

March 14, 2022

Financial Services Regulatory Authority  
25 Sheppard Avenue West, Suite 100  
Toronto, ON M2N 6S6

Dear madam/sir,

**Re: Proposed Guidance on Pension Benefits Guarantee Fund Assessment Deadlines and Calculations (No. PE0299INT)**

LifeWorks Inc. (“LifeWorks”) appreciates the opportunity to provide comments on the guidance proposed by the Financial Services Regulatory Authority of Ontario (“FSRA”) on the deadlines and calculations for the Pension Benefits Guarantee Fund (“PBGF”). We further appreciate that FSRA is taking a principles-based approach to pension regulation with the objectives of: the promotion of good administration of pension plans, and to protect and safeguard the pension benefits and rights of pension plan beneficiaries.

Given FSRA’s stated goal of “ensuring that all PBGF eligible plans contribute fairly to the PBGF as required by the PBA, and that plan administrators comply with their filing obligations,” the proposed Guidance is intended to clarify:

- the deadline for paying the assessment is nine months after the plan’s fiscal year end, whether the pension plan is ongoing or is being wound up; and
- for ongoing plans, the PBGF assessment for fiscal years that end on or after December 31, 2021, must be based on the most current valuation report filed with FSRA that has a valuation date on or before the fiscal year end in question.

Employers sponsoring pension plans covered by the PBGF must pay a PBGF assessment for every fiscal year of the plan. The PBGF assessment date (i.e., the due date for paying the PBGF assessment) for any fiscal year of a pension plan is 9 months after the fiscal year end. This applies whether the pension plan is ongoing or is being wound up. If the PBGF assessment is not paid by the due date, legislated late payment penalties will apply (i.e., a 20% increase of the PBGF assessment plus ongoing interest).

## LifeWorks’ comments on proposed guidance

Our comments are as follows:

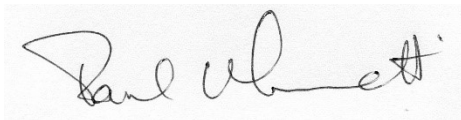
- In determining the PBGF assessment, FSRA should clearly state in the guidance to which fiscal year the assessment applies and the Regulation to the *Ontario Pension Benefits Act* (“Regulation”) should also be clear in this regard. For example, consider a fiscal year end of December 31, 2020, with an assessment date nine months after the previous fiscal year end, or September 30, 2021. Does the assessment payment apply to PBGF coverage for the fiscal year ending December 31, 2020 or some other fiscal year (e.g., 2021 or 2022)? It is not clear based on the Regulation nor on FSRA’s guidance to which period the PBGF assessment applies.
- FSRA’s commentary on its updated interpretation of Section 37(7) of the Regulation does not address how it aligns with the Section 37(8) provisions that permit/require the revision of the PBGF payment using a valuation report with any valuation date that is before the assessment date albeit one that is filed after the payment is made. FSRA should consider providing additional commentary on how its interpretation impacts the application of 37(8), as in our view this Section of the Regulation contradicts the proposed guidance.
- We appreciate FSRA’s intent of ensuring fairness and equity among plans, however, 37(2) defines the assessment date as “*For the purposes of this section, assessment dates shall be nine months after the last day of each fiscal year of the pension plan*”. Section 37(7) states “*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.” Given that it is unclear to which period the assessment applies, FSRA’s interpretation may not be achieving the actuarial fairness it desires, particularly should FSRA clarify that the applicable coverage period for the assessment actually includes or is after the assessment date.*

- A Form 2.2 – Pension Benefits Guarantee Fund (PBGF) Assessment Certificate (PBGF Certificate) must be filed with FSRA for every PBGF assessment that is payable. The deadline for filing an Annual Information Return for an ongoing pension plan is 9 months after the fiscal year end. However, the legislation does not explicitly set out a deadline of 9 months after the fiscal year end for filing the PBGF Assessment Certificate. Section 18(7) of the Regulation only states that a Certificate must be filed. In practice, the Certificates are almost always filed and paid at the same time since the assessment is calculated based on the information contained in the Certificate.
- On the status of wind-ups, we observe that Section 37(7) identifies the reports to be used for determining the assessment as: “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.” We observe that a Section 70 wind-up report is not included in the legislated list of acceptable reports. Please confirm that FSRA will permit Section 70 wind-up reports to be used despite their exclusion from Section 37(7). However, that still does not clearly address to which period the assessment pertains (see above).

We appreciate FSRA’s stated goals and desire to clarify the PBGF payment rules, however, the proposed guidance may not be consistent with the Regulation for the reasons provided above. We therefore suggest revising the proposed guidance to clarify its interplay with Section 37 of the Regulation.

Sincerely,

A handwritten signature in black ink, appearing to read "Paul Winnett".

Paul Winnett for  
LifeWorks, Ltd.