Pension Investment
Association of Canada
Association canadienne des
gestionnaires de caisses de retraite

December 2, 2020

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Via email caroline.blouin@fsrao.ca

Dear Ms. Blouin,

The Pension Investment Association of Canada (PIAC) is pleased to respond to FSRA's consultation on its draft Supervisory Approach to Asset Transfers under the Pension Benefits Act (PBA).

PIAC has been the voice for Canadian pension funds since 1977 in matters related to pension investment and governance. PIAC's members manage over $2 trillion of assets on behalf of millions of Canadians. Our mission is to promote sound investment practices and good governance for the benefit of plan sponsors and beneficiaries.

Asset transfers are a valuable tool for employers to reduce risks associated with managing a pension plan, while also providing continuity of strong retirement savings options to plan members. Plan members can gain greater pension security through asset transfers; in particular those involving a conversion to a jointly sponsored pension plan (JSPP). It is with that in mind that PIAC would like to express its support for the proposed approach which will enable FSRA to take a risk-based direction to considering its consent to proposed asset transfers, while also providing the regulator with the ability to use its discretion to adapt to unique circumstances that may arise.

The following comments are intended to offer constructive ideas to build upon an already positive proposed approach.

1. Consistent Approach to the use of Notices of Intended Decisions (NOIDs)

The proposed approach states that FSRA “may exercise its discretion and choose to issue a NOID in advance of consenting to an asset transfer transaction.” Subsequent to the release of the draft guidance, on October 22nd, FSRA revised its approach for transfers under section 80.4 of the PBA (Section 80.4 transfers) where following a 10-day notice period to impacted plan members, FSRA will provide its consent, subject to potential comments received from affected members, using a letter of consent rather than issuing a NOID followed by an order/consent.

PIAC recognizes that the revised consent process will make FSRA’s decision making on mergers a more efficient and shorter time period. However, we remain concerned that during the 10-day notice period a single plan member can hinder FSRA’s consent by voicing a complaint, even though the overwhelming majority of plan members approve of the merger. Furthermore, it should also be noted that at any point in time during the asset transfer process (consent period/application notice), plan members are able to voice a complaint to FSRA, and communication to the membership discloses that ability.

Finally, the 10-day notice period is also a unique approach to Section 80.4 transfers and is not required for other types of asset transfers governed by the PBA. In that regard, PIAC recommends that FSRA removes the need for a 10-day notice of consent period for Section 80.4 transfers to ensure a consistent approach across all types of asset transfers. Should FSRA continue with the current approach, PIAC believes that FSRA should provide further clarity on what type of complaints could delay FSRA’s consent to an asset transfer.

2. Complexity Initiating a Detailed Application Review

Section 3.2 of FSRA’s proposed guidance suggests that where an asset transfer application includes multiple pension plans or members in other pension jurisdictions, it could lead to a more detailed review of the asset transfer application, beyond the certification that is provided. It is unclear as to why FSRA would need to conduct a more detailed review when the policy suggests that the transfer requires the consent of each pension regulator that has members impacted by an asset transfer. This could add more time to the approval process based on the requirements of the other jurisdictions, and we do not see why this would change the level of complexity in relation to FSRA’s consent over the transfer of Ontario members.

Further to that point, the need to receive jurisdictional approval for asset transfers that include members in other provinces highlights the need for future improvements to the 2020 Agreement Respecting Multi-jurisdictional pension plans. FSRA is encouraged to raise in future CAPSA discussions the need to develop a common approach among regulators so that the transfer rules of a province where a plan is registered (major authority) applies to the asset transfer for all members. Such efforts will help reduce interprovincial barriers and red tape.

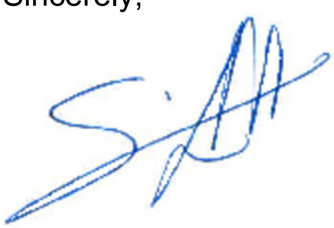
3. Posting Decisions Related to Consent Notice Variance or Waiving of Requirements

Section 5.5 of the proposed guidance states that “to support transparency, predictability, effective plan administration and ensure consistent treatment of similar applications, FSRA will publish approved variances and waivers on at least an annual basis.” PIAC agrees with the aforementioned principles, however we also recommend that FSRA should take caution in its approach to posting decisions. Details related to asset transfers can contain sensitive information pertaining to an individual transfer. For example, consent notices contain information regarding plan’s funded status. Additionally, the level of assets being transferred could imply disclosure of details of the asset transfer structuring such as the balance between purchased past service and phased-in contribution increases. Impacted plans may only wish to communicate such unique items to plan members only and not more broadly,As such PIAC recommends that FSRA’s public postings should be broad in scope when posting approved variances as to not disclose sensitive information about individual transfers.

In conclusion, PIAC supports FSRA’s efforts to improve the asset transfer process under the Pension Benefits Act. The suggestions noted above are meant to improve an already positive draft guidance.

Should you or your colleagues have any questions, or if you wish to discuss this issue with a collection of PIAC’s leadership and members, please contact Peter Waite, Executive Director.

Sincerely,



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