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22 January 2024

Subject: FSRA Consultation Paper: Potential FSRA Rule on Family Law Matters (the “Consultation Paper”)

Mercer is pleased to provide feedback on the Consultation Paper referenced above and published by FSRA. We would like to comment with the following feedback in respect of the topic questions outlined in *Appendix A. Summary of questions* of the Consultation Paper (“Appendix A”):

Upon review of the Consultation Paper and Appendix A topic questions #1 through 6 (13 subset questions in total), Mercer’s preference is that any changes or clarifications to family law matters and the marriage breakdown regime as a whole should be articulated in applicable family law and pension legislation and their corresponding regulations. The reason for this is that all rules are anchored in such applicable legislation and regulations and any changes or clarifications to such should follow due process.

With that, Mercer does, however, believe that there should be further clarification provided on the recent Ontario Court of Appeal decision, *Meloche v Meloche*, 2021 ONCA 640 (“Meloche”), as this decision has caused confusion and uncertainty for many pension plan administrators. It was indicated in section 8.7 – *Spouse dies before the retired member* of Guidance No. PE0225INT (Administration of Pension Benefits upon Marriage Breakdown), effective November 9, 2021, that FSRA would further update this section upon review of *Meloche*, but we have yet to see anything published or put forward in this regard. Mercer believes this should be a priority for FSRA with respect to family law matters, particularly for spousal pension benefit matters.

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As always, thank you for your efforts to engage stakeholders in pension related family law matters. We appreciate the opportunity to provide our input and hope this feedback is helpful to FSRA as it considers next steps for the Consultation Paper.

Sincerely,

A handwritten signature in black ink, appearing to read "Emma Hamilton", with a long horizontal flourish extending to the right.

Emma Hamilton
Senior Associate

Copy:
Leslie Steeves, Mercer
Karen Zilli, Mercer
Karine Bellavance, Mercer
Luc Girard, Mercer