The Ontario pension regulator provides new guidance concerning missing beneficiaries

October 05, 2017

The Financial Services Commission of Ontario released two new policies

On September 30, 2017, the Financial Services Commission of Ontario ("FSCO"), the Ontario pension regulator, released two new policies relating to searching for plan beneficiaries and waiver of biennial statements for missing former and retired members respectively.

Searching for Plan Beneficiaries

In order for a pension plan administrator to discharge its duty of administering the plan and paying pension benefits, accurate and current records of members and former members must be kept. The cooperation of members and former members by promptly notifying the administrator of changes in information is crucial for keeping accurate plan records. In the new policy, FSCO recommends that the administrator establish processes and procedures for updating member records, that the termination/retirement packages to terminated members include information about the importance of keeping the administrator informed of future changes to their information, and that the administrator have regular personalized communication with the former and retired members.

When it comes to the administrator's knowledge that the address or other contact information of a beneficiary is no longer correct, the administrator should choose the search methods which are most effective in the circumstances of the pension plan. Search methods include individual-directed searches (*e.g.* sending a registered letter, contacting emergency contacts on file, hiring a professional search company) and broad-based communication (*e.g.* advertisement in local media).

Waiver of Biennial Statements for Missing Former and Retired Members

The *Pension Benefits Act* (Ontario) requires a plan administrator to provide biennial statements to former and retired members, subject to a waiver in respect of "missing" former and retired members granted by FSCO, on the application of the plan administrator.

The new FSCO policy provides guidance to facilitate the waiver application process. The administrator must establish that there are reasonable and probable grounds to believe that the member is missing by proving that appropriate individual-directed searches have been conducted.

The policy also indicates the type of information and documents (including a certificate of compliance containing the required information) that must be included in the application.

The plan administrator must file a separate waiver application for each required biennial statement although it is not required to conduct another individual-based search of a missing member for whom a waiver was previously granted.

The policy indicates that the applicant must keep a record of the application and supporting documents “indefinitely”. If the word “indefinitely” is given the literal dictionary meaning, it can mean “unlimited” and can go beyond plan wind-up.

By

Sonia Mak

Expertise

Pensions & Benefits

BLG | Canada’s Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 800 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary
Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa
World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver
1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2026 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.