

Interpretation



Effective Date: November 8, 2021

Identifier: PE0298INT

Automatic Features in Defined Contribution Pension Plans

1. Purpose

- 1.1.** This Guidance informs plan sponsors and administrators about the use of automatic features defined contribution pension plans (“DC plans”).
- 1.2.** FSRA is addressing concerns raised by stakeholders that there may be legal impediments to adopting automatic features in Ontario DC plans. In this Guidance FSRA affirms that:
 - The PBA and its Regulations do not prohibit the use of automatic features.
 - Many plans supervised by FSRA have adopted automatic features based on their potential benefits.
 - Adopting automatic features may have effects on matters outside of the PBA (e.g., with respect to employment contracts). However, many stakeholders have satisfied themselves with respect to such concerns.
- 1.3.** Automatic features include auto-enrollment, auto-escalation and default funds – all of which may enhance outcomes for members. FSRA encourages administrators to evaluate the use of these features while considering the unique aspects of their plan.

2. Scope

2.1. This guidance affects the following entities regulated or registered by FSRA:

- DC plans.

2.2. This guidance affects the following stakeholders:

- Plan beneficiaries.
- Employers, plan sponsors, plan administrators and their agents.

3. Rationale and background

3.1. FSRA's objects in the pension sector are:

- a. To promote good administration of pension plans.
- b. To protect and safeguard the pension benefits and rights of pension plan beneficiaries.

3.2. FSRA's general objects in the sectors it regulates also include to:

- Monitor and evaluate developments and trends.
- Promote public education and knowledge.

3.3. In creating this Guidance, FSRA has considered:

- Research on the use of automatic features in pension plans.
- The practices of plan sponsors, administrators, record keepers and other stakeholders experienced with DC plans in Ontario.
- The practices of stakeholders as well as policy in other Canadian provinces and other similar jurisdictions.

3.4. The evidence shows that automatic features have the potential to enhance retirement savings outcomes for plan members. Research has shown these impacts in different contexts and jurisdictions including the United States, the United Kingdom and Australia. Appendix A refers to some of this research.

3.5. FSRA considers automatic features to refer to components of plan design and administration that establish a “default”. Plan sponsors and administrators often intend to use defaults to:

- Produce a positive retirement outcome for the typical plan member.
- And / or address general inertia often seen in DC plans.

What makes a feature “automatic” instead of “mandatory” is that members retain the right to select a different option. In other words, members may “opt-out” of the default.

3.6. Automatic features include:

- **Auto-Enrollment:** all eligible employees are enrolled in the plan. In some cases, members who opt-out may be re-enrolled.
- **Auto-Escalation:** the plan increases member contributions based on a schedule or formula.
- **Default Funds:** a fund is selected that is intended to be suitable for long-term retirement investing. The member’s account is invested in that fund unless the member selects a different option.

3.7. Research shows that auto-enrollment and auto-escalation benefit members in many cases. They do so by defaulting members to participate early in the plan and automatically increasing contribution rates over time. This helps members build their retirement savings during employment. These features also assist members in taking advantage of employer matching contributions that may otherwise go unused.

3.8. Default funds and their related fees are important for building long-term retirement savings. FSRA encourages plan administrators to review leading practices in selecting a default fund. These include CAPSA Guidelines No. 3 and No. 8 which provide guidance on what to consider when selecting defaults.

3.9. Once a plan sponsor elects to establish a pension plan, the plan must be administered, and its assets invested with the care, diligence and skill required of a fiduciary in accordance with the standard of care prescribed by the PBA and common law. Plan administrators therefore have fiduciary obligations when they select and monitor the default fund and its related fees.

3.10. Despite potential benefits, automatic features may not be suitable for all plans or all members. Whether they are suitable depends on the unique aspects of each plan. Plan member demographics are important factors when considering automatic features. They may include:

- Age
- Earnings
- Financial literacy
- Tax considerations
- Eligibility for government benefits

4. Interpretation

4.1. The *Pension Benefits Act* does not prohibit the use of automatic features in pension plan design. Over the last few decades, many Ontario DC plans have adopted these features.

4.2. With respect to plans under FSRA's supervision, FSRA has observed the use of automatic features in the following contexts:

- Certain plans have adopted auto-enrollment or auto-escalation for all eligible employees / members.
- Other plans have adopted auto-enrollment or auto-escalation on a go-forward basis for new members.
- Unions and employers have sometimes collectively bargained auto-enrollment and / or auto-escalation.

4.3. In adopting auto-enrolment and / or auto-escalation, plan sponsors have often had to consider potential effects on existing employment contracts. Plan sponsors who adopt automatic features often consider:

- What period of advanced notice of the changes plan members should receive.
- Whether the feature interacts with any collective bargaining agreements.

- Whether new enrollment or election forms for plan members should be completed.
- Whether the change in plan design will occur alongside changes in the employment contract.
- How the sponsor will implement the opt-out option.

4.4. In certain cases, employers may want to consider how auto-enrollment or auto-escalation features interact with the *Employment Standard Act, 2000* (ESA). The ESA imposes requirements for deductions on employee wages. Plan sponsors may wish to seek legal advice regarding the application of the ESA.

5. Effective date and future review

5.1. This Guidance became effective on **November 8, 2021** and will be reviewed no later than **November 8, 2024**.

6. About this guidance

6.1. This document is consistent with [FSRA's Guidance Framework](#). As Interpretation guidance, it describes FSRA's view of requirements under its legislative mandate (i.e., legislation, regulations and rules) so that non-compliance can lead to enforcement or supervisory action.

Appendix A

List of references

Name	References
<p>Brigitte C. Madrian Dennis F. Shea (2000)</p>	<p>The Power of Suggestion: Inertia in 401 (K) Participation and Savings Behavior, <i>National Bureau of Economic Research</i></p>
<p>Richard H. Thaler and Shlomo Benartzi (2004)</p>	<p>Save More Tomorrow™: Using Behavioral Economics to Increase Employee Saving, <i>Journal of Political Economy, University of Chicago</i></p>
<p>Shlomo Benartzi, Ehud Peleg and Richard H. Thaler (2007)</p>	<p>Choice Architecture and Retirement Saving Plans, <i>University of Chicago & University of California, Los Angeles</i></p>
<p>John Beshears, Et Al (2007)</p>	<p>The Importance of Default Options for Retirement Saving Outcomes: Evidence from the United States, <i>Harvard University and National Bureau of Economic Research</i></p>
<p>Warren Chant, Mano Mohankumar and Dr. Geoff Warren (2014)</p>	<p>MySuper: A New Landscape for Default Superannuation Funds, <i>Center for International Finance and Regulation (CIFR)</i></p>

OECD (2019)

Financial Markets Insurance and Pensions: Inclusiveness and Finance, www.oecd.org/finance/financial-markets-insurance-and-pensions-2019.htm

**Pascale Bourquin,
Jonathan Cribb and Carl
Emmerson (2020)**

Who leaves their pension after being automatically enrolled?, IFS Briefing Note BN272, *The Institute for Fiscal Studies*

**Jeffrey W. Clark and Jean
A. Young (2021)**

“Automatic enrollment: The power of the default”, *The Vanguard Group Inc.*