



SECTION: Transfer Rights

INDEX NO.: T500-851

TITLE: No Transfers Outside Canada
- PBA ss. 1(1), 42(1), and 42(1.1)
- Regulation ss. 1(1) and 20(3)

APPROVED BY: Superintendent of Financial Services

PUBLISHED: FSCO website (January 2017)

EFFECTIVE DATE: January 1994 [Updated January 2017]

REPLACES: T500-850

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA), or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA, or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fSCO.gov.on.ca. All pension policies can be accessed from the Pensions section of the website through the Pension Policies link.

Transfer of Commuted Value Outside Canada

Stakeholders have asked for clarification of the responsibilities of the plan administrator in instances where a former member seeks to transfer the commuted value or the deferred pension to another pension fund, a financial institution or an insurance company outside Canada.

Section 20(3) of the Regulation provides that a plan administrator shall not transfer the commuted value of a pension or deferred pension unless the transferee has agreed to administer the amount transferred in accordance with the PBA and Regulation.

Section 42(1) of the PBA provides three portability options to former pension plan members who terminate employment before the normal retirement age:

- 1) transferring the commuted value of a pension benefit to another pension plan if the plan meets the requirements of section 42(1.1)(a) and the pension plan is willing to accept the funds;
- 2) transferring the commuted value to a prescribed retirement savings arrangement, such as a locked-in retirement account (also known as a locked-in RRSP) or a life income fund; or
- 3) if the plan permits, purchasing a deferred life annuity.

Section 1(1) of the Regulations defines a locked-in retirement account as a type of RRSP, and a life income fund as a type of RRIF. It also defines an RRSP and a RRIF as a plan and fund established in accordance with the *Income Tax Act* (Canada). An insurance company, from which a deferred life annuity must be purchased, is defined in section 1(1) of the PBA as a corporation authorized to undertake life insurance in Canada.

A pension fund, financial institution or insurance company based outside Canada is unlikely to meet the requirements of the Act and Regulation described above. A plan administrator, therefore, is unlikely to be satisfied that the requirements of section 20(3) of the Regulation can be met.

It may be appropriate for pension plan administrators, consultants, financial institutions and plan members to obtain independent legal advice if they have any concerns as to whether statutory obligations under the PBA and Regulation are being met with respect to a proposed transfer to a pension fund, financial institution or an insurance company based outside of Canada.

It should be noted that the owner of a prescribed retirement savings arrangement may be eligible to unlock and withdraw the money in their account if the Canada Revenue Agency's requirements for non-residency are satisfied, which includes being a non-resident of Canada for more than two years. See FSCO's series of policies on **Locked-In Accounts** for more information.