



March 14, 2022

Financial Services Regulatory Authority of Ontario
25 Sheppard Avenue West, Suite 100
Toronto, Ontario
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Dear Sir or Madam,

Re: WTW Submission on Proposed Guidance on Pension Benefits Guarantee Fund Assessment Calculations and Deadlines (No. PE0299INT); ID 2022-003

WTW welcomes the opportunity to comment on the proposed Guidance on Pension Benefits Guarantee Fund Assessment Calculations and Deadlines (Guidance).

WTW designs and delivers solutions that manage risk, optimize benefits, cultivate talent and expand the power of capital to protect and strengthen institutions and individuals. WTW employs 45,000 colleagues worldwide, with approximately 450 engaged in providing services to sponsors of Canadian pension plans. The undersigned have prepared our response with input from others in the company.

Our concern with respect to the Guidance relates to the statement that FSRA will no longer accept PBGF assessments calculated using a valuation report with an effective date before the assessment date but after the most recent fiscal year end before the assessment date.

The Guidance positions this as a change in practice but we do not think this interpretation is supported by the language of section 37, the relevant provision in Regulation 909. We believe subsections (2), (7), and (8) of section 37, which we reproduce below, are most relevant to the issue:

(2) For the purposes of this section, assessment dates shall be nine months after the last day of each fiscal year of the pension plan.

(7) For the purposes of an assessment required under this section, the PBGF assessment base and the PBGF liabilities shall be as set out in the last report filed or submitted on or before the assessment date under any of section 3, 4, 13 or 14 for the plan.

(8) Despite subsection (7), where a payment is made in respect of an assessment under this section and a report is filed or submitted under section 3, 4, 13 or 14 after the payment date with a valuation

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date earlier than the assessment date, the amount of the assessment required under this section shall be recalculated with the PBGF assessment base and PBGF liabilities as set out in the report and shall be paid on that basis.

Subsection 37(2) states that the PBGF assessment date is nine months after the end of the fiscal year, which establishes the date when the assessment must be paid. It is set at nine months after a plan's fiscal year which aligns with the deadline for submitting the AIR.

Subsection 37(7) provides, in simple terms, that an assessment will be calculated reflecting the PBGF assessment base and PBGF liabilities in the most recent report filed before the assessment date. If the legislative intent was to ensure that the assessment is based on a report with an effective date no later than the end of the plan's last fiscal year, it would have been simple to state that. Subsection 37(8) goes further and clearly contemplates situations in which a PBGF assessment must be recalculated to reflect a report filed after the assessment date with a valuation date before the assessment date. It describes a scenario where a report filed within the nine-month deadline would, by necessity, have a valuation date after the end of the last fiscal year. Here again subsection 37(8) could have easily referred to a report with a valuation date on or before the end of the last fiscal year but it does not. A plain reading of subsections 37(7) and (8) leads to the conclusion that the assessment must reflect the most recent report and that the assessment base and liabilities are not limited to those from a report with a valuation date not later than the end of the last fiscal year. Historically, FSRA has in fact requested re-filings of PBGF Assessment Certificates in situations where the most recent report leads to a higher assessment.

Often when a plan is amended, an actuarial cost certificate showing the incremental funding impact is prepared in lieu of a full valuation, and the additional PBGF liabilities are added to the PBGF liabilities from the last valuation report when preparing the PBGF Assessment Certificate. This is done even when the plan is amended after the previous fiscal year end, resulting in a larger PBGF assessment for that year. If FSRA's new interpretation is followed, to be consistent, any additional PBGF assessment resulting from a plan amendment that is effective between the fiscal year-end and the assessment date would not be reflected in the PBGF assessment until the following year. The same would be true of a valuation effective after the prior fiscal year but before the assessment date.

It is fairly common practice for valuation reports for a plan with a fiscal year ending on the last day of a month to be prepared with an effective date one day later; e.g., for a plan with a December 31st year-end, it is common for valuations to be performed as of January 1st. Based on FSRA's new interpretation, such valuations would not be reflected in the PBGF assessment payable nine months later, resulting in a significant lag in reflecting the latest valuation results for a number of plans. This could have a meaningful effect on the total assessments paid to the PBGF following a year in which there is substantial market volatility.

We understand that FSRA has historically interpreted section 37 such that a valuation with an effective date between the previous fiscal year-end and the PBGF assessment date would be reflected in the current year's PBGF assessment. The fact that FSRA has in the past requested re-filings of PBGF Assessment Certificates in such situations would suggest a stricter interpretation of section 37, rather than an openness to multiple interpretations.

Given the above, we believe that FSRA's new interpretation of section 37 is incorrect. We, therefore, respectfully recommend the revision of the Guidance to remove the change regarding the valuation date of the report used for the calculation of the PBGF assessment.

We understand FSRA's reason for wanting to change the PBGF calculations; however, that does not justify a re-interpretation that the Regulation does not support. That change would best be achieved by a very simple change to the Regulation with the associated advance notice to the industry.

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We greatly appreciate the opportunity to comment on the proposed Guidance and would be pleased to answer any questions you may have on this submission.

Sincerely,



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