Instruction guide

Title	Termination of a Defined Benefit Pension Plan
Publication type	Instruction guide
Topics	Terminations
Plans	Defined benefit plans
Year	2021

Table of Contents

Introduction

1. Reporting Requirements on Plan Termination
   - 1.1 Notice to OSFI
   - 1.2 Termination Report

2. Pension Benefits Payable Prior to the Approval of the Termination Report

3. Investment Policy Review

4. Required Payments on Plan Termination
   - 4.1 Full Funding on Plan Termination
   - 4.2 Letters of Credit

5. Information to Members and Former Members
   - 5.1 Initial Notification of Plan Termination
   - 5.2 Detailed Termination Statements
   - 5.3 Member Portability Options
   - 5.4 Adding Interest or Recalculating the Pension Benefit Credit after Termination

6. Termination Report[32]

- 6.1 Vesting of Benefits
- 6.2 Content of the Termination Report
- 6.3 Projection of Salaries and Maximum Pension Limit
- 6.4 Form of Benefit Settlement
- 6.5 Liquidity of Assets

7. Locating Members, Former Members or Other Persons

8. Filing of Required Documents on Plan Termination

9. Notification of Approval and Distribution of Benefits

10. Required Filings and Assessments Following Plan Termination

- 10.1 Annual Filings
- 10.2 Assessments
- 10.3 Actuarial Reports
- 10.4 Final Statement

11. Distribution of Surplus Following Plan Termination

Footnotes

Accompanying documents

- Approval Request Form for Termination of a Defined Benefit Pension Plan (PDF, 424 KB)

Introduction

The Office of the Superintendent of Financial Institutions (OSFI) has issued this Instruction Guide to inform the pension industry of the filing and reporting requirements for a non-insured[1] defined benefit pension plan that has terminated, in whole or in part, under the *Pension Benefits Standards Act, 1985* (PBSA). These requirements also apply to plans with both a defined benefit and a defined contribution component.

This Instruction Guide replaces the previous version, issued in March 2016, and includes updates to clarify OSFI's expectations and to reflect amendments made to the Assessment of Pension Plans Regulations that came into effect April 1, 2019.

The PBSA and the Pension Benefits Standards Regulations, 1985 (PBSR) are the authoritative source for requirements applicable to plans that are terminating or that have terminated. If there is a discrepancy between this Instruction Guide and the legislation, the legislation prevails. OSFI may require documentation not mentioned in this Instruction Guide.

1. Reporting Requirements on Plan Termination

1.1 Notice to OSFI

An administrator or employer who intends to terminate a pension plan must notify the Superintendent in writing at least 60 days and not more than 180 days before the termination date (i.e. the effective date of the plan's termination).2 Not fulfilling this requirement may affect the proposed termination date and OSFI may require a delayed effective date where the requirement has not been met.

Only the Superintendent may declare part of a pension plan terminated.3 However, where a pension plan registered with OSFI is multi-jurisdictional (i.e., includes pension benefits subject to provincial pension legislation), it may be possible for an administrator to partially terminate the plan for provincial members only. In such a case, the administrator may need to seek the Superintendent's approval of a partial termination as required under applicable provincial legislation. The Superintendent could grant the approval on behalf of the provincial regulator.

1.2 Termination Report

The administrator of a plan that has terminated, in whole or in part, must file a termination report with the Superintendent setting out the nature of the pension benefits and other benefits to be provided and a description of the methods of allocating and distributing those benefits. If not all benefits will be fully funded, the termination report must also describe the method of deciding the priorities in respect of the payment of full or partial benefits.4

The administrator must also complete and file OSFI's Approval Request Form for Termination of a Defined Benefit Pension Plan (PDF).

2. Pension Benefits Payable Prior to the Approval of the Termination Report

While the administrator may pay retiree and survivor pension benefits as they fall due, assets of the plan may not be applied toward the provision of any other benefits until the Superintendent has approved the termination report.[5] This means that between the plan's termination date and the date of the Superintendent's approval of the termination report, the administrator may not transfer funds from the plan but may continue to pay retiree and survivor periodic pension payments, as they fall due. These permitted payments include periodic payments to those that elect to retire or become entitled to a survivor pension after the termination date.

A payment or series of payments payable to a member or former member by reason of disability,[6] as provided for in paragraph 18(2)(b) of the PBSA, may also be paid prior to the approval of the termination report, as OSFI considers this to be a pension benefit that has fallen due.

A pension benefit credit that may be payable to a member because the value is small, as described in paragraph 18(2)(c) of the PBSA, cannot be paid out until the termination report has been approved by the Superintendent.

3. Investment Policy Review

When a decision has been made to terminate a plan, the administrator's ongoing fiduciary duty to act prudently requires taking the necessary steps to ensure that the plan's investment policy continues to be appropriate and that the benefit entitlements calculated on termination are safeguarded until paid out.

4. Required Payments on Plan Termination

On the termination of the whole of a pension plan, the employer must, without delay, pay into the pension fund

- the normal (current service) cost that has accrued to the date of termination;

- any special payments due on termination as well as those that would have become due between the date of termination and the end of the plan year in which the plan terminated;
- any payments that are required to be made under a distressed pension plan workout agreement that are due on termination and those that would have become due between the date of termination and the end of the plan year in which the plan terminated;
- any payments that are required to be made in relation to a letter of credit under subsection 9.14(2) of the PBSA;
- amounts deducted from members' wages but not yet remitted to the pension fund; and
- any other amounts that are due to the pension fund from the employer.[7]

4.1 Full Funding on Plan Termination

In addition to the immediate payments payable as described above, if the whole of a pension plan that is not a negotiated contribution plan[8] is terminated, the employer must pay into the pension fund the amount that is required to ensure that any obligation of the plan with respect to pension benefits is satisfied.[9]

The amount that must be paid into the pension fund to satisfy this requirement is referred to as the solvency deficit of the plan.[10] The solvency deficit must be satisfied either by a lump sum payment or by equal amortization payments sufficient to liquidate the deficit over a period of no more than five years from the date of termination.[11] Amortization payments in lieu of a lump sum payment must be remitted in equal monthly installments no later than 30 days after the end of each month.[12]

OSFI expects the monthly amortization installments to liquidate the solvency deficit to begin as soon as the solvency deficit has been determined. Until that time, any special payments due to the fund in accordance with the latest actuarial report would continue to be remitted to the fund. The initial solvency deficit amortization payment is expected to include any arrears that have accumulated between the termination date and the date of the initial remittance.

If an amount remains in the fund after all benefits have been paid, the portion of that amount that is attributable to the payment(s) made to liquidate the solvency deficit may revert to the employer.[13] This portion is determined in accordance with subsection 24.1(8) of the PBSR. The employer must receive the consent of the Superintendent

before this overpayment can be paid to them.

4.2 Letters of Credit

The PBSA and the PBSR contain provisions respecting the use of letters of credit by a pension plan and the resulting obligations of the employer, and of the issuer and the trustee of those letters of credit.[14]

The termination of the whole of the pension plan is considered a "default" under a letter of credit. Upon receiving notice of a default from either the employer or the administrator, the trustee holding the letter of credit must make a demand to the issuer for payment into the pension fund of an amount equal to the face value of all letters of credit held for the benefit of the plan, unless the funds were remitted by the employer.[15]

Specifically, a default will occur under any one of the following circumstances:[16]

- The administrator or employer notifies the Superintendent in writing that they intend to terminate the whole of the pension plan.
- The administrator or employer terminates the whole of the plan by a plan amendment or resolution or by any other measure.
- The Superintendent declares the whole of the plan terminated.
- The employer becomes bankrupt or insolvent.

The option of providing a letter of credit instead of making a required payment into the pension fund does not apply when the whole of a pension plan has been terminated.[17]

5. Information to Members and Former Members

5.1 Initial Notification of Plan Termination

If the whole of a plan is terminated, the administrator must, within 30 days after the termination date, inform members, former members (including retirees) and their spouses or common-law partners in writing that the plan has terminated.[18] Any other person receiving a pension benefit (e.g. a survivor) should also receive a notification statement.

This written statement must be given in Form 2.1 of Schedule IV of the PBSR.[19] This form includes basic member and beneficiary information and a statement that they may examine documents that have been filed with the Superintendent, as well as what benefits may and may not be distributed prior to the Superintendent's approval of the termination report.

5.2 Detailed Termination Statements

If the whole of a plan is terminated, the administrator must, within 120 days after the termination date, inform members, former members (including retirees) and their spouses or common-law partners in writing of their pension benefits and other benefits payable under the plan.[20] Any other person receiving a pension benefit (e.g. a survivor) should also receive a detailed termination statement.

This written statement must be given in Form 2.2 of Schedule IV of the PBSR.[21] This form includes information similar to the information that must be provided to a member that has ceased membership in other circumstances, including information on the portability options available to them.

For a negotiated contribution plan or where the employer is bankrupt or insolvent, the detailed termination statement should explain that the amount that will be paid out as a benefit is still subject to change after the termination date based on the assets that will be available to pay benefits when the plan is winding-up.[22]

If, in the course of the termination report approval process, OSFI requires a change to a benefit entitlement, OSFI will expect the administrator to send a revised detailed termination statement.

5.3 Member Portability Options

Members and former members with deferred benefits in the plan on the termination date are, as a default, entitled to receive their pension benefits by way of an annuity purchased by the administrator.

Members not yet eligible to retire at the termination date are also entitled to the portability options described in subsection 26(1) of the PBSA.

Members eligible to retire at the termination date may also be entitled to portability options, if provided for under the terms of the plan. The administrator could also choose to offer portability options on plan termination to

members eligible to retire (even if not provided for by the terms of the plan) or to former members with deferred benefits in the plan. In such cases, the administrator should document this decision (e.g. in Board minutes). Retirees and survivors with pensions in pay cannot be offered portability options.[23]

The portability options described in section 26 of the PBSA are to

- transfer the pension benefit credit to another pension plan (including a pooled registered pension plan and a pension plan under provincial jurisdiction)[24] if that other plan permits;
- transfer the pension benefit credit to a locked-in registered retirement savings plan (locked-in RRSP), a life income fund, or a restricted life income fund of the type prescribed in the PBSR;[25] or
- use the pension benefit credit to purchase an immediate or deferred life annuity.

Members must be given at least 60 days from the date they receive their detailed termination statement to notify the administrator of their choice of portability option. If a member does not respond and the benefit is locked-in[26], the administrator is required to purchase a deferred or an immediate annuity for that member. The termination statement should clearly note this default annuity purchase where a member does not notify the administrator of their choice.

If the benefit is not locked-in[27], the administrator may pay the benefit as a lump sum or may offer the member the option to transfer the pension benefit credit to a non-locked-in RRSP. If this option is offered, the termination statement should clearly note how the benefit will be paid if the member does not respond.

5.3.1 Consent of the Spouse or Common-Law Partner for Certain Portability Options

If a member is eligible to retire from a pension plan and they wish to transfer their pension benefit credit to

- a locked-in RRSP;
- a life income fund; or
- a restricted life income fund,

the transfer may only be made if that member's spouse or common-law partner notifies the administrator of their consent to the transfer[28]. This notification must be provided to the administrator in Form 3.1 of Schedule II of the

PBSR[29].

5.3.2 Income Tax Act Limit on Transfer Amounts

The *Income Tax Act* (ITA) limits the amount that may be transferred between registered plans without incurring immediate taxation. However, this restriction does not result in a change to the member's entitlement under the terms of the plan or the PBSA. The member is entitled to the full amount of the pension benefit credit, which may result in taxable income for that member. The locking-in requirements of the PBSA do not apply to the portion of the pension benefit credit that exceeds the maximum transfer amount permitted under the ITA[30].

5.4 Adding Interest or Recalculating the Pension Benefit Credit after Termination

The member's pension benefit credit is to be calculated as at the plan termination date[31]. As transfers cannot be made until after the termination report is approved by the Superintendent, OSFI expects interest to be added to the pension benefit credit from the termination date until at least the beginning of the month in which the pension benefit credit is paid out.

Interest should be applied to a member's pension benefit credit at the rate of interest used in the determination of the pension benefit credit. However, for a negotiated contribution plan or where the employer is bankrupt or insolvent, and there are insufficient assets to pay all benefits when the plan is wound-up, OSFI generally expects interest applied to a member's pension benefit credit to be based on the lesser of the rate of interest used in the determination of the pension benefit credit and the fund rate of return (net of expenses).

If the administrator will permit portability when notification is received from the member or survivor after the expiration of the notification period included on the statement, the administrator can re-calculate or apply interest to the member's or survivor's pension benefit credit. If the administrator intends to re-calculate, in that circumstance, the termination statement should note this.

Otherwise, when a member or survivor notifies the administrator within the specified period of their choice to transfer their pension benefit credit, a re-calculation will generally only be permitted if the re-calculated amount is greater than the pension benefit credit calculated at the termination date plus interest, as described above.

6. Termination Report[32]

6.1 Vesting of Benefits

All pension benefits are vested upon cessation of membership in a plan[33]. The benefits of each member depend on the terms of the plan. The administrator must administer the pension benefits in accordance with the provisions of the plan, the PBSA and the PBSR.

Any pension benefits payable before pensionable age, such as subsidized early retirement benefits or bridge and indexation benefits payable before pensionable age, are vested if the member would have been entitled to them under the terms of the plan immediately before the termination date. All members are assumed to grow into any minimum age requirement for any pension benefits payable at pensionable age[34].

It should be noted that the pension benefit payable to a former member who retained their deferred benefit in the plan is always determined at the time of their cessation of membership date, not the plan termination date. For instance, any increase in the pension benefit of the former member resulting from excess employee contributions [35] must have previously been determined at the former member's cessation of membership date. If, on plan termination, portability is again offered to a former member, the pension benefit credit calculated at the plan termination date is based on this previously increased pension benefit[36].

6.2 Content of the Termination Report

The termination report must be prepared in accordance with sections 24 and 24.1 of the PBSR and in accordance with accepted actuarial practice, i.e. following the Standards of Practice of the Canadian Institute of Actuaries (CIA) – General and Practice-Specific for Pension Plans and considering their application as illustrated in CIA Educational Notes. OSFI also expects actuaries to follow the Instruction Guide for the Preparation of Actuarial Reports for Defined Benefit Pension Plans (the Actuarial Guide), adapted as necessary for the preparation of a termination report.

In addition to the requirements of the Actuarial Guide, OSFI expects the termination report to include the following information:

1. The termination date

2. The cut-off date, i.e. the date up to which subsequent events would be recognized in the valuation[37]

3. A statement that the report must be approved by the Superintendent before assets can be distributed and annuities purchased[38]

4. Confirmation that outstanding amounts have been paid to the pension plan[39]

5. The total market value of plan assets as at the termination date. Letters of credit cannot be included in the calculation of plan assets[40]

6. A provision for termination expenses to be paid between the termination date and the wind-up date of the plan, deducted from the market value of assets

7. Plan liabilities as at the termination date, and a description of the assumptions and methods used to determine them. Liabilities should be shown separately for each category of persons, such as members (active members, disabled members, inactive members), former members with deferred benefits in the plan, retirees and survivors.

   If the plan paid any former members less than their full pension benefit credit when they exercised their portability rights, the amount of any remaining transfer deficiencies, plus interest, should be included in liabilities, and shown separately.

8. A description and quantification of the gains and losses on a solvency basis between the valuation date of the latest actuarial report and of the termination report

9. While the PBSA does not require the use of a unisex mortality table to determine the pension benefit credit, if the use of a unisex table is permitted under the terms of the plan and one is used, an explanation with supporting data as to how the mortality basis was determined. The mortality basis should be consistent with the basis used in the administration of the plan before the termination date.

10. If the whole of a negotiated contribution plan is terminated with insufficient assets to pay all benefits at the termination date, an explanation of how the pension benefits and the actuarial value of the benefit entitlements have been adjusted to reflect the funded status of the pension plan. A complete description of how the assets have been allocated to cover the benefits of each category of persons, such as members, former members with deferred benefits in the plan, retirees and survivors should be included. The application of any priority provisions in accordance with the terms of the plan should also be discussed.

    A plan with a bankrupt or insolvent employer may also be required to provide the same information if there are insufficient assets to pay all benefits.

11. If the whole of a pension plan that is not a negotiated contribution plan is terminated and has a solvency deficit at the termination date, a description of how the employer will fund the deficit[41]. If the solvency deficit is amortized, the amortization payments and underlying discount rate should be included.

12. The form in which the pension benefits and other benefits are to be settled (e.g., annuities purchased for retirees, confirmation of portability for locked-in members, treatment of former members with deferred benefits in the plan) and the anticipated timeframe for distributing the benefits once the termination report is approved by the Superintendent

13. If the solvency deficit is funded with amortization payments, the termination report should specify how the benefits will be distributed during that amortization period for

    - persons who have elected to transfer their pension benefit credit (if these persons are paid a portion of their pension benefit credit based on the solvency ratio of the plan at termination, the remaining liability to be valued in subsequent actuarial reports would be the transfer deficiency plus interest);
    - former members with deferred benefits in the plan who are to receive a deferred annuity; and
    - retirees and survivors being paid from the fund.

14. The rate of interest to be paid on pension benefit credits from the termination date to the date of payment or transfer[42]

15. If the whole of a negotiated contribution plan is terminated, or if the whole of a plan is terminated and the employer is bankrupt or insolvent, how pension benefits and pension benefit credits will be adjusted from the termination date to the date of payment or transfer to reflect the plan's experience gains and losses in that period. Where there are insufficient assets to pay all benefits when the plan is wound-up, OSFI generally expects interest applied to a member's pension benefit credit to be based on the lesser of the rate of interest used in the determination of the pension benefit credit and the fund rate of return (net of expenses).

16. If any benefits are subject to consent, an explanation and justification of how these benefits will be addressed

17. A description of the efforts that have been made to locate all beneficiaries of the plan and how the administrator intends to treat benefits in respect of beneficiaries who have not been located[43]

18. If the benefits of any members, former members or any other persons entitled to benefits under the plan are not subject to the PBSA but rather are subject to the pension legislation of a designated province,[44] the termination report should

    - specify the pension legislation that applies to these benefits;
    - include a statement that minimum member benefits stipulated by the other pension legislation were taken into account in the valuation; and
    - include any additional information related to plan termination which is required by that legislation.

    If the plan is a multi-jurisdictional negotiated contribution plan terminating with insufficient assets to pay all benefits or if the plan is a multi-jurisdictional plan terminating with insufficient assets to pay all benefits and the employer is bankrupt or insolvent, the termination report should provide the asset allocation between jurisdictions as required by Part IV of the 2020 Agreement Respecting Multi-Jurisdictional Pension Plans.

19. Member information that will enable OSFI to verify that the requirements of the PBSA and PBSR have been met. If there are fewer than 100 members (active members, disabled members, inactive members) affected by the plan termination, individual information should be provided for each affected member. Otherwise, a representative sample will be sufficient. In order to limit the collection of unnecessary personal information,

the administrator must not provide specific information that could identify individuals (e.g. their name, date of birth or social insurance number).

The individual information for active, disabled, and inactive members will generally include the following:

- Member identification number
- Exact age in years and months, or year and month of birth
- Gender
- Marital status, if relevant
- Credited service under the plan
- Accrued pension benefit
- Employee required contributions, with interest
- Pension benefit credit or estimated cost of annuity
- Excess employee contributions
- Additional voluntary contributions, with interest
- Total liability
- Any application of consent benefits
- Any application of priority provisions
- Any application of surplus assets
- Whether the benefits are subject to provincial pension legislation

The termination report should also provide information for former members (retirees and former members with deferred benefits in the plan) and other persons who have an entitlement under the plan (e.g. survivors). If there are fewer than 100 former members or other persons affected by the plan termination, individual information should be provided. Otherwise, a representative sample will be sufficient.

Some of the information listed above may not be applicable for former members (e.g. employee contributions and excess employee contributions) while additional information may be required (e.g. form of pension, exact age or year and month of birth and gender of spouse or common-law partner (if relevant), date of termination of membership, outstanding transfer deficiency). OSFI may request additional

information necessary to verify the accuracy of individual calculations.

20. If the whole of the pension plan is terminated and all surplus assets will be distributed to members, former members or any other persons entitled to benefits under the plan, a complete description of how the surplus will be allocated

21. If any of the surplus assets will not be distributed to members, former members or other persons entitled to benefits under the plan, a detailed action plan that includes a timeline for when decisions/actions will be made or taken with respect to these assets. The action plan, should include a timeframe for when the administrator intends to submit the application to the Superintendent for consent to a refund of surplus to the employer.

6.3 Projection of Salaries and Maximum Pension Limit

If plan members will remain employed with the employer after the termination of the plan, projection of salaries may be required to calculate the accrued liabilities of these members. The calculation should be consistent with the terms of the plan. Consequently, in the absence of a provision that explicitly provides otherwise, if the pension benefits are based on final or best average earnings at cessation of employment, the calculation of pension benefits should be based on salaries projected to cessation of employment.

If final or best average earnings is defined as an average at cessation of membership in the plan, salary projection is not usually necessary.

A projection of the maximum pension limit as defined in the ITA may be required if the terms of the plan automatically reflect future changes in the limit, and its determination for purposes of the pension benefit calculation is made at retirement instead of at cessation of employment or plan termination.

6.4 Form of Benefit Settlement

If the whole of a plan is terminated, the termination report should include an appropriate assumption on the form of benefit settlement, i.e. proportion of members who will choose a lump-sum transfer or an annuity. This proportion may be different for those eligible for immediate retirement and those who are not. It is expected that

the actual form of benefit settlement will be reflected in the termination report to the extent that members have elected their option before the cut-off date.[45]

For members who have elected or are assumed to elect a lump sum transfer, pension benefit credits may have to be recalculated if data corrections are made or missing data for which an approximation was made is provided to the actuary after the cut-off date.

OSFI expects materiality to be considered on an individual level when determining whether a recalculation of the pension benefit credits based on updated data and resulting changes to assumptions, if any, should be performed when benefits are distributed. The decision should be made based on CIA Standards and Guidance.[46]

For members who have elected an annuity or are assumed to elect an annuity, deferred annuities must reflect

- the option for early retirement;
- the possibility that the annuity will be in a joint and survivor form if the former member has a spouse at the time of pension commencement (even if the member did not have a spouse or common-law partner at cessation of membership); and
- the availability of credit splitting on divorce, separation or annulment.[47]

The termination report should describe the process for the purchase of annuities, specifically addressing any risk of increasing annuity purchase rates. No annuities may be purchased before the termination report has been approved by the Superintendent.

6.5 Liquidity of Assets

All assets should be reported at fair value and reconciled with the amount stated in the plan's most recent financial statements. The market value of some assets may not be readily available until the assets are sold, but should be estimated.

The termination report should indicate any impediments to the rapid liquidation of the pension fund, such as illiquid assets, and how they will be managed. For example, a contract with a real estate investment fund or private equity/debt may specify liquidation over several years, or a contract with a maturity date may include penalties for

early termination.

7. Locating Members, Former Members or Other Persons

When an administrator is unable to contact plan members, former members, and any other persons entitled to benefits under the plan through their last known address, they are expected to make appropriate efforts to locate them. Please refer to the Canadian Association of Pension Supervisory Authorities' Guideline No.9 – Searching for Un-locatable Members of a Pension Plan for best practices and options with respect to searching for un-locatable members.

If an administrator has made appropriate efforts, but is unable to locate a member, former member or other person entitled to locked-in benefits under the plan, the administrator may consider the following options[48]:

- Purchase a deferred annuity for the former member or beneficiary
- If the purchase of a deferred annuity is not an available option (e.g. if the amount is very small), transfer the pension benefit credit to an individual locked-in RRSP, if such a transfer is acceptable to the financial institution and subject to any applicable ITA rules
- Pay the funds into Court in accordance with, for example, provincial trust legislation, if applicable
- Apply to the Court for its opinion, advice or direction

If the benefit is not locked-in[49], the administrator may pay the benefit as a lump sum or transfer the benefit to a non-locked-in RRSP subject to any applicable *Income Tax Act* rules.

Additional options may be available for persons whose benefits are subject to provincial pension legislation.

8. Filing of Required Documents on Plan Termination

When a plan has terminated, the following documents are expected to be filed with OSFI within 90 days after the termination date:

- The termination report, including the Actuarial Information Summary form
- The Approval Request Form for Termination of a Defined Benefit Pension Plan (PDF)

- A plan amendment and/or a board resolution or, in the absence of these documents, a letter signed by the employer or administrator indicating that the plan is terminated and whether there is any continuing pension plan for the plan members. If so, the registration number of the continuing plan and the jurisdiction under which the continuing plan is registered should be provided.
- Samples of the initial notification of plan termination and detailed termination statement

9. Notification of Approval and Distribution of Benefits

After reviewing the termination report and all relevant information, OSFI will notify the administrator if the Superintendent has approved the termination report.

Upon receiving the Superintendent's approval, OSFI expects the administrator to distribute the benefits in accordance with the approved termination report without undue delay and within the anticipated timeframe provided in the termination report. If the administrator is unable to distribute the benefits within this period, the administrator is expected to inform OSFI of the reason(s) for the delay and the anticipated distribution date. OSFI may require that members, former members and other persons entitled to benefits under the plan be notified of the delay and the reason(s) for it.

10. Required Filings and Assessments Following Plan Termination

10.1 Annual Filings

An administrator must continue to file Annual Information Returns (OSFI 49), Certified Financial Statements (OSFI 60) and Auditor's Reports (if required) as long as assets remain in the pension fund[50]. These documents are to be completed as at the plan year-end and submitted through RRS.

10.2 Assessments

The administrator must continue to pay assessments for five plan years after the plan year in which the plan terminated or until all assets of the fund have been distributed, whichever is earlier[51]. OSFI will send an invoice to the administrator each year after determining the assessment due.

OSFI will not invoice a plan that is underfunded on the termination date where either the pension plan is a negotiated contribution plan or the employer for the plan is bankrupt or insolvent[52].

10.3 Actuarial Reports

If the solvency deficit is liquidated with the filing of the termination report, no further actuarial reports will be required.

If the solvency deficit is not paid in a lump sum when the termination report is filed with OSFI, an actuarial report[53] must be filed annually[54] accompanied by an Actuarial Information Summary form as at the anniversary of the termination date (which may be different than the plan year-end) until the deficit has been liquidated. The actuarial report must be filed within six months after the valuation date and submitted through RRS.

The actuarial report should set out, among other things, the solvency assets, solvency liabilities, solvency deficit and remaining amortization payments required to liquidate the solvency deficit as at the valuation date. Unlike for ongoing plans, the annual consolidation of payment schedules and the average solvency ratio method used to determine funding requirements does not apply where a deficit is amortized in subsequent actuarial reports following plan termination. Any adjustment to remaining amortization payments should be made pro rata over the remainder of the five-year period beginning on the termination date. Any solvency deficit that arises five or more years after the termination date of a plan shall be paid immediately.

An actuarial report filed during the amortization schedule will generally follow the expectations included in the Actuarial Guide. The following information should also be included:

1. A confirmation that amortization payments due have been paid to the plan
2. The current investment strategy and asset mix
3. Plan liabilities as at the valuation date. Liabilities should be shown separately for each category of persons at plan termination, such as members, former members with deferred benefits in the plan, retirees and survivors. For those who have chosen to transfer their pension benefit credit, the liability would be the

pension benefit credit calculated as at the plan termination date plus interest.

If the plan paid any former members less than their full pension benefit credit when they exercised their portability rights prior to the termination of the plan, the amount of any remaining transfer deficiencies as at the termination date, plus interest, should be included in liabilities, and shown separately

4. A description and quantification of the gains and losses either since the date of the termination report if this is the first actuarial report, or since the previous actuarial report filed during the amortization schedule
5. The remaining amortization payments required to liquidate the solvency deficiency as at the valuation date
6. The amount of any transfer deficiencies remaining if the plan has paid out less than an individual's full pension benefit credit after the approval of the termination report.
7. The status of the benefit settlement process for the plan as at the valuation date
8. The rate of interest to be paid on the pension benefit credits from the valuation date to the date of payment or transfer

An annual actuarial report is not required to be prepared after the termination report is filed for a negotiated contribution plan, as these plans are not required to liquidate a solvency deficit on plan termination. Whether or not a single employer plan with a bankrupt or insolvent employer will be required to file annul actuarial reports will be determined on a case-by-case basis.

As with other required contributions to a pension plan, payments that are due but have not been paid under a schedule to amortize the solvency deficit of a terminated plan are subject to the deemed trust provisions under subsection 8(1) of the PBSA.[55]

10.4 Final Statement

The administrator will also be expected to file a final statement prepared as at the date when all assets have been distributed showing a reconciliation from the last actuarial report along with a year-to-date financial statement from the fund custodian.

11. Distribution of Surplus Following Plan Termination

No assets of the plan shall revert to the benefit of the employer without the Superintendent's consent[56] including the return of an overpayment made by the employer to liquidate the termination deficit[57].

Any distribution of surplus assets to members, former members or any other persons entitled to benefits under the plan, following a plan termination, must be addressed in the termination report. OSFI will expect the surplus assets to be distributed in accordance with the termination report without undue delay after the Superintendent has approved the report and within the anticipated timeframe provided in the report.

Employers seeking a refund of surplus must apply for the Superintendent's consent by following the procedures set out in the PBSA and PBSR, as described in the Instruction Guide for a Refund of Surplus to the Employer.

1 An insured plan is defined in section 2 of the PBSR as a plan in which all benefits are paid by means of an annuity issued by a life insurance company authorized to do business in Canada.

2 Subsection 29(5) of the PBSA.

3 Subsection 29(4.1) of the PBSA.

4 Subsection 29(9) of the PBSA. Refer to section 6.2 of this Instruction Guide for OSFI's detailed expectations for the content of the termination report.

5 Subsection 29(10) of the PBSA.

6 Disability is defined in paragraph 2(2)(a) of the PBSR as a mental or physical condition that a physician has certified as being likely to shorten considerably the life expectancy of the member.

7 Subsection 29(6) of the PBSA.

8 A negotiated contribution plan is defined in section 2 of the PBSA as a multi-employer defined benefit plan with employer contributions limited to an amount determined by an agreement.

9 Subsection 29(6.1) of the PBSA.

10 Calculated in accordance with subsection 24.1(1) of the PBSR.

11 Paragraph 24.1(2)(a) of the PBSR.

12 Paragraph 24.1(2)(c) of the PBSR.

13 Subsection 29(6.3) of the PBSA.

14 Sections 9.11 to 9.15 of the PBSA and section 9.1 of the PBSR.

15 Paragraph 9.1(8)(e) of the PBSR.

16 Subsection 9.1(1) of the PBSR.

17 Subsection 9.11(4) of the PBSA.

18 Paragraph 28(2.1)(a) of the PBSA.

19 Subsection 23.4(1) of the PBSR.

20 Paragraph 28(2.1)(b) of the PBSA.

21 Section 23.4(2) of the PBSR.

22 Winding-up means the distribution of the assets of a pension plan that has been terminated.

23 Subsection 26(2) of the PBSA states that the portability options may be provided "before the commencement of payment of a pension benefit". In addition, the commutation of a pension benefit in pay is not permitted under paragraph 18(1)(b) of the PBSA.

24 Subsection 26(5) of the PBSA.

25 Consent from the spouse or common-law partner is required if the member is eligible to retire. Refer to section 5.3.1 of this Instruction Guide for further details.

26 After two years of plan membership, pension benefits must be locked-in. However, a plan may provide for pension benefits to be locked-in prior to having completed two years of membership.

27 Either prior to having completed two years of plan membership or because the pension benefit credit is less than 20% of the Year's Maximum Pensionable Earnings (YMPE) (paragraph 18(2)(c) of the PBSA).

28 Subsection 26(2.1) of the PBSA.

29 Subsection 18(3.1) of the PBSR.

30 Section 28.3 of the PBSR.

31 Paragraph 18(4)(a) of the PBSR.

32 Pursuant to section 24 of the PBSR, the termination report for a non-insured defined benefit pension plan must be prepared by a Fellow of the Canadian Institute of Actuaries.

33 Section 17 of the PBSA.

34 Please see the Policy Advisory on Vested Benefits Payable to Terminating Employees for more details.

35 Section 21 of the PBSA.

36 Paragraph 18(4)(a) of the PBSR.

37 Paragraphs 3330.24 to 3330.29 of the CIA Standards.

38 Other than periodic pension payments to retirees and survivors. See section 2 of this Instruction Guide.

39 See section 4 of this Instruction Guide.

40 See section 4.2 of this Instruction Guide.

41 See section 4.1 of this Instruction Guide.

42 See section 5.4 of this Instruction Guide.

43 See section 7 of this Instruction Guide.

44 As provided under section 3 of the PBSR, Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Colombia, Saskatchewan, Alberta and Newfoundland and Labrador are designated provinces. If the benefits of any members, former members or any other persons entitled to benefits under the plan are subject to the pension legislation of Newfoundland and Labrador, a termination report covering these benefits would have to be filed with the provincial pension regulator. This is because there is no reciprocal agreement between the federal government and Newfoundland and Labrador.

45 See sections 3330.24 to 3330.29 of the CIA Standards of Practice related to subsequent events in the situation of a pension plan termination.

46 See section 1240 of the CIA Standards of Practice and the CIA Report – Materiality.

47 The availability of credit splitting must also be reflected in the purchase of immediate annuities.

48 Although section 10.3 of the PBSA allows the Minister of Finance to designate an entity for the purposes of receiving and holding a pension benefit credit of any person who cannot be located, such an entity has not yet been designated.

49 Either prior to having completed two years of plan membership or because the pension benefit credit is less than 20% of the YMPE (paragraph 18(2)(c) of the PBSA).

50 Section 12 of the PBSA.

51 Subsection 2(3) of the Assessment of Pension Plans Regulations.

52 Paragraph 2(3)(b) of the Assessment of Pension Plans Regulations.

53 Section 24.1 of the PBSR.

54 Section 5 of the Directives of the Superintendent.

55 Subsection 29(6.2) of the PBSA.

56 Subsection 29(7) of the PBSA.

57 Subsection 29(6.3) of the PBSA.