Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

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| SECTION: | Transfer Values |
| INDEX NO.: | T800-951 |
| TITLE: | Commuted Value Transfer Where Plan Underfunded and Member within 10 Years of Normal Retirement Date<br>- PBA s. 42<br>- Regulation 909 ss. 19(6) and 19(7) |
| APPROVED BY: | Superintendent of Financial Services |
| PUBLISHED: | FSCO Website (February 2011) |
| EFFECTIVE DATE: | February 23, 2011 [up-to-date – April 2013] |
| REPLACES: | T800-950 |

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This policy replaces T800-950 (Commuted Value Transfer Where Plan Underfunded) as of the effective date of this policy.

*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.*

The purpose of this policy is to examine the application of the 5-year period to complete the transfer of the commuted value of a pension when the pension plan is underfunded for former members of the plan between age 55 and 65.

A pension plan member who terminates employment within 10 years of his or her normal retirement date may elect to receive the commuted value of his/her pension pursuant to the transfer rights in section 42 of the PBA, if the pension plan permits. However, if the pension plan is underfunded, the full amount may not be transferred because of the resulting funding shortfall. The administrator may take up to 5 years to complete the transfer pursuant to section 19(7) of the Regulation, regardless of the age of the terminating plan member.

The funding shortfall problem can be overcome if the employer is prepared to contribute the amount necessary to make up the difference between the full commuted value of the pension benefit and the amount the employee can take from the underfunded plan when the employee terminates. In addition if the aggregate of all of the transfers since the last review date does not exceed 5 per cent of the assets of the pension plan the full amount could be transferred.

If the full amount may not be transferred and the former member has elected to have the commuted value transferred to an insurance company to purchase an annuity under section 42(1)(c) of the PBA, the former member may receive an initial lump sum payment that is large enough to annuitize. Over the next 5 years the former member may receive either a series of payments or one single payment of the remainder and the series of payments may be too small to be used to purchase separate annuity contracts. Where the initial payment has been annuitized, the former member must use the subsequent small payments to purchase a life annuity, or transfer the payments to a locked-in retirement account (LIRA), or into a life income fund (LIF).