumulation Plans titled Ongoing Communication to Members identifies other information that should be provided to members and former members who are permitted to make investment choices for their accounts.

8. Termination / Retirement / Death Statements

Paragraph 28(1)(d) of the PBSA provides that where a member of the plan retires or ceases to be a member of the plan for any reason other than the termination of the plan, the administrator shall give to that member and to the member's spouse or common-law partner a written statement within 30 days after the date of retirement or cessation of membership.

Paragraph 28(1)(e) of the PBSA provides that if a member of the plan dies, the administrator shall give the written statement to the survivor[6] within 30 days after the date of the member's death. If there is no survivor, the statement is to be given to the member's designated beneficiary or, if there is no designated beneficiary, to the executor, administrator or liquidator of the member's estate or succession.

The information that must be provided in the statements is set out in the following Schedules of the PBSR:

- For retiring members - Form 1 of Schedule IV
- For retiring members whose spouse or common-law partner wishes to waive their entitlement to a joint and survivor pension – Form 4 of Schedule II
- For terminating members - Form 2 of Schedule IV

- For members or survivors choosing to transfer the value of their pension benefit -Form 3 of Schedule II
- For terminating members offered portability after eligibility for early retirement, a request to transfer to a locked-in registered retirement savings plan, a life income fund or a restricted life income fund must be accompanied by a spousal consent form (Form 3.1 of Schedule II)
- For deceased members – Form 3 of Schedule IV

8.1 Portability

Members or survivors entitled to portability must be given at least 60 days from the date they receive their statement to notify the administrator if they wish to transfer the value of their pension benefit out of the plan to one of the portability options. In addition to the required information set out in the above forms, statements provided to members or survivors who are offered portability should also include the following:

- That members or survivors should seek independent financial advice before deciding on the portability options that may be available
- That members or survivors who do not elect to take portability should file any future changes of address with the plan administrator

9. Variable Benefits

Sections 16.2 to 16.4 of the PBSA permit a pension plan with defined contribution provisions to offer a variable benefit pension directly from the pension plan to members who are eligible for retirement or early retirement.

Members electing a variable benefit are able to determine how much income is withdrawn annually, subject to the minimum withdrawal required by the *Income Tax Act* and a maximum withdrawal determined in accordance with section 21.1 of the PBSR.

Administrators of defined contribution plans that offer variable benefits to members should be aware of the following disclosure requirements:

- Paragraph 16.2(2)(a) of the PBSA states that a member or former member who has a spouse or common-law partner may not receive a variable benefit unless the spouse or common-law partner notifies the

administrator of their consent in the prescribed form (Form 5.2 of Schedule IV of the PBSR).

- Paragraph 23(1.1)(i) of the PBSR sets out the additional information to be provided in the annual statement for a former member receiving a variable benefit (see Appendix B of this Disclosure Guide).
- A former member or survivor receiving a variable benefit who elects to transfer the amount remaining must notify the administrator of their intention to transfer this amount in the prescribed form (Form 3 of Schedule II of the PBSR).

10. Information on Plan Termination

Subsection 28(2.1) of the PBSA requires that on the termination of a pension plan[7], the plan administrator shall provide two written statements to each member and former member (includes retirees) and to that person's spouse or common-law partner. The first statement must inform them of the termination of the plan and the second statement must set out the member's or former member's pension benefits and other benefits payable under the plan.

10.1 Initial notification

The initial notification informing the parties noted above of the plan termination must be provided within 30 days of the plan termination date or any longer period permitted by the Superintendent. The information that must be provided is set out in Form 2.1 of Schedule IV of the PBSR. This form includes basic member and beneficiary information and a statement that documents that have been filed with the Superintendent may be examined. The form also states that pension benefits will continue to be paid to retirees as they fall due while other pension benefits cannot be distributed until the termination report is approved by the Superintendent.

10.2 Detailed termination statement

The second statement informs the parties noted above of their specific pension benefits and other benefits payable under the plan and must be provided within 120 days after the termination of the plan or any longer period that the Superintendent may allow. The prescribed information to be provided in this statement is set out in Form 2.2 of Schedule IV of the PBSR.

This statement includes information similar to the information that must be provided to a member ceasing membership, including, if applicable, the portability options available to them under section 26 of the PBSA. Recipients must be given at least 60 days from the date they receive their statement to notify the administrator of their choice, and they should be advised to seek independent financial advice before making their decision. Form 3 of Schedule II must be completed and submitted to the plan administrator if a portability option is chosen.

Appendix A – Annual Member Statement Checklist

- The name of the plan member
- The period to which the statement applies
- The date of birth of the plan member
- The period that has been credited (i.e. years of plan membership) to the plan member
- The date on which the plan member attains pensionable age[8]
- The date of which the plan member is first entitled to an immediate pension benefit (early retirement)
- The name of the spouse or common-law partner of the plan member listed on the records of the administrator
- The name of any person on the records of the administrator designated as the beneficiary of the pension benefit of the member
- The additional voluntary contributions the plan member made for the plan year and the accumulated additional voluntary contributions made by the plan member as of the end of the plan year
- The required contributions the plan member made for the plan year and the accumulated required contributions of the plan member as of the end of the plan year
- The contributions of the employer in respect of the plan member made for the plan year and the accumulated contributions of the employer in respect of the plan member as of the end of the plan year

- The amount of any funds transferred to the plan in respect of the plan member
- The benefit payable on the death of the plan member
- A statement setting out the right to access the documents described in paragraph 28(1)(c) of the PBSA, and whether a fee is charged for copying the information

Additional information required to be provided in annual statements due to be issued after July 1, 2016

If the assets of the plan are not held in respect of member choice accounts:

- A list of the plan's 10 largest asset holdings based on market value, each expressed as a percentage of the total assets
- The pension plan's target asset allocation expressed as a percentage of total assets

Please note that if the assets of the plan are held in member choice accounts, there is an additional annual investment option statement to be provided to members (see Part 5 of this Disclosure Guide).

Appendix B – Annual Former Member Statement Checklist

- The name of the former member
- The period to which the statement applies
- The name of the spouse or common-law partner of the former member listed on the records of the administrator
- The name of any person on the records of the administrator designated as the beneficiary
- A statement setting out the right to access the documents described in paragraph 28(1)(c) of the PBSA and whether a fee is charged for copying the information

Additional information for assets of the plan not held in respect of member choice accounts

- A list of the pension fund's 10 largest asset holdings based on market value, each expressed as a percentage of the total assets
- The pension plan's target asset allocation expressed as a percentage of total assets

Additional information if the former member is receiving a variable benefit

- The date of birth used to determine the minimum variable benefit payable for the year
- The date the variable benefit began to be paid
- The minimum and maximum allowable variable benefit payable, as well as the amount that the former member is receiving
- The investment from which the variable benefit was paid
- The payment frequency over the year
- An indication of how the former member may change their election regarding the amount to be paid during the year and the investment from which the variable benefit is to be paid
- A list of transfer options available under subsection 16.4(1) of the PBSA

[1] Subsections 8(3) and 8(4) of the PBSA

[2] See Part 5 of this Disclosure Guide for further details on the required contents of this statement.

[3] Members who ceased membership prior to July 1, 2016 were not required to obtain spousal consent for such a transfer.

[4] Members who ceased membership prior to July 1, 2016 were not required to obtain spousal consent for such a transfer.

[5] This subsection came into effect July 1, 2016.

[6] "Survivor" in relation to a member, means the person who was the common-law partner of the member at the time of the member's death or, if there is no such person, the spouse of the member at the time of the member's death.

[7] The requirement for two written statements applies to plans that terminated on or after July 1, 2016.

[8] Pensionable age means the earliest age at which a pension benefit, other than a benefit in respect of a disability (as defined in the PBSR), is payable to the member under the terms of the pension plan without the consent of the administrator.