

The Ontario pension regulator provides new guidance concerning missing beneficiaries

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The Financial Services Commission of Ontario released two new policies

On September 30, 2017, the Financial Services Commission of Ontario (“FSCO”), the Ontario pension regulator, released two new policies relating to searching for plan beneficiaries and waiver of biennial statements for missing former and retired members respectively.

Searching for Plan Beneficiaries

In order for a pension plan administrator to discharge its duty of administering the plan and paying pension benefits, accurate and current records of members and former members must be kept. The cooperation of members and former members by promptly notifying the administrator of changes in information is crucial for keeping accurate plan records. In the new policy, FSCO recommends that the administrator establish processes and procedures for updating member records, that the termination/retirement packages to terminated members include information about the importance of keeping the administrator informed of future changes to their information, and that the administrator have regular personalized communication with the former and retired members.

When it comes to the administrator’s knowledge that the address or other contact information of a beneficiary is no longer correct, the administrator should choose the search methods which are most effective in the circumstances of the pension plan. Search methods include individual-directed searches (e.g. sending a registered letter, contacting emergency contacts on file, hiring a professional search company) and broad-based communication (e.g. advertisement in local media).

Waiver of Biennial Statements for Missing Former and Retired Members

The Pension Benefits Act (Ontario) requires a plan administrator to provide biennial statements to former and retired members, subject to a waiver in respect of “missing” former and retired members granted by FSCO, on the application of the plan administrator.

The new FSCO policy provides guidance to facilitate the waiver application process. The administrator must establish that there are reasonable and probable grounds to believe that the member is missing by proving that appropriate individual-directed searches have been conducted.

The policy also indicates the type of information and documents (including a certificate of compliance containing the required information) that must be included in the application.

The plan administrator must file a separate waiver application for each required biennial statement although it is not required to conduct another individual-based search of a missing member for whom a waiver was previously granted.

The policy indicates that the applicant must keep a record of the application and supporting documents “indefinitely”. If the word “indefinitely” is given the literal dictionary meaning, it can mean “unlimited” and can go beyond plan wind-up.

By

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