



August 17, 2011

Pension Policy Branch  
Ministry of Finance  
5th Floor, Frost Building South  
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Toronto ON M7A 1Y7

OPSEU Pension Trust

Fiducie du régime de  
retraite du SEFPO

**Re: OPSEU Pension Trust Comments regarding Transfer Agreements under s. 80.1 of the Pension Benefits Act (PBA), Proposal No. 11-MOF019**

The OPSEU Pension Trust (OPTrust) is pleased that the Ministry of Finance has requested comments on the intended content of regulations to allow public sector pension plans to negotiate transfer agreements to give eligible members the opportunity to consolidate their pension benefits in relation to past government-initiated restructurings.

The OPSEU Pension Plan (the Plan) is a contributory defined-benefit pension plan with approximately 83,000 members and pensioners and over \$13 billion in assets. It is a jointly-sponsored pension plan sponsored by the Ontario Public Service Employees Union and the Government of Ontario. OPTrust has approximately 5,000 former members who have been affected by previous transfers of services from the Ontario Public Service to other bodies. Any agreements that OPTrust enters into pursuant to s. 80.1 of the PBA will involve transfers of benefits *out of* the Plan. Although we had suggested to the Standing Committee on Finance and Economic Affairs that members be able to consolidate in the plan of their choice, Bill 236 did not allow for reciprocal (i.e., two-way) transfers under s. 80.1.

Nevertheless, permitting members to consolidate their service (past and future) in a single pension plan is a desirable outcome that can benefit the members. We also acknowledge that certain member groups have been advocating for some time for a resolution to their pension concerns.

OPTrust has identified four issues with the proposed content of the regulations where we believe modifications could improve the administration of these regulations.

**1. Proposal to require written consent before pension plans can share information**

*“The administrators of the pension plans participating in the transfer agreement would be required to obtain the written permission of eligible employees before any necessary information may be shared for purposes of the transfer agreement.”*

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### **OPTrust's comments**

One of the major tasks necessary for transferring the benefits of a group of members between pension plans is the job of reconciling lists of eligible persons to determine who is actually eligible for transfer. This will mean that the pension plans participating in the transfer agreement will have to reconcile lists of potentially-eligible members and former members between them. Experience has demonstrated that this can be a complex and time-consuming task. Most of OPTrust's potentially-eligible former members would be transferring to one of three other public sector pension plans: OMERS, HOOPP and the Ontario Pension Board. Since all transfers must be completed by July 1, 2015, there will be less than three years to complete the transactions. We feel strongly an individual direct letter to eligible members is far superior than a broad-based communication that would confuse those members that have terminated voluntarily, for example, and are entitled to a regular deferred pension.

It would be most beneficial to this process to permit pension plan administrators to proactively share the minimum information necessary to at least reconcile their lists of potentially-eligible members without obtaining written member consent. "Minimum information" would mean only name and date of birth. The pension plans involved in any transfers will already have the same personal identification information on the members and former members in their databases and, therefore, will not be providing any new information. Also, the members and former members will have already been advised, at the time they enrolled in the pension plan, that any personal information was being collected for the purposes of administering the pension plan. In this case, the administrators will be using the information for those administration purposes. If pension plans are not able to share some information prior to obtaining member consent, the administrators might be put in the position of requesting consent from plan members who turn out not to be part of any transfer agreement.

While OPTrust will be an exporter of benefits under s. 80.1, other pension plans like OMERS and HOOPP will be importing benefits from a number of public sector pension plans and therefore, the issue of data reconciliation will likely impact them even more than OPTrust.

### **Recommendation**

OPTrust recommends that the regulations include a provision permitting pension plan administrators to share the names and dates of birth of members who may be eligible under a given asset transfer agreement prior to obtaining the members' written consent to provide information for the purposes of calculating and executing the transfer request.

## **2. Proposal to require filing of an actuarial valuation or cost certificate**

*"The Plans participating in the transfer agreement would be required to file with the Superintendent of Financial Services an actuarial valuation report or cost certificate as of a specified date, as applicable, when the transfers are completed."*

**OPTrust's comments**

The benefit entitlements of OPTrust's nearly 5,000 potentially-eligible former members constitute less than five per cent of total Plan assets so funding these transfers is not an issue for the Plan even if they all elect to transfer. Like any defined-benefit pension plan, OPTrust is already required to file an actuarial valuation report every three years at a minimum. It is OPTrust's view that the impact of transfers under s. 80.1 could simply be set out in the regular filing, perhaps by a specific disclosure of any gain or loss associated with these transfers. Preparing a special valuation could trigger unintended consequences not related to this transaction, given the volatility of the capital markets. It is the view of OPTrust that this requirement will only add unnecessary administrative expense to the process.

**Recommendation**

OPTrust recommends that the regulations not include the requirement for participating plans to file a special actuarial valuation report or cost certificate when the transfers are completed, and that any required reporting regarding the impact of transfers under s. 80.1 be set out in plans' regular filings.

**3. Proposal to require notice to bargaining agents**

*"The administrators of the plans participating in the transfer agreement would be required to give reasonable notice to any bargaining agents representing the eligible employees and to provide copies of the transfer agreement to those bargaining agents."*

**OPTrust's comments**

Presumably, any bargaining agent whose members were going to be a part of one of these transfers would be well aware of that fact as a result of being informed by its members. We would in the normal course contact OPSEU as one of our sponsors with respect to this transaction, but to the head office of the union – not each particular local. We do not have the data in our systems to identify which local of OPSEU a member belongs to.

**Recommendation**

OPTrust recommends that the regulations with respect to the requirement for pension plan administrators to provide notice to bargaining agents be clarified that notification to the head office of the bargaining agent be sufficient for this disclosure requirement.

**4. Proposal to require consent of eligible member's spouse**

*"The consent of an eligible member's spouse, if any, would be required before a transfer of assets can be completed."*

**OPTrust's comments**

We are somewhat surprised by this proposed requirement, as spousal consent is not required for a member to transfer his/her benefits out of a pension plan pursuant to termination of employment or membership. We would suggest that spousal consent should not be required as it only adds an administrative step to the process.

**Recommendation**

OPTrust recommends that the regulations not include a requirement for the consent of an eligible member's spouse before a transfer of assets be completed.

OPTrust looks forward to the publication of draft regulations for s. 80.1 and hopes that there will be ongoing consultations with pension plan administrators and other stakeholders as the regulations are reviewed and finalized and the new transfer options are implemented.

Yours truly,



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Chief Administrative Officer

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