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Superintendent of  
Financial  
Services



Surintendant des  
services  
financiers

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**IN THE MATTER OF** the *Pension Benefits Act*, R.S.O. 1990, c. P.8, (the “*PBA*”);

**AND IN THE MATTER OF** a Notice of Intended Decision of the Superintendent of Financial Services to consent, under section 78(1) of the *PBA*, to a payment out of the pension fund for the Mercantile & General of Canada Pension Plan, Registration Number 275370.

**TO:**

**Swiss Reinsurance Company Ltd**  
**1000 - 150 King Street West**  
**Toronto ON M5H 1J9**

**Attention: Janet Podpora**  
**Vice President, Communications & HR**

**Applicant and Employer**

**AND TO:**

Peggy McCallum  
Fasken Martineau DuMoulin LLP  
2400 - 333 Bay St., Bay Adelaide Centre, Box 20  
Toronto ON M5H 2T6

## **AMENDED NOTICE OF INTENDED DECISION**

**I INTEND TO CONSENT**, under section 78(1) and 79 (3.1) of the *PBA*, to the payment out of the pension fund for the Mercantile & General of Canada Pension Plan, Registration Number 275370 (the “*Plan*”), to Swiss Reinsurance Company Ltd, in the amount of \$4,658,994 as at May 31, 2013, plus adjusted for investment returns, benefit payments, and expenses thereon.

**I PROPOSE TO MAKE THE CONSENT** effective only after the Applicant satisfies me that:

- a. 84% of the net surplus has been paid pro-rata to the class;
- b. the opt-out member has been paid.

c. ~~Swiss Re, class, legal and actuarial expenses have been paid as approved by the court.~~

**I INTEND TO CONSENT FOR THE FOLLOWING REASONS:**

1. Swiss Reinsurance Company Ltd is the employer and administrator as defined in the Plan (the "Employer").
2. As indicated in the report provided with the Employer's application for payment of surplus updated as at May 31, 2013, the net surplus in the Plan was estimated at \$30,774,000. The net surplus will be adjusted to the date of payment to reflect investment returns, benefit payments, regular administrative expenses, and legal and certain actuarial expenses as approved by the court.
3. The application discloses that by class action agreement by Court Order:  
the net surplus in the Plan at the date of payment is to be distributed:
  - a. ~~\$4,658,994~~ 16% to the Employer, with the employer paying for the opt-out member ~~and expenses as approved by Court Order;~~
  - b. ~~\$25,849,977~~ 84% to the class beneficiaries of the Plan as defined in the agreement.
4. The Employer has applied, pursuant to section 78(1) and 79(3.1) of the *PBA*, for consent of the Superintendent of Financial Services to the payment of 16% of the net surplus to be distributed from the Plan, after payment of 84% of net surplus to the class and payment to the opt-out member. ~~and payment of expenses as approved by the Court Order.~~
5. The application appears to comply with sections 78, 79(1) and all other applicable requirements under the *PBA* and Regulation 909, R.R.O 1990, as amended.
6. This Amended Notice of Intended Decision is an amendment of the Notice of Intended Decision previously signed on March 5, 2014. The amended portions are underlined and the deleted portions are shown as strike-outs on this Amended Notice of Intended Decision. This Amended Notice of Intended Decision takes effect from March 5, 2014.
7. Such further and other reasons as come to my attention.

**YOU ARE ENTITLED TO A HEARING** by the Financial Services Tribunal (the "Tribunal") pursuant to section 89(6) of the *PBA*. **To request a hearing, you must deliver to the Tribunal a written notice that you require a hearing, within thirty (30) days after this Notice of**

**Intended Decision is served on you.<sup>1</sup> from the effective date of this Notice of Intended Decision \*.**

**YOUR WRITTEN NOTICE** must be delivered to:

Financial Services Tribunal  
5160 Yonge Street  
14th Floor  
Toronto, Ontario  
M2N 6L9

Attention: The Registrar

**FOR FURTHER INFORMATION** on a Form for the written notice, please see the Tribunal website at [www.fstontario.ca](http://www.fstontario.ca) or contact the Registrar of the Tribunal by phone at 416- 590-7294, toll free at 1-800-668-0128, ext. 7294, or by fax at 416-226-7750.

**IF YOU FAIL TO REQUEST A HEARING WITHIN THIRTY (30) DAYS, I MAY CARRY OUT THE INTENDED DECISION AS DESCRIBED IN THIS NOTICE.**

**DATED** at Toronto, Ontario, this 7th day of April, 2014

*Original Signed By*

Brian Mills  
Deputy Superintendent, Pensions

*\*NOTE - Pursuant to section 112 of the PBA any Notice, Order or other document is sufficiently given, served or delivered if delivered personally or sent by regular mail and any document sent by regular mail shall be deemed to be given, served or delivered on the fifth day after the date of mailing.*

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