



December 9, 2021

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REMINDER NOTICE

ADMINISTRATOR'S OBLIGATIONS TO MEMBERS AND INTERESTED PERSONS

The Financial Services Commission (FSC) reminds administrators of their obligation to provide information and make documents available upon request to pension plan members and interested parties (where applicable), in accordance with the provisions of the *Occupational Pension Benefits Act Cap 350B* (OPBA) and its regulations.

1. This notice provides reminders regarding:
 - i. Information to be provided to prospective and existing members (including interested persons¹) including annual statements;
 - ii. Prescribed documents to be made available for inspection, extraction or copying;
 - iii. Duty of care to be exercised by administrators in providing information;
 - iv. Information to be provided on termination or wind-up of a pension plan; and
 - v. Other information to be provided to members.
2. This reminder must be read in conjunction with the OPBA and its regulations. Administrators should ensure that they are aware of all obligations under the legislation.

¹ A person who has an interest in or is affected by the matter e.g. beneficiary.

Information on Eligibility to Join a Pension Plan

An administrator is required to provide the following information in writing, to existing and prospective members² of a pension plan:

- An explanation of the provisions of the pension plan that apply to the person;
- An explanation of the person's rights and obligations in respect of the pension plan; and
- Any other information prescribed by the regulations.

When should information on eligibility to join a pension plan be provided?

The above information should be provided to a person, who will be eligible:

- Upon commencing employment to become a member of a pension plan, *within 60 days before* the date on which the person commences employment; and
- Eligible to become a member of a pension plan, on a date other than the date of the commencement of employment, *within 60 days prior* to the date on which the person will become eligible.

² Prospective member(s) refers to person(s) who will be eligible to become a member of the pension plan.

Ongoing Disclosure Obligations

It is important that members receive timely and useful information regarding their pension plan and their pension benefits.

Annual Statement to Members

Obligation: An administrator must provide plan members with a written statement that includes the information prescribed in the legislation in respect of the pension plan and the member's entitlement at the end of the previous fiscal year.

Deadline: within **four months** after the end of each plan year.

Contents of the statement

- The name of the pension plan and its registration number;
- The member's name and date of birth;
- The period covered by the statement;
- The date the member joined the plan and³ the date on which the member was employed;
- The date on which the member became fully vested or will become fully vested;
- The member's normal retirement and early retirement date;
- Name of member's spouse or beneficiary, where applicable;
- Description of pre-retirement or retirement death benefit due to death of a member;
- The amount of required and additional member contributions made during the reporting period in addition to the earnings, including interest credited to contributions, accumulated at the end of the reporting period;
- Where salary is a factor in determining a pension benefit, the salary level utilised to determine the benefit. Where applicable, a statement that special payments are being made to liquidate any liability;
- A statement setting out the treatment of any surplus in a continuing pension plan or on the winding-up of the pension plan;
- Information on the investment options, available to members including details of past performance, expense ratios and the associated fees payable from the fund or by members;
- An explanation of any amendments made to the pension plan, during the reporting period that affects the member;

AND

- *In the case of defined contribution benefits:*
 - The amount of employer's contributions allocated to the member during the reporting period; and
 - The amount of employer's contributions and earnings, including interest credited to such contributions, allocated to the member, that have accumulated at the end of the reporting period.

³ Except for multi-employer pension plans.

- *In the case of a defined benefit pension plan:*
 - The number of years of employment of benefits; and
 - The annual amount of pension benefit payable on the normal retirement date and accrued at the end of the reporting period and information as to whether the pension benefit is reduced by an amount of pension payable under the National Insurance and Social Security Act.
- *In respect of a multi-employer pension plan or a pension plan that:*
 - provides defined benefits; and
 - the obligation of an employer to contribute to the pension fund to a fixed amount set out in a collective agreement,
 - a. A statement that where, on winding-up of the pension plan, if the plan is in a deficit pension benefits may be reduced.

Prescribed Documents and Information to be made available for Inspection, Extraction or Copying

Who can make a request?

- A member;
- A deferred or retired member;
- The spouse of a member or deferred or retired member;
- A claimant;
- A representative of a trade union that represents members of the pension plan;
- An employer;
- A person required to make contributions under the pension plan on behalf of an employer;
- A former or successor administrator;
- An agent of a person described in any of the above points who is authorised in writing to act on that person's behalf; or
- Such other person as may have an interest in the plan.

Should the request be in writing or verbal?

Requests must be made in writing.

What documents can be requested?

- The provisions of the current pension plan including any amendments to the pension plan;
- Any documents that relate to the pension plan to be filed with the FSC;
- The provisions of any previous pension plan, including any amendments, where the current pension plan is a replacement of the previous pension plan;
- Any documents that relate to a previous pension plan that are required to be filed;
- The applicable provisions of any document that sets out the employer's responsibilities with respect to the pension plan;
- Any document by which the administration of the pension plan or pension fund is delegated by the administrator to another person;
- Copies of information returns that are filed in respect of the pension plan;
- Copies of any financial statement or report required to be filed in respect of the pension plan;
- Copies of correspondence in respect of the pension plan sent to or from the FSC and the administrator during the 5 years preceding the date of the request;
- Copies of those parts of an agreement that concern the purchase or sale of a business or the assets of a business and that relate to the pension plan;
- Copies of any statement of investment policies and goals that are established for the pension fund; and

- Copies of any financial statements or audited financial statements filed in respect of a pension fund.

Can the plan administrator charge a fee in respect of such requests?

A plan administrator must make the documents and information prescribed in the legislation available for inspection, extraction or copying **without charge**.

Responding to requests for information

A person making a request is entitled to have access to those parts of the pension plan and other documents or information that are applicable to that person.

Where information is to be provided, personal information that relates to a member or former member or an individual connected to the member or former member shall not be made available to anyone other than:

- An attorney-at-law; or
- The FSC

Without the written consent of the member, former member or spouse of the member or former member. The administrator shall comply with a written request made *within 30 days after* receipt of the request.

Due Care and Attention regarding the Provision of Information

1. **An administrator may, before making available the requested documents or information, require the person to provide information establishing his entitlement to see such documents or information.**
2. **An administrator must not make available personal information that relates to another member without the consent of that member or the member's agent or legal representative.**
3. **An administrator, for the sole purpose of enabling the sharing of the surplus in a plan, must make available personal information that relates to any member, deferred or retired member or claimant of the plan, to an attorney-at-law authorised to practice law in Barbados if such attorney-at-law represents a member, a deferred or retired member, the spouse of a member or a deferred or retired member, a claimant, a representative of a trade union that represents members in a pension plan and an employer must not disclose any personal information obtained.**

Disclosures on Termination of Employment/Membership Statement

The administrator shall give a written statement to the member, or to any other person who by virtue of that member becomes entitled to a payment under the pension plan, where a member of a pension plan terminates employment with the employer or otherwise ceases to be a member where:

- In the case of a defined benefit plan, the member's expected benefits at the normal retirement date, and the commuted value of the expected benefits as determined by an actuary; and
- In the case of a defined contribution plan, the amount of money standing to the member's account.

The two points above apply in respect of a multi-employer pension plan where a member ceases to be a member, but does not apply where a member terminates employment with an employer but continues to be a member of the plan.

The administrator must provide a written statement to a member of a pension plan who terminates employment or ceases to be a member for reasons other than retirement or death and who is entitled to a deferred pension shall contain, as derived from the records of the administrator:

- The name of the pension plan and its registration number;
- The member's name and date of birth;
- The date on which the member joined the pension plan and the years of employment credited under the pension plan for calculating the pension benefit;
- The member's normal retirement date under the pension plan;
- The benefits to which the member is entitled on termination and any options respecting such benefits, including early, normal or postponed dates for commencement of the payment of benefits;
- Where applicable, the name of the member's spouse;
- The name of the designated pre-retirement death benefit beneficiary;
- Benefits provided on the death of a member and the name of beneficiary;
- Where applicable, the formula used to integrate the pension payable under the National Insurance and Social Security Act and the resulting pension reduction or increase of such entitlement;
- Any bridging benefit or special allowance and the date they will cease;
- Any indexation provisions applicable;
- Any benefit payable in the event of the member's death, where the death occurs either before or after the commencement of pension benefit payment;
- The value of the deferred pension;
- Any options with respect to portability;
- The application of the transfer ratio option;

- Where the transfer ratio is less than one, the amount that may be transferred from the pension fund immediately and the manner in which the balance will be paid;
- The time at which or periods during which any option must be exercised; and
- The amount of any refund to which the member is entitled and information on the effect that the member's election to receive a refund would have on the member's pension or deferred pension.

The administrator shall provide the written statement *within 30 days after* the member's termination of employment or cessation of membership in the pension plan. Where notice of termination or cessation is not provided to the administrator prior to the event, *within 30 days after* the administrator's receipt of such notice.

Where a member of a pension plan who terminates employment or ceases to be a member for reasons other than retirement or death is not entitled to a pension or deferred pension, the administrator shall provide that member with a statement that contains, as derived from the records of the administrator:

- The name of the pension plan and its registration number;
- The member's name and date of birth;
- The dates on which the member joined the pension plan and ceased membership in the pension plan;
- The years of employment credited under the pension plan for the determination of pension benefits;
- The amount of any refund;
- Any ancillary benefit to which the member may be entitled; and
- Any option which the member is entitled to exercise and the date by which the option must be exercised.

The administrator shall provide the statement above *within 30 days after* the termination of employment or cessation of membership in the pension plan or, where notice of termination or cessation is not provided to the administrator prior to the event, *within 30 days after* the administrator's receipt of such notice.

Where the member has an option with respect to a refund, the administrator shall comply with the election made by the member *within 60 days after* receipt of a direction from the member.

Where no option is available to the member with respect to a refund, the administrator shall provide a refund to which the member is entitled *within 60 days after* the member's termination of employment.

Information on Entitlement to Benefits upon Winding-Up

The administrator shall give a statement to each person entitled to a refund, benefit, pension or deferred pension from the pension plan *within 6 months*, of the commencement date of the winding-up, which sets out:

- The person's entitlement under the pension plan;
- The payment options available to the person; and
- Any other prescribed information.

If a person to whom a statement is given to above is required to make an election, the person shall make the election *within 90 days after* the receipt of the statement or shall:

- Be deemed to have elected to receive immediate payment of a pension benefit, if eligible therefor; or
- Receive a pension commencing at the earlier of the earliest date permitted in the plan and the earliest date permitted under the *OPBA*.

Information on Payment upon Retirement of a Member

The administrator of a pension plan shall advise a member of a pension plan, at least *60 days prior* to a member's normal retirement date or the date indicated by the member as the date on which he intends to retire, of any options respecting payment of the pension available to the member under the pension plan, the *OPBA* or its regulations and the period in which the options may be exercised.

Where a person who intends to retire on a date other than the normal retirement date fails to give notice sufficiently in advance of the date of retirement, the administrator shall provide the information *within 30 days following* receipt by the administrator of an application for the payment of the pension.

Survivor Benefits

Where, as a result of the death of a member or former member who was not receiving payments from a pension fund, the spouse, beneficiary or executor of the estate of the member or former member becomes entitled to a benefit, the administrator shall, *within 30 days after* receipt of notice of the death, provide the spouse, beneficiary, or executor with a statement that sets out:

- The name of the pension plan and its registration number;
- The amount and method of payment of the benefit;
- The amount, if any, payable and the nature of the payment;
- Where applicable, the basis of indexation of a pension;
- Where applicable, the amount of the pension resulting from additional voluntary contributions; and
- In the case of a spouse, the options available.

Administrators should be aware of the following requirements:

- The waiver of the spouse of the member or deferred member shall be made in *Form 8 set out in the First Schedule*.
- A spouse shall make an election *within 90 days after* receipt of notice, of the death of a member or former member. The election shall be made in *Form 9 set out in the First Schedule*.

The administrator of the pension plan shall comply with a waiver or the election as stated above *within 60 days after* receipt of the waiver or election from the spouse.