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Pension e-Bulletin - January 2009 - Volume 18 - Issue 1

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Consultations and Proposed Legislation

2019 2018 2017 2016 2015 2014 2013 2012 2011

This page provides links to consultation papers and proposed legislation primarily related to the regulation of Ontario pension plans under the Pension Benefits Act and related legislation. Links to the consultation papers and proposed legislation of other jurisdictions are provided for your convenience.

In addition to the consultation papers and proposed legislation noted here, a number of FSCO consultation papers, along with information on making submissions, are provided on the website. All stakeholders are encouraged to review these documents and submit their comments.

2019

Consultation on Proposed Amendments to the Pension Benefits Act: Electronic Communications

On August 6, 2019, the Ontario government released a consultation document that provides details of proposed amendments to the Pension Benefits Act to help facilitate further electronic communication between administrators and members. Comments may be submitted to the Ministry of Finance by August 27, 2019.

Consultation on Proposed Amendments to Ontario Regulation 193/18 Concerning the Purchase of Pension Benefits from an Insurance Company

On April 11, 2019, the Ontario government released a consultation document that provides details of proposed regulatory amendments to Regulation 193/18 in order to support technical amendments made to the Pension Benefits Act in the fall of 2018 to clarify the annuity discharge provision. Comments may be submitted to the Ministry of Finance by May 3, 2019.

Consultation on Proposed Regulations for Variable Benefits

On April 11, 2019, the Ontario government released a consultation document that provides details of proposed regulations which are required to proclaim the variable benefits provisions in the Pension Benefits Act (PBA) into force. The variable benefits provisions in the PBA would permit a pension plan that provides DC benefits to offer Life Income Fund (LIF)-like payments directly from the plan through the establishment of a variable benefit account. The proposal also proposes consequential technical amendments to the Family Law Regulations as well as the General Regulation 909. Comments may be submitted to the Ministry of Finance by May 3, 2019.

2018

Consultation - Ontario's Proposed Funding Rules for Multi-Employer Pension Plans that Offer Target Benefits: Description of Proposed Regulations

On April 4, 2018, the Ontario government released a consultation document that provides a description of proposed regulations relating to the funding framework for eligible multi-employer pension plans that provide target benefits. Comments may be submitted to the Ministry of Finance by May 4, 2018.

Consultation on Proposed Regulations for Variable Benefits

On March 20, 2018, the Ontario government released a consultation document that provides details of proposed regulations, which are required to proclaim the variable benefits provisions in the Pension Benefits Act (PBA) into force. The variable benefits provisions in the PBA would permit a pension plan that provides DC benefits to offer Life Income Fund (LIF) - like payments directly from the plan through the establishment of a variable benefit account. Comments may be submitted to the Ministry of Finance by May 4, 2018.

Consultation on proposed amendments to Pension Benefits Guarantee Fund (PBGF) assessments

On January 19, 2018, the Ontario government released a consultation document that provides details of proposed amendments to the PBGF assessment formula in Regulation 909 under the Pension Benefits Act. The changes to the assessment formula are in response to a planned increase in the PBGF coverage limit to $1500 per month, announced by the government in May 2017 (but which is not yet in effect). Comments may be submitted to the Ministry of Finance until February 20, 2018.

2017

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act (PBA): Provision of Discharge for Purchase of Annuities

On December 14, 2017, the Ontario government proposed regulatory amendments under the PBA, to provide pension plan Administrators with a discharge of liabilities in respect of the purchase of annuities for former and retired members of a Single Employer Pension Plan. Comments may be submitted to the Ministry of Finance by January 29, 2018.

Consultation on Reform on Ontario's Funding Rules for Defined Benefit Pension Plans

On May 19, 2017, the Ontario government announced it would be implementing a new funding framework for defined benefit pension plans. On December 14, 2017, the government released a consultation document Size: ## kb that provides details of the proposed amendments to Regulation 909, to implement many of the May 2017 proposals. The changes are intended to apply to valuation reports dated on or after December 31, 2017, that are filed after the new framework comes in force, except if otherwise noted. Feedback may be submitted to the Ministry of Finance by January 29, 2018.

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act: Making Permanent the Temporary Exemption of Certain Jointly Sponsored Pension Plans (JSPPs) from the Requirement to File a Reference Valuation

JSPPs named in s.47.7.1 of Regulation 909 are exempted until March 31, 2018, from the requirement to file a reference valuation provision. On September 22, 2017, the Ontario government proposed regulatory amendments to make this a permanent exemption. Comments may be submitted to the Ministry of Finance by November 9, 2017.

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act: Extending the Temporary Exemption for Certain Jointly Sponsored Pension Plans (JSPPs) from the Annual Valuation Filing Requirement

Certain JSPPs have been temporarily exempted from the solvency concerns filing requirement until December 31, 2017. On September 22, 2017, the Ontario government proposed regulatory amendments to extend the current exemption for these plans for an additional two years. Comments may be submitted to the Ministry of Finance by November 9, 2017.

Proposed Amendments to Ontario Regulation 909 under the Pension Benefits Act: Superintendent Consent for Annuity Purchases on Wind Up & Extended Allocation of Payments from the Pension Benefits Guarantee Fund

Schedule 19 of Bill 70-Building Ontario Up for Everyone Act (Budget Measures) 2016, introduced new provisions into the Pension Benefits Act (PBA). On August 11, 2017, the Ontario government proposed regulations that are required before these sections can be proclaimed. Comments may be submitted to the Ministry of Finance by September 8, 2017.

Proposed Amendment to Regulation 311/15 under the Pension Benefits Act: broader public sector Single Employer Pension Plan mergers (SEPPs) with Jointly Sponsored Pension Plans (JSPPs)

On June 26, 2017, the Ontario government proposed regulatory amendments under the PBA to enact changes to better facilitate mergers for those broader public sector employers who would like to merge their SEPPs with an existing JSPP. Comments may be submitted to the Ministry of Finance by July 10, 2017.

Proposed Amendments to Ontario Regulation 909 under the Pension Benefits Act: Administrative Penalties

On April 28, 2017, the Ontario government proposed regulatory amendments under the PBA that would provide the Superintendent of Financial Services (Superintendent) with the authority to impose administrative penalties if the Superintendent is satisfied that a person is contravening a prescribed provision of the PBA or the regulations, a requirement imposed by order, or an obligation assumed by way of undertaking. Comments may be submitted to the Ministry of Finance by June 12, 2017.

Proposed Amendment to Ontario Regulation 909 under the Pension Benefits Act: Special Orders by the Superintendent

On April 28, 2017, the Ontario government proposed regulatory amendments under the PBA that would provide the Superintendent of Financial Services with the authority to issue special orders requiring an administrator, an employer or any other person to prepare and file a new valuation report or another prescribed type of report in respect of a pension plan, in prescribed circumstances. Comments may be submitted to the Ministry of Finance by June 12, 2017.

Proposed Amendments to Regulation 909 under the Pension Benefits Act - Portability Options for Retired Members

On January 9, 2017, the Ontario government proposed amendments to Regulation 909 that would update references to portability to recognize retired members' access to them. Comments may be submitted to the Ministry of Finance by January 20, 2017.

2016

Proposed Amendments to Regulation 909 of the Pension Benefits Act - Superintendent Power to Appoint or Act as Administrator

On September 13, 2016, the Ontario government proposed amendments to Regulation 909 that would allow the Superintendent of Financial Services to appoint or act as the administrator of a pension plan in prescribed circumstances. Comments may be submitted to the Ministry of Finance by September 22, 2016.

Proposed Amendment to Regulation 909 of the Pension Benefits Act (PBA) - Advisory Committees

On August 25, 2015, the Ontario government proposed an amendment to Regulation 909 that would implement section 24 of the PBA, concerning pension advisory committees. Based on feedback received during this consultation, on August 22, 2016, the Ontario government proposed revisions to the amendment. Two subsections have also been added that would implement recent amendments made to section 24 of the Pension Benefits Act by the Jobs for Today and Tomorrow Act (Budget Measures), 2016. The revisions and additions are underlined in the amendment. Comments may be submitted to the Ministry of Finance by September 12, 2016.

Proposed Amendment to Ontario Regulation 178/11 under the Pension Benefits Act (PBA) - Solvency Funding Relief for Certain Public Sector Pension Plans

On July 29, 2016, the Ontario government proposed regulatory amendments under the PBA, to allow sponsors of pension plans to reduce the minimum required level of solvency funding, on a temporary basis. Comments may be submitted to the Ministry of Finance by September 9, 2016.

Consultation - Ontario Review of Solvency Funding

On July 26, 2016, the Ontario Government released a consultation paper on solvency funding in Ontario. Feedback on key policy issues associated with pension plan funding in Ontario may be submitted to the Ministry of Finance by September 30, 2016.

Consultation on draft regulations under the Pooled Registered Pension Plans Act, 2015 (PRPP Act)

On May 28, 2015, the PRPP Act received Royal Assent. The Jobs for Today and Tomorrow Act (Budget Measures), 2016 amended the PRPP Act to further facilitate harmonization with other jurisdictions and ensure the efficient operation of pooled registered pension plans (PRPPs). The draft regulations will complete the legal framework for the establishment and administration of PRPPs in Ontario and enable the PRPP Act to be proclaimed. Comments may be submitted to the Ministry of Finance by August 19, 2016

Consultation regarding 30 per cent Rule on Federally Regulated Pension Plans

The Department of Finance Canada announced the launch of consultations to assess the value of the 30 per cent rule —the rule that restricts federally regulated pension plans from holding more than 30 per cent of the voting shares of a company—in the prudent management of pension investments. The consultations will also seek views on the tax policy issues associated with the growth of active investments by pension plans. Comments on the ongoing usefulness of the 30 per cent rule and considerations relating to its retention, relaxation or elimination should be sent before September 16, 2016, by email to: FIN.Pensions-Pensions.FIN@canada.ca.

Proposed Amendment to Regulation 909 under the Pension Benefits Act (PBA) - Temporary Solvency Funding Relief for Private Sector Defined Benefit Pension Plans

On May 6, 2016, the Ontario government proposed regulatory amendments under the PBA that would provide private sector sponsors of single-employer defined benefit pension plans temporary solvency funding relief, as announced in the 2015 Ontario Economic Outlook and Fiscal Review and the 2016 Ontario Budget. Comments may be submitted to the Ministry of Finance by May 13, 2016.

CAPSA Consultation on the Revisions to the Pension Plan Governance Guideline

On March 11, 2016, CAPSA released a draft of their revised Guideline No. 4: Pension Plan Governance, and the related Self-Assessment Questionnaire and FAQ Document. This consultation is part of CAPSA's strategic initiative to review and determine if revisions are necessary to CAPSA's pension plan governance guidance, which is intended to assist plan administrators to implement and maintain good governance practices. CAPSA invites comments from all pension industry stakeholders by June 10, 2016.

Proposed Amendment to Regulation 909 under the Pension Benefits Act (PBA) - Eliminating the 30 per cent rule for Pension Investment

On March 14, 2016, the Ontario government proposed a regulatory amendment to eliminate the rule that restricts a pension plan from investing in more than 30 per cent of the voting shares of a corporation, known as the '30 per cent rule'. Comments may be submitted to the Ministry of Finance by April 29, 2016.

Proposed Amendments to Regulation 310/13 under the Pension Benefits Act (PBA) - Asset Transfers under Sections 80 and 81 of the PBA

The current asset transfer rules that came into effect on January 1, 2014, apply only to single employer pension plans. The proposed regulatory amendments would allow these existing rules to also apply to multi-employer pension plans (MEPPs). These amendments are not related to the proposed framework for Target Benefit multi-employer pension plans. The consultation draft is intended to facilitate dialogue concerning the proposed regulatory amendments. Comments may be submitted to the Ministry of Finance by March 21, 2016.

2015

Proposed Amendment to Regulation 178/11 under the Pension Benefits Act - Solvency Funding Relief for certain Public Sector Pension Plans

Currently, pension plans in stage 2 of the broader public sector solvency funding relief program are able to make interest only payments for the first 3 years in stage 2 and amortize the balance of their stage 2 solvency deficit over the remaining 7 years. This option is only available to plans that entered stage 2 on or before December 31, 2014. The amending regulation would extend this option to all plans accepted to stage 2. Comments may be submitted to the Ministry of Finance by November 16, 2015.

Proposed Amendments to Regulations under the Pension Benefits Act – Actuarial Standards

On October 15, 2015, the Ontario government proposed amendments to Regulation 909, O. Reg. 287/11(Family Law Matters) and O. Reg. 310/13 (S. 80 and 81 Asset Transfers). The amendments would update the commuted value calculation requirements for pensions, to reflect current actuarial standards of practice. Comments may be submitted to the Ministry of Finance by November 30, 2015.

Consultation on draft regulation to amend Regulation 909 under the Pension Benefits Act

On October 13, 2015, the Ontario government posted for public consultation a draft regulation which would exempt the Hamilton Street Railway Pension Plan from the application of the Pension Benefits Guarantee Fund and related assessment, on a go-forward basis, effective January 1, 2016. Comments may be submitted to the Ministry of Finance by November 16, 2015.

Proposed Amendment to Regulation 909 under the Pension Benefits Act

On August 25, 2015, the Ontario government proposed an amendment to Regulation 909 that would implement section 24 of the PBA, concerning pension advisory committees. Comments may be submitted to the Ministry of Finance by October 13, 2015.

Target Benefit Multi-Employer Pension Plans (MEPPs)

The Ontario government has released a consultation paper inviting feedback on key policy issues associated with developing a new target benefit framework for MEPPs in Ontario. The proposed framework would address issues such as eligibility conditions, funding rules and governance requirements. Comments can be submitted to pension.feedback@ontario.ca. Due to interest in this consultation, the submission deadline **has been extended to October 9, 2015** (from September 25, 2015).

Draft Regulations under the Pension Benefits Act (PBA) - conversions/merger of broader public sector single employer pension plans (SEPPs) into jointly sponsored pension plans (JSPPs)

Bill 14 - the 2014 Budget Bill - amended the PBA to establish a legislative framework permitting single employer pension plans in the broader public sector to be converted into jointly sponsored pension plans (JSPPs) or merged into existing JSPPs if specific conditions are satisfied. Regulatory amendments are required to proclaim the framework. Consultation on the draft regulations was completed in February 2015; the feedback has been incorporated into a revised draft of the proposed regulations. Comments are to be submitted to the Ministry of Finance by August 10, 2015.

Proposed Amendments to Regulation 909 under the Pension Benefits Act

On April 21, 2015, the Ontario government introduced for consultation proposed amendments to Regulation 909. These amendments would enact changes to strengthen the funding rules for contribution holidays and benefit improvements. Comments are to be submitted to the Ministry of Finance by June 12, 2015.

Proposed Criteria for Exempting New Broader Public Sector (BPS) Multi-Employer JSPPs from Solvency Funding Requirements

On April 15, 2015, the Ontario government has released a consultation paper on the proposed criteria that the government might use to evaluate whether newly established multi-employer Jointly Sponsored Pension Plans (JSPPs) obtain an exemption from solvency funding requirements. Comments can be sent to the Ministry of Finance by June 1, 2015.

Proposed Regulations under the Pension Benefits Act: Merger of Broader Public Sector (BPS) Single Employer Pension Plans (SEPPs) with Existing Jointly Sponsored Pension Plans (JSPPs) or Conversion to new JSPPs

The 2014 Budget Bill - Bill 14 - amended the Pension Benefits Act to establish a legislative framework permitting SEPPs in the BPS to be converted into JSPPs or merged into existing JSPPs, if specific conditions are satisfied. The Ontario government is inviting feedback on the key regulations required for the conversion or merger. The consultation documents include the proposed content for the regulations and an overview of the conversion and merger process. Comments can be sent to the Ministry of Finance by Feb. 27, 2015.

2014

Ontario Retirement Pension Plan

The Ontario government has released a consultation paper inviting feedback on key design details of the new Ontario Retirement Pension Plan (ORPP). Feedback on questions related to delivery, administration and the phased implementation can be sent to the Ministry of Finance by Feb. 13, 2015.

Proposed Amendment to Regulation 909 under the Pension Benefits Act: Pension Investment in Infrastructure

On November 6, 2014, the Ontario government proposed a regulatory amendment with respect to exemptions from the 30 per cent rule for pension investment in infrastructure. Comments may be submitted to the Ministry of Finance by January 9, 2015.

Proposed Amendments to Regulation 909 of the Pension Benefits Act

The Ontario Government has incorporated feedback from the April-June 2014 consultation and is proposing the following amendments:

- Disclosure of Environmental, Social and Governance Factors in Statements of Investment Policies and Procedures
- Statements for Former and Retired Members

There is also a proposal to amend subsection 20(3) of the Regulation so that it applies only to section 42(1)(b) and (c) of the Act:

- Commuted value transfers from Ontario plans to plans in other Canadian jurisdictions

Comments may be submitted to the Ministry of Finance by October 24, 2014.

Proposed Amendment to Regulation 909 of the Pension Benefits Act - Statements for Former and Retired Members

On April 25, 2014, the Ontario government proposed regulatory requirements to implement s. 27(2) of the PBA, requiring plan administrators to provide periodic statements to former members and retired members. Comments may be submitted to the Ministry of Finance no later than June 16, 2014.

Proposed Amendment to Regulation 909 under the Pension Benefits Act: Disclosure of Environmental, Social and Governance Factors in Statements of Investment Policies and Procedures

On April 25, 2014, the Ontario government proposed regulatory amendments that would require plans to file Statements of Investment Policies and Procedures (SIPPs) with the regulator and to disclose whether or not their SIPPs address environmental, social or governance factors. Comments may be submitted to the Ministry of Finance no later than June 16, 2014.

Proposed Amendment to Regulation 909 under the Pension Benefits Act: Updated filing requirements to reflect recent changes to accounting standards

On April 25, 2014, the Ontario government proposed regulatory amendments to update Section 76 of the General Regulation of the Pension Benefits Act (PBA) to reflect updates to the Chartered Professional Accountant (CPA) Canada Handbook, previously referred to as the Canadian Institute of Chartered Accountants (CICA) Handbook. Comments may be submitted to the Ministry of Finance no later than June 16, 2014.

Proposed Amendment to Regulation 909 under the Pension Benefits Act - Direct Payments from Pension Plans which provide Defined Contribution Benefits

On April 25, 2014, the Ontario proposed regulatory amendments that would allow pension plans which provide a defined contribution benefit to pay retirement income directly to members, based on Life Income Fund amounts under the PBA. Comments may be submitted to the Ministry of Finance no later than June 10, 2014.

Proposed Amendment to Regulation 909 - Exemption for U.S. government securities from the "10 per cent rule"

On February 5, 2014, the Ontario government proposed a regulatory amendment that would modify one of the quantitative investment limits that apply to registered pension plans in Ontario, which promotes diversification by restricting a plan administrator from investing more than 10 per cent of a pension plan's assets in a single entity, or two or more associated entities or affiliated companies. The proposed amendment would remove this restriction for investments in securities issued and fully guaranteed by the government of the United States of America. Comments on the proposal can be submitted to the Ministry of Finance on or before February 18, 2014.

2013

Pooled Registered Pension Plans (PRPP)

On November 29, 2013, the Ontario government issued a consultation paper titled "Consulting on a Framework for Pooled Registered Pension Plans in Ontario". The Ministry of Finance is seeking feedback from all interested parties on how a PRPP framework would be best implemented in Ontario. Comments can be submitted to the Ministry of Finance on or before January 20, 2014.

Letters of Credit - Public Sector Single Employer Pension Plans

On October 29, 2013, the Ontario government posted for comments, details of a draft regulatory amendment to extend the letter of credit (LOC) provisions to employer sponsors of SEPPs in the public sector that meet certain criteria. Comments may be submitted to the Ministry of Finance no later than December 31, 2013.

Consultation on Pension Asset Transfers

On July 2, 2013, the Ontario government posted for public consultation a draft regulation which would allow for the transfer of pension assets between pension plans that have been affected by a corporate restructuring, including the sale of a business, in either the public or private sector, while protecting benefit security for plan members and pensioners. Comments may be submitted to the Ministry of Finance no later than September 9, 2013.

Consultation on Pension Transfers – Public Sector Pension Plans

On February 21, 2013, the Ontario government posted for public consultation a draft regulation which would allow eligible members, former members and retired members of certain public sector pension plans to consolidate their pension benefits as a result of past government-initiated restructurings. Comments may be submitted to the Ministry of Finance no later than April 15, 2013.

2012

Facilitating Pooled Asset Management for Ontario's Public-Sector Institutions

On November 16, 2012, the Ministry of Finance released "Facilitating Pooled Asset Management for Ontario's Public-Sector Institutions", a report to the Minister of Finance from William Morneau, Pension Investment Advisor. This report follows an extended period of consultation and research, and contains a discussion of investment issues and recommendations for Ontario public sector pension plans.

Financial Hardship Unlocking

On November 13, 2012, the Ontario government released for consultation a proposed restructuring of the financial hardship unlocking program, which is intended to create a simpler and more efficient procedure for applicants requesting a withdrawal from their locked-in account based on financial hardship. Comments may be submitted to the Ministry of Finance no later than January 7, 2013.

Alberta government introduced the Employment Pension Plans Act

On October 25, 2012, the Alberta government introduced into its legislature Bill 10, the Employment Pension Plans Act.

Consultation on Proposed Regulation Respecting Letters of Credit

On July 30, 2012, the Ontario government posted for public consultation details of a draft regulatory amendment relating to letters of credit. Comments may be submitted to the Ministry of Finance no later than August 31, 2012.

Consultation on the Pooling of Pension Fund Assets of Broader Public Sector (BPS) Pension Plans

As announced in the 2012 budget, the Ontario government intends to introduce a legislative framework in Fall 2012 that would facilitate the pooling of pension fund assets in the BPS. Mr. Bill Morneau has been appointed as a special Pension Investment Advisor to lead the implementation process. The views of individual plans, affected stakeholders and other individuals and groups are being sought on a number of questions. Comments can be submitted to the Ministry of Finance on or before June 30, 2012.

Consultation on draft regulatory amendment - Public sector pension plans

On May 16, 2012, the Ontario government posted for consultation a draft regulatory amendment relating to filing extension for certain pension plans in the public sector and broader public sector for public comment. Comments for the draft amendment may be submitted to the Ministry of Finance no later than June 11, 2012.

Consultation on draft regulatory amendments under the Pension Benefits Act

On April 30, 2012, the Ontario government posted for consultation draft regulatory amendments relating to retired member, immediate vesting, surplus provisions and other changes. Also posted is an outline of the regulations required to implement sections of 74 and 74.1 of the Pension Benefits Act (grow-in) and a clarification of the circumstances under which the Superintendent may order the wind up of a pension plan.

Draft regulations relating to grow-in and to disclosure requirements were posted on May 3, 2012 and May 9, 2012 respectively.

Comments for any of these postings may be submitted to the Ministry of Finance no later than June 1, 2012. The announcement relating to these can be accessed via the ontariocanada.ca website.

Consultation on New legislative framework for jointly sponsored public sector pension plans

On April 25, 2012, the Ontario government released for consultation a new legislative framework for jointly sponsored public sector pension plans.

2011

Nova Scotia government announced a new Pension Benefits Act

The Nova Scotia government announced on November 15, 2011 a new Pension Benefits Act (the "Act") to modernize the Act, and to harmonize with the legislation of other jurisdictions. For more information, see the Labour and Advanced Education website of Nova Scotia.

CAPSA Guidelines on Pension Plan Prudent Investment Practices, Self-Assessment Questionnaire on Prudent Investment Practices, and Pension Plan Funding Policy

On November 15, 2011, CAPSA released:

- Letter to Stakeholders
- Guideline No. 6 on Pension Plan Prudent Investment Practices
- Self-Assessment Questionnaire on Prudent Investment Practices
- Guideline No. 7 on the Pension Plan Funding Policy

The prudent investment practices guideline and companion questionnaire are intended to provide guidance to plan administrators on how to demonstrate the application of prudence to the investment of pension plan assets. The funding policy is intended to provide guidance on the development and adoption of funding policies. Additional information is available on the CAPSA website www.capsa-acor.org.

Consultation on Transfer Agreements under s. 80.1 of the Pension Benefits Act (PBA)

On July 5, 2011, the Ontario Government posted the intended content of the regulations pursuant to section 80.1 of the Pension Benefits Act that will allow certain public sector pension plans to negotiate agreements that will give eligible employees an opportunity to consolidate their pension benefits from past government-initiated restructurings. Comments on these proposals can be made until August 19, 2011.

Bill 33 - amendments to the Pension Benefits Act of Manitoba

The Manitoba government has introduced Bill 33 that would amend the Pension Benefits Act (PBA) of Manitoba to allow the province's superintendent of pensions to register a lien against all property of an employer, including real estate, for failure to pay into a plan. Section 4 of the Bill amends section 11(3) of the Manitoba PBA relating to multi-jurisdictional pension plans.

Bill 173 - Better Tomorrow for Ontario Act, 2011

On May 5, 2011, the Ontario Government ordered for third reading of Bill 173. Schedule 35 of the bill contains several proposed amendments to the Pension Benefits Act. One of these proposed amendments permits a pension plan to provide a provision within its plan terms that allows a former member to transfer the commuted value of his or her deferred pension towards the purchase a life annuity. Note: this provision would change the earlier amendment proposed in Bill 135 which would have seen this option disappear in June 2011.

Risk-Based Regulation Framework sol

This consultation paper solicits pension stakeholders' comments and feedback on FSCO's proposed broad-based framework for the risk-based regulation of pension plans in Ontario. The purpose of introducing this framework is to improve FSCO's overall effectiveness in its monitoring of key pension risks, and to ensure appropriate regulatory response is taken by FSCO to address risk situations, thereby better protecting the interests of pension plan beneficiaries.

Bill 133, Family Statute Law Amendment Act, 2009

On March 3, 2011, the Ontario Government released draft regulations and consultation paper (PDF) in support of the previously enacted amendments to the Pension Benefits Act related to family law matters. The draft regulations provide the details related to the valuation, division and settlement of pension assets on the breakdown of a spousal relationship. The consulation paper outlines the contents of the draft regulations that are currently under consideration. Comments on these documents can be made until April 18, 2011.

CAPSA Guideline on Fund Holder Arrangements

On March 1, 2011, CAPSA released a Guideline on Fund Holder Arrangements (Guideline No. 5). The guideline highlights the governance principles related to fund holder arrangements, identifies the types of fund holder arrangements permitted, discusses roles and responsibilities of key players and provides information on what the regulator looks for when examining fund holder arrangements. A copy of the Guideline, Guideline Table and Letter to stakeholders are available on the CAPSA website (www.capsa-acor.org).

CAPSA Consultation - Draft Guideline and Self-Assessment Questionnaire on Pension Plan Prudent Investment Practices, and Draft Guideline on Pension Plan Funding Policy

On March 1, 2011, CAPSA released a draft Guideline and Self Assessment Questionnaire on Pension Plan Prudent Investment Practices and a draft Guideline on Pension Plan Funding Policy for stakeholders' review and comment. A copy of the draft guideline (Prudent Investment Practices ,Funding Policy), draft self assessment questionnaire and letter to stakeholders are available on the CAPSA website (www.capsa-acor.org). The deadline for submissions is June 1, 2010.

Proposed Amendment to Regulation 909

The Ontario Government, on February 10, 2011 released two proposed regulations (Temporary Funding Relief & Filing Extension) with respect to funding relief for certain single employer, defined benefit or hybrid plans within the broader public sector, including Ontario university pension plans. In an exchange for the relief, plan sponsors would be expected to adopt plan changes that would make their plans more sustainable in the long term. Details of the relief measures would be outlined in an amendment to the regulations, which is expected to come into effect by mid-May 2011. Comments on the proposal can be made until March 28, 2011.

Previous Consultations and Legislative Proposals

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

FSCO - Pension Stakeholder Consultations

As part of the initiative to communicate and to broaden stakeholder engagement, FSCO has held various consultations with its stakeholders in the pension community. The perspectives and insights provided by our stakeholders in the pension community have been essential in guiding the direction of FSCO's initiatives and projects.

FSCO appreciates the valuable contributions of our stakeholders. FSCO's policies and operational initiatives are enriched by their input, advice, ideas and suggestions.

FSCO will periodically review its consultation process to ensure that its stakeholders are fully engaged in the initiatives, and that their views and concerns are being heard.

Consultation periods will typically range from 30 to 60 days, depending on the nature and complexity of the initiative. As the consultations and projects move forward, access to information on the release of the documents, the timing of submissions and the feedback received will be readily available to all stakeholders.

We encourage all parties interested in pension matters to participate in these consultations. In submitting comments, please include the appropriate Consultation Reference. At the end of the consultation period, submissions will be made available upon request, in the language they were received. If you do not want your submission to be made public, clearly indicate this in your submission.

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Current Consultations

None at this time

Prior Consultations

- Consultations - Actuarial Guidance Notes
- Consultations - Investment Guidance Notes
- Consultations - Financial Statements Guidance Notes
- Consultations - Surplus Policies
- Consultations - Other
- All Consultations - Final Documents

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Improving Pension Regulatory Services (IPRS) - Report

Updated: July 2015 (final report)

As a result of discussions with stakeholders in the pension community and the recommendations in the 2008 final report of the Ontario Expert Commission, the Financial Services Commission of Ontario (FSCO) made a commitment to improve its pension regulatory services.

In 2009, FSCO established a framework to carry out this commitment through a multi-year initiative called 'Improving Pension Regulatory Services Project' (IPRS). Since then, FSCO has been reporting on the progress of each initiative in the IPRS report annually.

The IPRS includes the following initiatives:

- Stakeholder Engagement and Outreach Project
- Defined Benefit Application Processing Project
- Inquiries and Complaints Project
- Pension System Enhancement and Development Project
- Risk-Based Regulation Project

By 2011, the Stakeholder Engagement, Defined Benefit Application Processing and Service Target and the Inquiries and Complaints projects were integrated into FSCO's standard regulatory and operating procedures.

The framework for the Risk-based Regulation (RBR) project was developed in 2011. Since then, FSCO has conducted three pilot projects for the RBR framework, which were successfully concluded in 2013 and 2014. FSCO has moved to full implementation of the RBR framework by adopting processes and measures to solidify FSCO's risk-based approach to the regulation of pension plans.

In 2013, the System Enhancement and Development Project (SEDP) was re-aligned with FSCO's Enterprise Development Program (EDP), a single, web-based information management platform that will be used across all sectors regulated by FSCO. FSCO anticipates rolling out the EDP over the next several years beginning in 2016.

With the four initiatives now complete and fully integrated into FSCO's standard regulatory and operating procedures as mentioned above, the 2014 IPRS report will be the final one. The ongoing progress of the EDP which encompasses the SEDP will be reported in FSCO's Annual Report beginning next year.

- 2014 Report (final) Size: ## kb
- 2013 Report Size: ## kb Accessible document Size: ## kb
- 2012 Report Size: ## kb
- 2011 Report

- 2010 Report
- 2009 Report

More information:

Consultation documents, updates, stakeholder submissions and related materials are available at FSCO's Stakeholder Consultations.

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Ontario

AN UPDATE ON THE IMPROVING PENSION REGULATORY SERVICES (IPRS) PROJECT

Financial Services Commission of Ontario
January 2010

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INTRODUCTION

In 2008, FSCO launched a multi-year initiative to improve pension regulatory services (IPRS Project). By working with the pension community and taking into account the comments that were expressed to the Ontario Expert Commission on Pensions (OECP) on how FSCO carries out its responsibilities as Ontario's pension regulator, FSCO identified a number of regulatory areas that have experienced some challenges. Based on this analysis, FSCO will:

- Process certain pension applications in a more timely manner;
- Make enhancements to its pension database and system;
- Increase external stakeholder engagement in the development of regulatory policies;
- Improve communications on FSCO's activities to interested stakeholders;
- Increase transparency in performance measures and budgeting;
- Augment resources and expertise; and
- Revise its consumer complaint process for pension issues.

In keeping with its commitment to enhance stakeholder engagement, FSCO sought input from stakeholders in the pension community. In the fall of 2008, FSCO held meetings with five advisory committees to discuss how it could increase engagement with the pension community and sought input on operational responses to other identified problems. In January 2009, FSCO discussed its findings and proposed direction for several initiatives with the advisory committees at the Pension Forum. Based on this discussion, the committees endorsed FSCO's proposed direction for each initiative.

In order to include all interested pension stakeholders in this process, FSCO broadened the discussions to include other members of Ontario's pension community (e.g., retiree groups, organized labour, pension organizations, professional associations in the pension field and key public sector pension plans). In March and April 2009, FSCO held four meetings with representatives of these groups to address their concerns and seek their input.

At the same time, FSCO was consulting with all key stakeholders to gather suggestions and ideas about its strategic priorities for the 2009-10 fiscal year, and to determine how it could better involve stakeholders in its planning process. Part of these meetings were devoted to a special presentation by corporate staff who explained FSCO's planning process, outlined how external groups could participate and invited comments for the 2009-10 fiscal year.

Recognizing the need to address some of the concerns that were raised by the OECP, and in keeping with the Government's commitment to make changes to improve Ontario's pension system (as set out in the 2009 Ontario Budget), the Ministry of Finance allocated FSCO an additional 25 full-time equivalent positions (FTEs) over a three-year period. With these additional resources, FSCO has devoted its staff to work on the following five initiatives of the IPRS Project:

1. The Enhanced Stakeholder Engagement and Outreach Project
2. The Defined Benefit Application Processing Project
3. The Pension System Enhancement and Development Project
4. The Inquiries and Complaints Project
5. The Risk-Based Regulation Project

New staff have been allocated to the Pension Division, Legal Services Branch and Information Technology Unit to support the IPRS Project. Within the Pension Division, additional staff have been added to the Operational and Policy Units. In the future, additional staff will also be added to the Actuarial Unit.

The following discussion provides a summary of achievements for each of these initiatives and outlines the next steps for each project.

1. THE ENHANCED STAKEHOLDER AND ENGAGEMENT OUTREACH PROJECT

The goals of the Enhanced Stakeholder Engagement and Outreach Project are to:

- Broaden FSCO's engagement with the pension community;
- Encourage FSCO's external stakeholders to be more active participants and contributors to the health of the pension industry;
- Ensure that FSCO's policy initiatives are responsive to the concerns of all affected stakeholders; and
- Increase the transparency of FSCO's pension activities.

Accomplishments to Date

To date, FSCO has accomplished the following activities through the Enhanced Stakeholder Engagement and Outreach Project:

- Established a new advisory committee for pension plan administrators;
- Created an annual schedule for meeting with the advisory committees (meetings will be held twice a year and will also include a Pension Forum);
- Encouraged advisory committee members to raise topics of interest at meetings;
- Held special advisory committee meetings to discuss topics that were raised by committee members;
- Involved advisory committees in the review of specific issues at an earlier stage in the process and sought their advice on these issues;
- Provided more information and updates on FSCO's initiatives;
- Integrated pension stakeholders into FSCO's annual planning process and the development of the statement of priorities through the Pension Forum;
- Connected with representatives of other stakeholders in the pension community (e.g., professional organizations and associations, organized labour groups, retiree groups and public sector pension plans);
- Committed to holding annual meetings with each stakeholder group that is identified above;
- Established a process for conducting public consultations on FSCO's pension policies and other pension initiatives.

FSCO's Annual Planning Cycle

It is essential that FSCO's engagement with external stakeholders is consistent and in step with its annual planning cycle. Under the Financial Services Commission of Ontario Act, 1997, FSCO is required to deliver to the Minister of Finance and publish by June 30th of each year, a statement that sets out its proposed priorities for the year ahead. The annual Statement of Priorities (SOP) identifies FSCO's key challenges, outlines proposed strategic priorities for the coming year and provides updates on significant projects. A draft of the SOP is usually released for comment in early March each year. All of FSCO's stakeholders, including our pension stakeholders, are invited to provide comments.

In addition, FSCO will seek comments on the SOP from our pension advisory committees and representative stakeholder groups each year. In order to involve these stakeholders in FSCO's annual planning cycle and consultations, they will be given an opportunity and forum for identifying and discussing pension issues. However, the timing for this input is crucial, as it must fit into FSCO's planning cycle.

Engaging FSCO's External Pension Stakeholders

FSCO's external pension stakeholders fall into three groups:

- Group 1 – FSCO's pension advisory committees
- Group 2 – Representative stakeholder groups (which represent pension associations, organizations, professional bodies, and advocates for larger bodies, such as retirees, consumers, etc.)
- Group 3 – All other interested stakeholders who are not represented by the above groups (e.g., employers, active members, retired members and other interested persons)

While active members of pension plans (employees) are key stakeholders, they are not represented as a distinct group. This is primarily because these individuals are employees of specific companies. If they are represented at all, it is normally through a union. However, active members are able to have their voices heard through some of FSCO's existing groups.

Group 1 – FSCO's Pension Advisory Committees

FSCO currently has five pension advisory committees:

1. Accounting and Assurance Committee
2. Actuarial Committee
3. Investment Committee
4. Legal Committee
5. Multi-Employer Pension Plan (MEPP) Committee

The main functions of these advisory committees are to:

- Provide confidential advice on specific issues that FSCO has raised;
- Bring pension issues to FSCO's attention, and if necessary, request a response from FSCO;
- Act as a "sounding board" for FSCO;
- Review and comment on proposed regulatory policies or initiatives that are being prepared;
- Participate in the development of certain regulatory initiatives (when requested by FSCO);
- Advise FSCO on how to communicate with certain segments of the pension community; and
- Provide advice on proposed legislation, regulations and/or public policy initiatives (when requested).

New Advisory Committee for Pension Plan Administrators

In response to a request from pension plan administrators, FSCO has established a new advisory committee for pension plan administrators. This new committee held its first meeting on September 30, 2009.

Recent Changes

FSCO has shifted the focus of its advisory committee meetings to make greater use of committee members' technical expertise. Instead of requesting responses to draft policies and initiatives, FSCO is seeking committee members' advice before taking a position on a particular issue.

During meetings with the five committees in March and April 2009, members asked FSCO to utilize more conference calls, expressed a desire to meet more frequently and suggested regular meetings throughout the year. In response to these suggestions, FSCO held two regular meetings with each committee in the spring and fall of 2009, as well as several additional meetings to discuss specific issues as they arose. In addition, FSCO plans to host a Pension Forum in January 2010.

FSCO has also incorporated other changes that were suggested by committee members. They include:

- Having more discussions of the projects and initiatives that FSCO is working on;
- Having greater discussion of issues raised by committee members;
- Creating more complete meeting minutes;
- Sharing meeting minutes with the chairs of all committees; and
- Providing more updates/reports on issues that were previously discussed at meetings.

In addition to the establishment of the Pension Plan Administrator Committee, FSCO plans to implement other suggested changes, which include updating each committee's terms of reference.

Involvement in the Regulatory Policy Development Process

The Ministry of Finance is responsible for setting public policy with respect to pension legislation and regulations, and FSCO is responsible for developing regulatory policies related to the administration of the PBA. Our pension advisory committees expressed a desire for greater involvement in FSCO's regulatory policy development process at an earlier stage in the process. Committee members are now engaged to a greater extent much earlier in the process, while recognizing that the Superintendent is responsible for final regulatory policy direction. FSCO is committed to increasing consultation with all pension stakeholders and considering their views and ideas.

The Pension Forum

Since its inception in 1998, the Pension Forum has evolved from a high-level discussion of general pension issues, to a forum for integrating pension stakeholders into FSCO's annual planning process and development of FSCO's statement of priorities.

At the last Pension Forum that took place in January 2009, FSCO asked the advisory committees for input on its 2009-10 SOP. The Forum also included a discussion on FSCO's initiative to increase pension stakeholder engagement and presentations on two key initiatives – the Defined Benefit Application Processing Project and the Pension System Enhancement and Development Project.

FSCO's 2009 Pension Forum will be a model for future Pension Forums. Future Pension Forums will focus on FSCO's accomplishments from the past year and will seek input on FSCO's proposed initiatives for the upcoming year. The Forum's agenda will consist of:

- a recap of what FSCO has accomplished since the last Pension Forum, with a focus on how FSCO has addressed key priorities and suggestions from the last Forum;
- what FSCO will be doing in the upcoming year;
- a progress report on stakeholder engagement;
- discussion of specific initiatives (e.g., the Defined Benefit Application Processing Project and the Pension System Enhancement and Development Project); and
- options for increasing pension stakeholder engagement and communication.

Follow-up

By holding regular advisory committee meetings in the spring and fall of each year, FSCO will have an opportunity to follow-up on the Pension Forum's discussions and to ensure that any recommendations can be integrated into FSCO's annual planning cycle. At the regular spring meetings, FSCO will provide a summary of what was discussed and decided at the Pension Forum, the committees' recommendations, and an update on the process for the SOP. At the regular fall meetings, FSCO will provide a summary of the final SOP, as well as a discussion of whether the committees' suggestions were included or excluded.

Group 2 – Representative Stakeholder Groups

In 2008, FSCO began to identify organizations in the pension community that represented certain stakeholders – in particular those with whom FSCO had little or no contact – in an effort to broaden pension consultations and increase communications with these groups.

Recent Meetings

In early 2009, FSCO identified six categories of pension stakeholders and contacted the following groups:

1. Pension organizations and associations:
    - Association of Canadian Pension Management (ACPM)
    - Canadian Pension Benefits Institute (CPBI)
    - Pension Review Committee (PRC)
    - Pension Investment Association of Canada (PIAC)
    - Canadian Life and Health Insurance Association (CLHIA) - Pensions

2. Labour groups:
    - Ontario Federation of Labour (OFL)
    - Multi-Employer Benefits Council of Ontario and International Federation of Employee Benefits (MEBCO/IFEB)

3. Professional organizations:
    - Ontario Bar Association (OBA) - Pensions and Benefits
    - Canadian Institute of Actuaries (CIA)
    - Canadian Institute of Chartered Accountants (CICA)

4. Retiree groups:
    - Canadian Association of the Fifty-Plus
    - Canadian Federation of Pensioners and affiliated bodies
    - Congress of Union Retirees

5. Public sector pension plans:
    - Ontario Teachers' Pension Plan (OTPP)
    - Ontario Municipal Employees' Retirement System (OMERS)
    - OPSEU Pension Trust (OPT)
    - Ontario Pension Board (OPB)
    - Hospitals of Ontario Pension Plan (HOOPP)
    - Ontario Power Generator (OPG)
    - Hydro One
    - Colleges of Applied Arts and Technology (CAAT)

6. Pension plan administrators

Four meetings were held with these groups between February and March 2009. The agenda was similar to what was discussed at the Pension Forum. The meetings were well received and all the groups indicated that they looked forward to future involvement with FSCO. During these meetings, one group (the pension plan administrators) indicated that it would like to form its own pension advisory committee. The other groups indicated that some face-to-face meetings would be welcome, but there was a preference for greater online communication, with an emphasis on website postings and interactive communication.

Future Annual Meetings

Although these groups expressed a preference for interactive online communication, they recognize that face-to-face meetings are valuable and useful. FSCO is committed to holding an annual meeting with each of the six stakeholder groups each February, to ensure their feedback is integrated into FSCO's annual planning cycle. Suggestions from these groups would then be fed into FSCO's strategic planning process.

By holding separate meetings with each group, FSCO will be able to improve its consultations by obtaining higher quality input. These meetings would provide stakeholder groups an opportunity to express their ideas and serve as a sounding board for FSCO's initiatives. The meetings would also give FSCO an opportunity to communicate information on its projects and initiatives, and to alert the groups of recent changes. The agendas for these meetings would be very similar to the Pension Forum's agenda, with some modifications.

Other Channels of Communication

In addition to the February meetings, FSCO will send out a summary of the discussions and recommendations that resulted from the annual meeting each spring. Face-to-face meetings would only be held if they were requested by a group for a particular reason. Electronic communication and interaction would be the primary way of reaching this group.

While FSCO has attempted to reach all of its stakeholder groups, FSCO cannot be certain that everyone who speaks for an interested group has been identified. Anyone who represents a group of stakeholders who want to participate in FSCO's stakeholder consultations should contact FSCO and provide information on who they represent and what issues are of concern to the group. A special stakeholder engagement e-mail address will soon be established.

Group 3 – All Other Stakeholders

The third group consists of all other stakeholders who are not represented by any of the existing groups (e.g., employers, active pension plan members, retired pension plan members and other interested persons). The most effective way to engage this group is to post draft policies and proposed initiatives on FSCO's website, and invite feedback during a comment period. FSCO will also continue to communicate pension information and regulatory initiatives to all stakeholders through its publications and website.

2. THE DEFINED BENEFIT APPLICATION PROCESSING PROJECT

The Defined Benefit Application Processing Project has two main goals:

- Address a backlog of defined benefit (DB) pension plan applications for surpluses, mergers and transfers that were outstanding as of April 1, 2008; and
- Establish processes, improved timelines and performance measures for DB pension applications.

There were a number of reasons for the backlog: incomplete applications, unresolved transactions that preceded the application, the time required to provide a trust law analysis and contested applications that required resolution. FSCO developed a process for responding to application issues, which included encouraging direct and timely discussion with applicants.

Accomplishments to Date

Since this project began in early 2008, there has been a dramatic decrease in the backlog of DB pension applications. To date, FSCO has processed 75 per cent of the 103 applications that were outstanding as of April 1, 2008. The remaining applications are the most complex and require more extensive analysis. However, FSCO continues to work with applicants to address these outstanding applications. At the same time, FSCO is processing new applications in a timely manner to ensure that the backlog does not grow.

FSCO has prepared proposed solutions, service goals and processes for reviewing DB pension plan applications. During the first half of 2009, these solutions, service goals and processes were presented to FSCO's pension advisory committees and representative stakeholder groups.

Next Steps

FSCO will be conducting an online consultation with all pension stakeholders on these proposed solutions, service goals and processes in winter 2009.

3. THE PENSION SYSTEM ENHANCEMENT AND DEVELOPMENT PROJECT

The Pension System Enhancement and Development Project has three main goals:

- Enhance and redevelop FSCO's system in order to provide greater usability and functionality for all stakeholders;
- Expand FSCO's database on pension plans and stakeholders; and
- Implement a new electronic filing method for annual information returns.

Accomplishments to Date

After conducting a comprehensive internal review of the current system, FSCO met with its pension advisory committees and representative stakeholder groups to report its findings and obtain suggestions for improvements. Numerous suggestions and comments were received. FSCO also held meetings with large public sector pension plans and other pension regulators to discuss their systems and the challenges that would be faced if changes were implemented.

In summer 2009, FSCO launched a new initiative to enrol pension administrators into its new Pension Administrator E-Communications distribution list, which will be used to facilitate electronic communication. FSCO now has e-mail addresses for over 50 per cent of all pension plan administrators, including the majority of the largest pension plans, and has begun to communicate important pension information to plan administrators by e-mail.

Next Steps

FSCO will inform plan administrators of a new electronic filing option for annual information returns, which is expected to launch on March 31, 2010.

4. THE INQUIRIES AND COMPLAINTS PROJECT

The goal of the Inquiries and Complaints Project is to establish improved procedures for processing, tracking and reporting on all inquiries and complaints that are received by FSCO's Pension Division, to ensure they are addressed in a timely manner, while achieving more favourable outcomes.

Accomplishments to Date

Since the project began in early 2009, FSCO has completed an analysis of the current process and procedures for tracking inquiries and complaints, identified key issues that need to be addressed, revised several internal procedures on processing complaints, and identified requirements for management reports. FSCO has tracked over 3,500 inquiries and complaints since the project started.

This project was discussed with representative stakeholder groups in spring 2009 and with FSCO's advisory committees in fall 2009.

Next Steps

FSCO will finalize and communicate its complaints process and procedures to pension stakeholders, and revise its performance measures for resolving inquiries and complaints.

5. THE RISK-BASED REGULATION PROJECT

The Risk-Based Regulation Project's goal is to develop a comprehensive approach to risk-based regulation. This includes developing supporting systems and business processes, as well as identifying and securing the staff resources and expertise that are required to implement this new approach on an ongoing basis.

Accomplishments to Date

FSCO now has data on funding and investments, and is working on integrating this information. A consultant has been retained to provide advice and work with FSCO on the data integration.

Next Steps

FSCO will be developing a more integrated risk-based program. It is currently reviewing similar programs at other regulators (the Office of the Superintendent of Financial Institutions and the United Kingdom), in order to learn from their experience. Once the project's research and analysis phase is completed (the target completion date is March 2010), the development and implementation phase will begin.

THE IMPROVING PENSION REGULATORY SERVICES (IPRS) PROJECT

2010 REPORT

Financial Services Commission of Ontario

March 2011

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THE IMPROVING PENSION REGULATORY SERVICES (IPRS) PROJECT - 2010 REPORT

INTRODUCTION

2010 was a very significant year for pension regulation. On May 18, 2010, the "Pension Benefits Amendment Act, 2010" (Bill 236) received Royal Assent, and on December 8, 2010, two bills affecting pensions received Royal Assent – the "Securing Pension Benefits Now and for the Future Act, 2010" (Bill 120) and the "Helping Ontario Families and Managing Responsibly Act, 2010" (Bill 135). In addition, 2010 was the second full year of FSCO's multi-year initiative to improve pension regulatory services (the IPRS Project), which has focussed on improving the way in which we carry out our regulatory responsibilities.

Under the IPRS FSCO committed to:

1. Enhance our stakeholder engagement and outreach;
2. Process defined benefit applications in a more timely manner and establish performance measures against which we will be measured;
3. Make enhancements to our pension system and database;
4. Review our inquiries and complaints handling procedures and identify opportunities for improvements; and
5. Adopt a comprehensive risk-based regulation approach to carrying out our regulatory duties.

This report summarizes our progress on each of these commitments during 2010 and sets out the next steps in the coming year and in some cases, the years to come. It also identifies the issues our stakeholders previously brought to our attention. In keeping with our commitment to greater communication, FSCO is pleased to report back on our accomplishments and progress during 2010 and to look ahead at our next steps.

ACCOMPLISHMENTS IN 2010 AND NEXT STEPS

In 2009, the first full year of the IPRS, we established a framework that we would use to carry out our IPRS commitments and began our work. In 2010, we completed some of our most important goals and made significant progress on others. We were able to achieve these goals with the support of the Ministry of Finance and our stakeholders.

FSCO can point to the following accomplishments in 2010:

Enhanced Stakeholder Engagement and Outreach

- A successful Pension Forum for all advisory committees in January, 2010 which reported on FSCO's achievements in 2009 and sought input on FSCO priorities for 2010.
- Two special meetings of our combined advisory committees to discuss proposed amendments to the Pension Benefits Act under Bills 236 and 120.
- Annual meetings with six pension stakeholder groups in March and April to seek input on pension issues, report back on FSCO's achievements in 2009, and discuss FSCO priorities for 2010.
- Special meetings with our advisory committees and stakeholder groups on the risk-based regulation project.
- Established a process for public consultation on draft FSCO pension policies and posted three policies for public comment (Defined Benefit Applications and Service Targets policy, Management and Retention of Plan Records policy, and Inquiries and Complaints best practices).
- The first webinar on the retention and management of pension plan records in November 2010, with over 1,000 participants.

Next steps:

- Special meetings to discuss proposed legislation and regulations once they are introduced.
- Utilizing advisory committees to provide input on new FSCO policies as a result of new legislation.
- Annual meeting with each stakeholder group in February – March 2011.
- Webinar on inquiries and complaints in March 2011, to be broadcast in English and French.

Defined Benefit Application Processing

- Virtually eliminated the backlog of 103 pension applications on file as of April 1, 2008.
- Implemented a new policy on processing of DB applications with service targets, which was posted on June 30, 2010 following consultation.
- Established internal tracking mechanism on FSCO performance.

Next steps:

- Continue to process new applications in accordance with new policy and attain service targets.
- Post a report of FSCO's performance in processing applications for the year.

Pension System Enhancement and Development

- Introduced a fully functional Pension Services Portal, which offers an entry point for all online communication between FSCO and plan administrators.
- Introduced electronic filing option for Annual Information Reports (AIRs) which provides administrators with the ability to file their AIR electronically in one of two formats.
- Developed user requirements for migration to new platform in 2011.
- Commenced initiative to expand electronic filing capacity for 2011.

Next steps:

- Continue work to provide plan members with access to more information about their pension plan through the Pension Services Portal.
- Make additional forms available for electronic filing – Information Investment Schedule (IIS) in April, 2011 and the PBGF Certificate and the Actuarial Information Summary (AIS) in July, 2011.
- Migrate to new .msnet platform in July, 2011.
- Commence scanning incoming documents in early 2011 as first stage in FSCO pilot project. To be followed by scanning of documents currently on-site.
- Post frequently asked questions on the electronic filing options through the Pension Services Portal in January, 2011.

Inquiries and Complaints

- Posted consultation paper on best practices for plan administrators on how to deal with member complaints and inquiries.
- Implemented enhanced tracking of general inquiries by type of issue.
- Provided an expanded range of services to stakeholders while supporting enhanced tracking of inquiries and complaints, through the use of a new pension phone queue.
- Posted information to assist plan members in making inquiries.

Next steps:

- Develop a process and mechanism by which to communicate and report on FSCO performance measures in responding to member complaints and inquiries.
- Make recommendations that will better address complaints and inquiries.
- Finalize and post best practices document for plan administrators on how to deal with member complaints and inquiries.

Risk-Based Regulation

- Framework discussed internally with FSCO staff including focus group sessions.
- Framework for the comprehensive risk-based regulation developed and revised to incorporate comments from stakeholders in December 2010.
- Updates provided at the 2010 Pension Forum and the regular advisory committee meetings.
- Two special meetings to discuss proposed framework, one in July 2010 with FSCO advisory committees and one in October with stakeholder groups.

Next steps:

- Revised draft framework to be released for public consultation – Spring 2011.
- Begin implementation of the framework in Summer 2011.
- Continue to seek feedback and suggestions from all stakeholders.

A more detailed description of the IPRS follows.

THE IMPROVING PENSION REGULATORY SERVICES (IPRS) PROJECT - 2010 REPORT

2010 was the second full year of FSCO's multi-year initiative to improve pension regulatory services (the IPRS Project). The IPRS Project resulted from discussions with our stakeholders in the pension community as to how FSCO could improve our regulatory services and the recommendations in the final report of the Ontario Expert Commission on Pensions with respect to how FSCO carried out its responsibilities as Ontario's pension regulator.

Under the IPRS FSCO committed to:

1. Enhance our stakeholder engagement and outreach;
2. Process defined benefit applications in a more timely manner and establish performance measures against which we will be measured;
3. Make enhancements to our pension system and database;
4. Review our inquiries and complaints handling procedures and identify opportunities for improvements; and
5. Adopt a comprehensive risk-based regulation approach to carrying out our regulatory duties.

This report summarizes our progress on each of these commitments in the past year and sets out the next steps in the coming year and in some cases, the years to come. It also identifies the issues our stakeholders previously brought to our attention. In keeping with our commitment to greater communication, FSCO is pleased to report back on our accomplishments and progress during 2010 and to look ahead at our next steps.

1. ENHANCED STAKEHOLDER ENGAGEMENT AND OUTREACH

The goals of enhanced stakeholder engagement and outreach are to:

- Broaden FSCO's engagement with the pension community;
- Encourage FSCO's external stakeholders to be more active participants and contributors to the health of the pension industry;
- Ensure that FSCO's policy initiatives are responsive to the concerns of all affected stakeholders; and
- Increase the transparency of FSCO's pension activities.

There are three groups that make up FSCO's external pension stakeholders. These groups each provide FSCO with a unique perspective concerning issues in the pension community:

- Group 1 – FSCO's pension advisory committees.

- Group 2 – representative stakeholder groups (which represent pension associations, organizations, professional bodies, and advocates for larger groups, such as retirees, organized labour, consumers, and public sector pension plans).
- Group 3 – interested stakeholders, who are drawn from employers, plan members, retired members and other interested persons.

FSCO's Strategic Plan

It is essential that FSCO's engagement with external stakeholders is consistent and in step with its annual planning cycle. Under the Financial Services Commission of Ontario Act, 1997, FSCO is required to deliver to the Minister of Finance and publish by June 30th of each year its proposed priorities for the year ahead. In 2011, the development of our priorities will be included in the preparation of FSCO's 2011-14 Strategic Plan. As part of this process, we will also be developing performance measures for all parts of FSCO. We will be seeking comments on our Strategic Plan from our advisory committees and representative stakeholder groups in early 2011, and a draft of the document is expected to be released for comment in March, 2011.

Group 1 – FSCO's Pension Advisory Committees

FSCO has six pension advisory committees:

- Accounting and Assurance committee;
- Actuarial committee;
- Administrator committee;
- Investment committee;
- Legal committee; and
- Multi-Employer Pension Plan (MEPP) committee.

Members of each committee bring their professional experience in various aspects of pensions to the committee. FSCO seeks representatives of different constituencies on the committees but members serve as individuals, not as representatives of their employer or organization.

In 2009, FSCO initiated regular meetings with our advisory committees twice a year, in the spring and fall. We established a new committee, the Administrator Committee, to reflect the needs of plan administrators. FSCO also committed to greater consultation with our committees on our communications, and we established a process to post draft policies for public comment.

When we met with our advisory committees in 2009, members asked FSCO to utilize more conference calls, to continue to meet regularly twice a year, to provide members with an opportunity to raise and discuss issues of importance to them, to provide more updates on what FSCO is doing, and to have more meetings with staff of the Ministry of Finance. They also expressed their desire to play a more active role in the regulatory policy development process.

Activities in 2010

FSCO Pension Forum and Regular Committee Meetings

In January 2010, FSCO held our annual Pension Forum for members of all our advisory committees. At the Forum, we reported back on our achievements for 2009 and sought input on our priorities for the upcoming year. Since the Pension Benefits Amendment Act, 2010 (Bill 236) had been introduced a few weeks prior to the Forum, most of the discussion about FSCO's priorities for the upcoming year centred on the legislative process and FSCO's role in it. FSCO held spring and fall meetings with each committee and provided the opportunity for members to raise issues for discussion and questions as well as providing updates on key initiatives.

Special Meetings

The past year saw the introduction of two significant bills on pension reform: the Pension Benefits Amendment Act, 2010 (Bill 236) in December, 2009, and the Securing Pension Benefits Now and for the Future Act, 2010 (Bill 120) on October 19, 2010. In both instances, FSCO held special meetings for all our advisory committees and staff of the Ministry of Finance shortly after the bills were introduced to discuss the contents of each bill and to identify gaps and omissions which could impair their effectiveness when implemented.

In addition, FSCO held a special meeting in July 2010 for all committees to seek input on the risk-based regulation project, and a special joint meeting of the Accounting and Assurance and the Actuarial committees in late December 2009 to discuss proposed changes to the accounting rules for pension plans, what the implications might be for pension regulation, and what changes would be required to the PBA regulations.

The response from all our committees has been positive and encouraging. In response to FSCO's efforts, many committee members have become more active and discussions have significantly improved. The committees are now providing input early in the process with frank, helpful suggestions to FSCO.

Committee members were especially pleased with FSCO's special meetings to review new legislation. They said that they had made a significant contribution to the process at a stage where their input could make a real impact.

Group 2 – Representative Stakeholder Groups

In 2009, FSCO met with representatives of pension organizations and associations that fall outside the advisory committee structure. These included labour groups, professional organizations, retiree groups, public sector pension plans and pension plan administrators.

They made a number of suggestions as to things FSCO could do that would assist them, including:

- Provide more information about pension issues on our website;
- Hold regular annual meetings and provide an opportunity for groups to raise issues of importance to them;
- Hold special meetings on specific issues;
- Improve transparency on policy issues and on the status of applications made to FSCO; and
- Focus on identifying at-risk pension plans and ensure that benefits are protected.

Activities in 2010

Following our initial meetings with our stakeholder groups in 2009, FSCO began to address the suggestions that they made. We have increased the number of postings on pension items and focussed on providing more questions and answers on specific issues. This was especially true when new legislation was introduced – FSCO posted announcements and links as soon as Bills 236 and 120 were introduced, as well as questions and answers pertaining to those bills. FSCO posted additional information regarding changes to the rules on locked-in accounts and consolidated all the questions on locked-in accounts. In addition, FSCO has addressed many of the concerns regarding greater transparency on applications in the defined benefit application processing project (see page 12) and has made significant progress on re-focussing plans at risk through the risk-based regulation project (see page 15).

Meetings with each stakeholder group were held in March and April, 2010. This year, we held a separate meeting with representatives of numerous unions and organized labour, and a separate meeting with FSCO's Consumer Advisory Committee, a group of mostly retirees who provide input on FSCO initiatives from a consumer perspective. All attendees welcomed the opportunity to meet with the pension regulator and expressed their desire for future meetings. FSCO reiterated our commitment to annual meetings and special meetings on specific issues.

At our meetings, the groups expressed a desire for a number of FSCO initiatives in the coming year, including:

1. An information session on the new pension legislation and regulations, once they are finalized. The sessions would cover what is included in the legislation and regulations and what FSCO policies would be needed.
2. Continuing to make more information available on our website. Specifically, they would like to be able to see proposed plan amendments and data about plans that were wound up. They were pleased with what is planned in our systems project but would like more information to be available.
3. More details about complaints made to FSCO about particular pension plans.

4. More details on our risk-based regulation project, specifically on what lessons FSCO learned from the recent financial crisis and how FSCO can respond to such challenges in the future.
5. A meeting on broad pension issues, including how the regulatory system is working.

Regarding the risk-based regulation project, FSCO held a special meeting to discuss the project for all our stakeholder groups in October 2010. The purpose of the meeting was to bring them up to date on what we had done and to seek their input on the next stages. The meeting was very well attended and members made numerous suggestions on how the project can be improved. The attendees were very pleased to be invited and to be given an opportunity to be heard.

Group 3 – Interested Stakeholders

The third group consists of interested stakeholders. This group is drawn from employers, active pension plan members, retired pension plan members and other interested persons. Recognizing that the most effective way to communicate with this group is to post draft policies and other proposed initiatives on our website, FSCO followed up on our 2009 initiatives by finalizing our public consultation process. This involves posting a draft document and inviting comments from the public for a 60-day period. All comments that are received are considered and responded to, and the comments and responses are posted.

FSCO posted three documents for public consultation in 2010 – the Defined Benefit Application Process and Service Targets policy, the Management and Retention of Records policy and the Inquiries and Complaints best practices.

Policy Outreach

A key component of the stakeholder engagement project is to develop new ways in which FSCO can communicate information to our stakeholders, especially pension plan administrators and plan members. On November 3 and 9, 2010, FSCO launched a new initiative with its first “webinar”.

The webinar was on the retention of pension plan records and documents, and over 1,000 individuals participated. Based on the results of the survey, the webinar was a success. Overall, attendees said they found the information quite useful, that the delivery of the webinar was good/excellent, and that it was very easy to follow along and participate in the webinar. In addition, the vast majority of attendees said they are very interested in attending future pension webinars. All webinars will be conducted live in English and French.

Webinars will provide a way to make more information more accessible to more people. Another is scheduled for spring of 2011 on inquiries and complaints. FSCO is committed to holding at least two webinars a year and is also looking to develop other kinds of policy outreach on specific pension issues.

Next steps in 2011

The 2011 FSCO Pension Forum for our advisory committees was held on January 17, 2011. In addition to discussing FSCO's priorities for 2011 and FSCO's strategic plan, we discussed what the pension community can do to expand pension coverage in Ontario, with special attention to encouraging defined benefit plans through pension innovation.

Regular meetings of the advisory committees will be held in the spring and fall of 2011. When new pension legislation and regulations are introduced, FSCO will hold special meetings to discuss the proposed changes and seek confidential feedback, which will be shared with the Ministry of Finance. In addition, FSCO will seek input from the advisory committees as to what new regulatory policies should be developed to reflect legislative changes and which existing policies need to be revised.

Once new pension legislation comes into effect, FSCO will hold information sessions on the new provisions for our stakeholders. The information sessions will discuss the changes to the PBA that are contained in Bills 236 and 120 and the new rules regarding the division of pensions when a spousal relationship breaks down. We will also hold a session on the new agreement among regulators regarding the regulation of pension plans with members in more than one jurisdiction once it is finalized and signed.

FSCO will hold another webinar in spring, 2011. Details on the topic will be available closer to the event date.

2. DEFINED BENEFIT APPLICATION PROCESSING

FSCO committed to improving our defined benefit (DB) application process to eliminate a backlog of key DB pension plan applications and to establish new processes and service targets for DB pension applications.

We are pleased to report that 2010 saw the virtual elimination of the backlog: of the 103 applications that were outstanding as of April 1, 2008, there are only three remaining, and those are awaiting court resolution of specific outstanding issues.

On June 30, 2010, FSCO posted a new policy on processing DB applications. This policy was the result of an extensive consultation process including a public consultation. The new process became effective on June 30, 2010, the day of the posting.

The new service targets apply to any new applications FSCO receives after June 30, 2010.

The new policy streamlines the process for these key applications and includes performance targets that must be met for each type of application. Now that the backlog has been eliminated and a new process is in place, FSCO is confident that we will be able to handle the number of new applications that are likely to occur once amendments to the PBA come into effect.

Next steps in 2011

In 2011, FSCO will process new applications in accordance with our new policy, including attaining service targets. FSCO will post our record on reaching the new service targets each year.

3. PENSION SYSTEM ENHANCEMENT AND DEVELOPMENT

The goals of FSCO's pension system enhancement and development are:

- to enhance and redevelop FSCO's system in order to provide greater usability and functionality for all stakeholders;
- to expand FSCO's database on pension plans and pension stakeholders; and
- to implement a new electronic filing capacity for all required filings and applications.

In March, 2010, the Pension Services Portal came on line. The portal allows administrators access to information about their plan and offers an entry point for electronic filing. The PSP is the mechanism through which administrators will be able to view the status of any application and will be able to retrieve their filed information at any time.

Electronic filing through fillable forms became available on September 9, 2010. Since that time, FSCO has received over 700 requests for filing extensions so that filing could be done on fillable forms. Since this option became available relatively late in the year, approximately 10% of registered plans chose to file in this manner. In 2011, we anticipate that more plans will opt for electronic filing for the 2010 filing year.

On March 31, 2010, FSCO announced the new electronic filing option for AIRs. This option provides administrators with the ability to complete their AIR using an online form, electronically in XML format, or in paper format. As a result, there are now three ways to file AIRs electronically:

1. Uploading an Extensible Mark Up Language (XML) file containing AIR information to the portal;
2. Transferring an XML file that contains AIR information to FSCO via a secure File Transfer Protocol (FTP) access portal; or

3. Completing and submitting an online fillable form on the portal.

The ability to file electronically allows administrators to save time by not having to complete the AIR in paper format; to submit AIR data for one or more pension plans in a single electronic file; and to transfer their files to FSCO through a secure electronic channel.

Next steps in 2011

FSCO intends to make more forms available for electronic filing in 2011 - the Information Investment Schedule (IIS) in April, and the PBGF form and the Actuarial Information Summary (AIS) in July. As this occurs, we anticipate that more plans will opt for electronic filing for the 2010 filing year. In addition, FSCO will be migrating to the new ms.net platform in July 2011. This will provide greater power for better and faster filing, and will allow for more secure filing. It will also enable better plan viewings on a secure site.

FSCO will also be undertaking a pilot imaging initiative, which will enable plans to do their filing with .pdf documents. The first phase will begin in 2011 with scanning of new incoming mail, followed by scanning of on-site documents. We will then consider the possibility of scanning historical information.

4. INQUIRIES AND COMPLAINTS

The overall goal of our effort to address inquiries and complaints is to establish improved procedures for processing, tracking and reporting on all inquiries and complaints from pension plan members regarding their pensions, pension information they have received or should have received, and their communication with their plan administrator. To achieve this goal, FSCO has taken a number of steps in 2010 in furtherance of these objectives. The Pension Division database has been improved so that it now can track member inquiries. FSCO has implemented a general inquiry transaction to track inquiries by type of issue, which assists in issues management. We also implemented a pension phone queue to capture statistics and a new management report for keeping track of inquiries and complaints. And, FSCO has developed and posted enhanced web postings for plan members on the role of the pension plan administrator, the role of FSCO and more detailed information on the pension complaint process.

As of the end of October, 2010, FSCO has received 12,525 pension inquiries. The top issues we have dealt with have been:

1. interpretation of the legislation and regulations;
2. access to information about FSCO pension policies;
3. clarification of the rules on locked-in accounts;
4. information on required filings; and
5. member rights under the PBA.

In addition, FSCO has received over 30,000 inquiries regarding financial hardship unlocking.

On June 30, 2010, FSCO posted general information about inquiries and complaints for pension plan beneficiaries (individuals who have benefits or other entitlements under a pension plan), which provides information and guidance on:

- Accessing plan records and information;
- Who to contact for pension inquiries and complaints;
- How to contact the pension plan administrator;
- How to send an inquiry or complaint to FSCO;
- Responsibilities of the pension plan administrator; and
- FSCO's role and responsibilities relating to pension plans.

FSCO has drafted a best practice guideline for plan administrators on how they should deal with member complaints and inquiries. This has been reviewed by FSCO's advisory committees and was posted for public consultation.

Next steps in 2011

FSCO will develop a process and mechanism by which to communicate and report on our performance measures in responding to member complaints and inquiries. Based on enhanced reporting, we will make recommendations that will better address complaints and inquiries. FSCO will finalize and post the best practices document for plan administrators on how to deal with member complaints and inquiries.

5. RISK-BASED REGULATION

FSCO will adopt a comprehensive risk-based approach to carrying out our regulatory duties of proactive monitoring, auditing, inspecting and investigating plans whose profiles, sponsors' profiles or sectoral location suggest that they may be at risk of failure or of significant under-funding. In addition, FSCO has expanded and updated its existing systems for monitoring risks, to ensure that these systems are designed and administered by expert staff, and supplement them with other strategies for detecting plans at risk. FSCO will be empowered to undertake remedial measures based on the results of its proactive monitoring.

In 2009, FSCO initiated a project with the goal of developing a framework for risk-based regulation (the "framework") that would consider the broader range of pension plan risks, including those related to governance, risk management, operations and sponsor-related risks. As a starting point, FSCO retained PriceWaterhouseCoopers to develop the framework, a first draft of which was completed in early 2010.

The framework provides for a base level of supervision across all pension plans including a focus on industry education, promotion of best practices, and monitoring of risk indicators. Above this base level, the framework directs resources to those plans that are exposed to or exhibit greater risks. This approach is intended to help FSCO more effectively manage the risk of pension plan failure and optimizes the use of regulatory resources.

The objectives for FSCO's risk-based regulation of pensions are as follows:

- Regulation should enhance the security of plan beneficiaries' benefits.
- Regulation should reduce the risk of situations which may lead to claims on the Pension Benefits Guarantee Fund (PBGF);
- Regulation should ensure compliance with the legislation, in particular ensuring that FSCO discharges its responsibilities set out in the Pension Benefits Act; and
- Regulation should encourage sponsors and plan administrators to adopt good governance, risk management and business practices.

Following extensive internal review, FSCO began the process of external consultation on the framework with a presentation at the Pension Forum in January 2010 and the annual meetings of stakeholder groups. This was followed up with more detailed discussions at the spring meetings of the six advisory committees, where it was agreed that a special meeting for all interested members of the committees would be called to seek input on 31 specific questions regarding the framework and the next steps. This meeting took place in August, 2010 and resulted in numerous comments and suggestions. The next step was an invitation to meet with interested members of FSCO's pension stakeholder groups, which took place in October, 2010 and produced additional positive responses.

Next steps in 2011

FSCO will release a revised paper on risk-based regulation for public consultation in early 2011. Taking into account comments received from stakeholders, we will begin implementation of the framework in June, 2011. FSCO will continue to seek feedback and suggestions from all stakeholders.

Ontario

THE IMPROVING PENSION REGULATORY SERVICES PROJECT 2011 REPORT

Financial Services Commission of Ontario

March 2012

THE IMPROVING PENSION REGULATORY SERVICES PROJECT - 2011 REPORT

INTRODUCTION AND OVERVIEW

The Improving Pension Regulatory Services (IPRS) project is FSCO's response to some of the conclusions in the report of the Ontario Expert Commission on Pensions (OECP) which identified areas where FSCO could strengthen its pension regulatory services. In its final report, the OECP recommended that FSCO increase its engagement and consultation with stakeholders in the pension community; improve the response times for applications for defined benefit pension plans and develop transparent performance standards; enhance the functionality of pension data and the pension data system; and promote the risk-based monitoring of pension plans.

FSCO began to address these recommendations in 2008 by holding extensive consultations with our stakeholders in the Ontario pension community. In 2009, we established a framework by which we would carry out the five parts of the IPRS and began our work.

In 2010, we completed a number of goals, made significant progress on others, and launched the risk-based regulation project which will be a key part of our regulatory activity.

Our activities in 2011 reflected our success in incorporating into FSCO's standard operating procedure some of the innovations and improvements that came out of our IPRS initiatives. We continued to develop the risk-based regulation project and reached milestones in the systems development project. As well, the stakeholder engagement initiative entered a new phase with greater involvement of our advisory committees and stakeholder groups in FSCO's pension policy development. In addition, we established our webinars as a key part of our communications program.

As our accomplishments increased, so did our stakeholders' expectations. In 2011, stakeholder groups no longer asked for increased consultations, greater involvement, and better communication from FSCO; they acknowledged that we were meeting those demands. Instead, the requests became more pension-specific. They asked for greater disclosure of specific information in pension plans to more people, more detailed explanations of the new legislative requirements, expansion of our website, and additional changes in the legislation. FSCO's challenge is to respond to this new phase of the IPRS.

Under the IPRS FSCO committed to:

1. Enhance our stakeholder engagement and outreach (now the Stakeholder Engagement Project);
2. Process defined benefit applications in a more timely manner and establish performance measures against which the processing will be measured;

3. Make enhancements to our pension system and database (now the Systems Enhancement Development Project);
4. Review our inquiries and complaints handling procedures and identify opportunities for improvements; and
5. Adopt a more comprehensive risk-based regulation approach to carrying out our regulatory duties.

In keeping with our commitment to greater communication, FSCO has prepared this report to summarize progress on each of our commitments in the past year and set out next steps. This report identifies those initiatives that have been incorporated into our standard operating procedure and discusses the issues our stakeholders brought to our attention this year and how we have responded. And it looks ahead to challenges we are likely to face in a difficult time.

1. STAKEHOLDER ENGAGEMENT PROJECT

The goals of the stakeholder engagement project are to:

- Broaden FSCO's engagement with the pension community;
- Encourage FSCO's external stakeholders to be more active participants and contributors to the health of the pension industry;
- Ensure that FSCO's policy initiatives are responsive to the concerns of all affected stakeholders; and
- Increase the transparency of FSCO's pension activities.

Meetings with stakeholders

FSCO's external stakeholders consist of professional pension advisory committees, representatives of various interest groups in the pension community, and interested persons in the public at large. We successfully reached out to all these stakeholders through a combination of regular meetings, special working sessions where input was sought on specific issues, two well-attended webinars, and a redesigned website that provides greater access to plan-specific information and more information about pensions than in any previous year.

During 2011, FSCO held bi-annual regular meetings with our six advisory committees and the annual Pension Forum. The Pension Forum took place in January and featured a useful and interesting discussion on how to promote pension coverage. In the early spring, we met with representatives of retiree groups, public sector pension plans, pension organizations and associations, and organized labour groups to discuss pension issues.

There were two significant opportunities for in-depth consultation with our stakeholders: the new rules for the valuation and division of pensions on the breakdown of a spousal relationship (commonly known as the family law rules), and FSCO's risk-based regulation project. When the draft regulations for the family law rules were released in June 2011, FSCO held a special meeting for members of our advisory committees to review the regulations and offer suggestions for changes. The meeting was attended by staff of the Ministry of Finance policy group and was well received.

The new family law rules required the development of new Superintendent-approved forms, which will be required for all applications and valuations. FSCO struck a special working group composed of advisory committee members to assist staff in developing these forms. Later in the year, FSCO assembled yet another group, composed of members of the interest groups, to review the draft forms. The work called for a significant amount of preparation on the part of the group members. Their involvement proved that FSCO's efforts to seek input at an early stage was essential.

The second opportunity for in-depth consultation was the risk-based regulation project, which will be discussed on page 8.

WHAT OUR STAKEHOLDERS ASKED FOR AND FSCO'S RESPONSE

Stakeholders asked for:	***FSCO's response:***
Greater clarity on the expected outcomes of the risk-based regulation initiative – risk rating, definite standards (*pension organizations).*	The pilot projects on financial risks and operational risks, which will provide greater clarity.
An explanation of new legislation and regulations, especially on the new family law rules *(pension organizations and retiree groups).*	FSCO will hold information sessions for our stakeholders when the legislation and regulations are finalized. FSCO held two webinars on the family law rules in November 2011 and will provide additional information in the future.
A more "user-friendly" website *(retiree groups).*	Our new website launched in July 2011 was well received.
Greater access to plan information for retired plan members *(retiree groups).*	As more documents are filed electronically, FSCO will make more information available.
Earlier regulatory involvement when we become aware that a plan sponsor is facing economic difficulties *(retiree groups).*	Will be built into FSCO's risk-based regulation initiative.
Reassurance that the risk-based approach will not single out a particular type of pension plan or require detailed information beyond what is currently provided *(public sector plans).*	Plans will not automatically be given a higher risk just because they are a particular type. We will not require excessive information but higher risk plans may have to provide more details about certain aspects.

Stakeholders asked for:	*FSCO's response:*
Reassurance that FSCO will ensure that the identity of individuals who make complaints is protected *(labour groups).*	FSCO will delete any reference to an individual's name and ensure that our data system maintains confidentiality.

Webinars

Following up on our initial webinars in 2010, FSCO held two successful webinars in 2011. In April, we hosted a webinar on developing a policy for handling complaints and inquiries, and in November we hosted a webinar on the new rules for the valuation and division of pensions on spousal breakdown which came into effect on January 1, 2012. Both were very well attended, with 470 registering for the first and 792 for the second. There were so many registrants for the family law webinar that a second was added. Both webinars were made available in English and French.

Reaction to the webinars has been extremely positive. FSCO will continue to use webinars as a key channel in reaching our stakeholders and the public. Two more webinars will be held in 2012.

Webcasts

FSCO has begun work on developing webcasts on specific topics. These will be shorter than a webinar and will not be interactive. Rather, the presentation will be recorded and made available to anyone through the website.

FSCO Website

FSCO re-launched its website on July 1, 2011, and featured enhanced access to pension information. During 2011, FSCO posted more information about pensions than in any previous year, with 113 postings.

The work of the Stakeholder Engagement Project is complete and the initiatives undertaken have been incorporated into FSCO's regular operating procedure.

2. DEFINED BENEFIT APPLICATION PROCESSING AND SERVICE TARGETS

In 2011, FSCO eliminated the backlog of outstanding defined benefit plan applications that were on file April 1, 2008. FSCO is pleased to report that we are now processing applications in keeping with our new policy that came into effect in 2010 and that we are meeting the service targets that are part of our commitment.

The following table summarizes our responses to applications in 2011:

Application Type	Applications Received	Median number of days to close a complete and compliant application	FSCO's Service Target
Wind Ups – Full	188	47	120 days
Wind Ups – Partial	18	27	120 days
Asset Transfers s. 80 (successor plans)	8	53	120 days
Asset Transfers s. 81 (mergers)	13	23	120 days
Surplus Refunds – Wind Up	5	98	150 days
Surplus Refunds – Continuing	0	-	150 days
Employer Overpayment Refunds	15	41	90 days
Member Contribution Refunds	31	8	60 days

FSCO will continue to process applications in accordance with our policy and attain our service targets. The DB application processing project has now been completed and the service targets are included in FSCO's standard operating procedure.

3. SYSTEMS ENHANCEMENT DEVELOPMENT PROJECT

The goals of the pension Systems Enhancement Development Project (SEDP) are:

- To enhance and redevelop FSCO's system in order to provide greater usability and functionality for all stakeholders;
- To expand FSCO's database on pension plans and pension stakeholders; and
- To implement a new electronic filing capacity for all required filings and applications.

The SEDP entered a new phase when the Pension Services Portal came on line in March 2010. The portal provides an entry point for plan administrators and their agents for electronic filing of documents and communication. The portal is the mechanism through which administrators and their agents can view the status of any e-filing and can retrieve their filed information.

In 2010, administrators were able to file Annual Information Returns (AIRs) electronically in fillable forms. The ability to file forms electronically was significantly expanded in 2011 as the Investment Information Schedule (IIS) came online in May, and the Pension Benefits Guarantee Fund (PBGF) certificate came online in August. Because actuarial valuation reports and financial statements are not standardized forms, those forms could not come online until we were able to expand our ability to image documents (see next paragraph). On December 21, 2011, the Actuarial Valuation Report (AVR) and the Actuarial Information Summary (AIS) became available on the portal. The AVR, AIS and the Financial Statements (FS) can now be filed electronically. Now that all regular filings can be completed online, as a part of its move to electronic filings, FSCO intends to make all required electronic filings mandatory in 2013.

Another part of the SEDP is the move toward expanded imaging of documents. A test project commenced with the scanning of new documents received for one pension officer's allocation. In the future, all new documents received will be scanned. At that point, FSCO will consider how to scan on site and historical documents. This will be of great assistance in serving individuals who need to inspect plan documents, especially those outside of Toronto, as scanned documents can be copied onto a disc and sent to the individual. Eventually, imaged documents will be accessible through the portal with the issuance of a temporary access account.

As FSCO moves ahead with the implementation of MS Dynamics for all business areas, the SEDP will continue to work closely with IT to ensure that all business and stakeholder needs are met through MS Dynamics and any necessary development.

FSCO has continued to seek input from our stakeholders with respect to how the changes that have been introduced are working. Senior staff who are involved with the SEDP attend all meetings with our stakeholders, provide an update on the project, and invite comments, questions and suggestions on improving our work.

4. INQUIRIES AND COMPLAINTS PROJECT

Significant progress was made during 2011 on the Inquiries and Complaints Project. FSCO now captures data related to inquiries and complaints, and prepared a best practice guideline for plan administrators on developing a policy to deal with member complaints and inquiries. The guideline was posted to FSCO's website in April 2011. That same month, FSCO began posting information about complaints received, and inquiries and complaints was the subject of a FSCO webinar in March.

In 2011, FSCO received a total of 12,170 inquiries. The average number of days it took to address an inquiry was 6 days, and the FSCO service standard is 15 days.

In 2011, FSCO handled 276 complaints. The top five complaint issues were:

1. Accuracy of benefit calculations;
2. Content and accuracy of annual pension statements;
3. Timeliness of termination statements;
4. Status of applications filed with FSCO; and
5. Interpretation of plan entitlements.

To assist plan members in understanding their pension rights and how to make complaints and express their concerns, FSCO has prepared a Pension Tool Kit, which is scheduled for posting in March, 2012.

With respect to pension general inquiries that are directed to FSCO, additional resources have been added to the Pension General Information (GI) line. Starting in early 2012, the Pension Plans Branch will fully utilize these additional resources and have three pension staff available daily to answer any pension-related general inquiries. This will result in shorter wait times on the Pension GI line, increased first point of contact resolution and overall improved stakeholder service. There will be ongoing reporting with the OPS Quality Service Delivery Team to ensure our responses meet the standard for the OPS.

When the Pension Tool Kit is published, the inquiries and complaints project will be complete.

5. RISK-BASED REGULATION

The objectives for FSCO's risk-based regulation of pensions are:

- Regulation should enhance the security of plan beneficiaries' benefits;
- Regulation should reduce the risk of situations which may lead to claims on the Pension Benefits Guarantee Fund (PBGF);
- Regulation should ensure compliance with the legislation, in particular ensuring that FSCO discharges its responsibilities set out in the Pension Benefits Act; and
- Regulation should encourage sponsors and plan administrators to adopt good governance, risk management and business practices.

The risk-based regulation project picked up where it left off in 2010 by posting a consultation paper in March 2011 describing the proposed design of the risk-based regulation framework.

The core of the framework is a Regulatory Response Model, which includes a trigger mechanism based on readily available information (risk indicators) and supported by a plan specific assessment process to identify plans posing the greatest risks. Both the likelihood and impact of risk are taken into account in the risk assessment process.

The Framework recommends that a tool be developed to present the risk indicators through taking quantifiable/measurable risk-based metrics and presenting these in an appropriate format. The primary purpose of this risk indicator tool is to provide an initial pre-screening to establish a preliminary assessment within our Regulatory Response Model. The tool will highlight potential key risk areas for further analysis and will be used to prioritize our regulatory activities. It will also support staff in the next levels of review (Tier 1 and 2) within the Framework.

Plans will be selected for Tier 1 reviews based largely on the outcome of the risk indicator tool. The Tier 1 review is a basic assessment of a plan's risk exposure in terms of probability and impact. The Tier 1 review will consider the financial risks (funding risk and investment risk); the operational risks (administration risk and governance risk); and industry and sponsor risks. Judgment will be applied to determine what risks to review in specific cases and to what extent.

A Tier 2 review involves a more comprehensive approach and considers the risks in greater detail, taking into account the plan's specific circumstances. A plan is escalated to Tier 2 for a detailed risk assessment when the Tier 1 review establishes that a plan exhibits high risk characteristics and merits a more in-depth review within the Regulatory Response Model. Plans may also be subject to a Tier 2 review if warranted by the circumstances.

On April 1, 2011, FSCO hosted a special meeting for interested members of our six advisory committees to review the consultation paper. The meeting was well-attended and FSCO received numerous suggestions for clarifications and additions. In addition, FSCO received thirteen stakeholder submissions on the consultation paper published in March 2011 and held special meetings with three stakeholder groups. FSCO incorporated many comments and suggestions, and posted the revised Framework on November 22, 2011.

In July 2011, we completed the development of the detailed design features including the risk indicators, Tier 1 process, Tier 2 process, user requirements, key performance indicators and implementation plan. We launched a pilot project to conduct Tier 1 reviews focusing on financial risks (funding and investment), which will be followed by the launch of a similar pilot project focusing on operational risks in 2012.

LOOKING AHEAD

The financial crisis of 2008 significantly reduced the value of pension assets in almost all pension plans. With plans still recovering from that shock, they were affected by the global market volatility of 2011. In addition, longevity risk, a large generation preparing to enter retirement, and increasing fears about retirement security increased uncertainty in the pension community.

At the same time, FSCO faces the challenges that confront all parts of the government in a time of constraint. We will need to find new ways to carry out our regulatory responsibilities with fewer resources while maintaining high standards of service for our stakeholders. FSCO will need to devote our resources on those issues that have the highest risk and require the greatest attention. We remain committed to implementing the goals and objectives of the IPRS in this challenging environment.

Financial Services
Commission
of Ontario

Ontario

2012 Report on the Improving Pension Regulatory Services Project

June 2013

Table of Contents

Introduction and Overview

The Improving Pension Regulatory Services (IPRS) Project was initiated by the Financial Services Commission of Ontario (FSCO) in response to some of the recommendations in the 2008 report of the Ontario Expert Commission on Pensions (OECP), which identified how FSCO could strengthen its pension regulatory services. In its final report, the OECP recommended that: FSCO increase its engagement and consultation with stakeholders in the pension community; improve the response times for applications for defined benefit pension plans and develop transparent performance standards; enhance the functionality of pension data and the pension data system; and promote the risk-based monitoring of pension plans.

Under the IPRS Project, FSCO is committed to the following goals:

- enhancing its stakeholder engagement and outreach (now covered by the Stakeholder Engagement Project);
- processing defined benefit applications in a more timely manner and establishing performance measures against which application processing will be measured;
- making enhancements to its pension system and database (now covered by the Systems Enhancement Development Project);
- reviewing its inquiries and complaints handling procedures and identifying opportunities for improvements; and
- adopting a more comprehensive risk-based regulation approach to carrying out regulatory duties.

During 2012, FSCO continued to make progress on achieving these goals. As FSCO realized significant accomplishments on the three projects that became integrated into its standard procedures — the Stakeholder Engagement Project, the Defined Benefit Application Project, and the Inquiries and Complaints Project — greater focus was placed on two major priority projects, the Systems Enhancement Development Project and the Risk-based Regulation Project. As a result, this report will primarily focus on these two projects.

The Systems Enhancement Development (SED) Project

The goals of the SED Project are to:

- enhance and redevelop FSCO's information technology system in order to provide greater usability and functionality for all stakeholders;
- expand FSCO's database on pension plans and pension stakeholders; and
- implement a new electronic filing capacity for all required filings and applications.

In 2012, FSCO made significant progress in achieving all three of these goals.

The key to the SED Project is FSCO's Pension Services Portal (PSP), which launched in March 2010. The PSP is the main conduit for pension plan administrators and delegated third parties/agents to submit pension plan filings in electronic formats. It allows plan administrators and their agents to view the status of any electronic filings and retrieve their filed information.

In 2012, all documents that are required to be filed with FSCO became available on the PSP. This includes the Annual Information Return (AIR), the Investment Information Summary (IIS), the Pension Benefits Guarantee Fund Assessment Certificate (PBGF), Pension Plan/Fund Financial Statements (FS), the Actuarial Valuation Report (AVR) and the Actuarial Information Summary (AIS). As a result, FSCO implemented mandatory electronic filing on January 1, 2013.

As of December 31, 2012, there were over 4,600 plan administrators representing 5,837 pension plans who have activated their PSP accounts. As shown in the table below, the number of electronic pension plan filings has steadily increased since the PSP was first launched.

Document Type	Number of Filings	Date the Document Could be Filed through the PSP
Annual Information Returns	Over 4,000	March 2010 (PSP launch)
Investment Information Summaries	585	May 2011
Pension Benefits Guarantee Fund Assessment Certificates	1,347	August 2011
Pension Plan/Fund Financial Statements	734	December 2011
Actuarial Valuation Reports and Actuarial Information Summaries	124	December 2011

Although electronic filing is now mandatory for all pension plans in Ontario, some pension plans had not activated their PSP accounts as of December 31, 2012. To date, FSCO has sent out several reminders to these plans. However, to ensure their participation, FSCO will continue to communicate with these plans in the future.

New Electronic Filing Capacities on the PSP

In 2012, FSCO also made several major upgrades to the PSP. PSP users can now conduct the following activities online:

- make a request for re-filing any prescribed filings that were originally submitted through the PSP, so that corrections and new information can be provided to FSCO;
- request filing extensions under section 105 of the Pension Benefits Act (PBA); and
- view a list of all outstanding pension plan filings, including overdue filings and filings that need to be submitted in the near future.

Since May 28, 2012, FSCO received 353 electronic filing extension requests through the PSP. From these requests, 327 extensions were approved, 11 requests were abandoned by the applicants, and two requests were rejected by FSCO.

FSCO's 2012 Survey of PSP Users

In summer and fall 2012, FSCO conducted a survey of PSP users to obtain their feedback on their experience with the PSP and e-filing, and to identify what improvements and features should be implemented in the future. This survey was completed in two phases by a total of 589 PSP users and the overall results were quite positive. Of these respondents:

- 72 per cent stated that they had a positive overall experience using the PSP;
- 81 per cent said that e-filing "takes about the same amount of time" or is "faster than paper filing";
- 90 per cent stated that "audio/visual tutorials, webinars, podcasts or publications" are "very useful" or "somewhat useful" communication channels/resources that FSCO should make use of; and
- 60 per cent said that they would like FSCO to develop video tutorials as an online resource.

FSCO also received a total of 76 suggestions for improvements that could be made to the PSP in the future.

Pilot Imaging Project

Another key part of the SED Project is creating electronic images of any pension plan documents that are sent to FSCO. The first phase of the Pilot Imaging Project, which involved creating electronic copies of all new documents that were filed with FSCO for several hundred pension plans, was successfully completed. The next phase of this project consists of implementing document imaging for all incoming documentation. This next step also involves imaging historical documents on-site for all pension plans that are currently active.

Future Upgrades to the PSP

Future upgrades and enhancements to the PSP will take place in two stages. The first stage is scheduled to take place in early 2013 and will cover the submission of applications for the registration of pension plan amendments, and the second stage will be to expand the online application submission capability to all other types of applications, including the registration of new pension plans. This second stage is scheduled to take place in spring 2014. FSCO also plans to make other upgrades to the PSP, including enhancing the pension plan profile screen and refining the notification alerts to advise administrators of upcoming filing due dates.

The Risk-Based Regulation (RBR) Project

The goals for FSCO's RBR Project are to ensure regulation:

- enhances the security of plan beneficiaries' benefits;
- reduces the risk of situations that may lead to calls on the Pension Benefits Guarantee Fund;
- promotes compliance with the legislation, in particular ensuring that FSCO discharges its responsibilities, as set out in the PBA; and
- encourages sponsors and plan administrators to adopt good governance, risk management and business practices.

During 2012, the RBR Project moved into the program delivery phase with the launch of two pilot projects that are intended to test the risk indicator tool that was developed by FSCO. The purpose of this tool is to identify and prioritize pension plans for enhanced monitoring, which is important to the success of this project.

The RBR Project framework identified five categories that would be entered into the risk indicator tool: funding, investment, administration, governance, and sponsor/industry. For the funding and investment categories, FSCO created the Financial Risk Pilot Project, and for the administration and governance categories it launched the Operational Risk Pilot Project. Both projects ran during the year and concluded in December 2012. FSCO staff began their review of the results and experience, and are currently determining the best way to proceed with implementation.

The sponsor/industry category presented different challenges, because FSCO is not privy to data about specific companies or industries. FSCO completed a request for information and sent it to approved vendors on November 15, 2012. In 2013, FSCO will review the submissions and make a decision on the next steps, which include whether to issue a Request for Proposal.

Presentation on FSCO's Risk-Based Supervision Framework

FSCO participated in the Toronto Centre's Regional Pension Supervision Program, which took place in Toronto in July 2012 and in Armenia in October 2012. Lester Wong, Senior Actuarial Consultant of FSCO's Pension Division, presented a case study on FSCO's risk-based supervision framework, which was very well received. By participating in this program, FSCO gained a better understanding of how other jurisdictions handle challenges in supervising their regulated entities.

Highlights of FSCO's Achievements in Other IPRS Project Initiatives

From 2009 through 2011, FSCO successfully achieved its three goals for the IPRS Project. Despite these achievements, work in these areas has not ceased, as these goals are now part of FSCO's standard operating procedures. FSCO is continuing to work on the Stakeholder Engagement Project, the Defined Benefit Application Processing and Service Target Project, as well as the Inquiries and Complaints Project. In 2012, these projects had significant accomplishments, which are outlined below.

The Stakeholder Engagement Project

FSCO remains committed to broadening its engagement with the pension community in Ontario, encouraging external stakeholders to be active participants and contributors to the health of the pension industry, ensuring that FSCO's policy initiatives are responsive to the concerns of all stakeholders, and increasing the transparency of FSCO's pension activities.

Technological resources were the primary means by which these objectives were met in 2012. Webinars in particular, were used to communicate important information to pension stakeholders in both English and French. In response to an increasing demand for information about the valuation and division of pensions when a spousal relationship breaks down (as a result of legislation that took effect on January 1, 2012), FSCO held a second webinar on family law questions in June 2012. (The first webinar on this topic was held in November 2011.) This webinar focussed on practical questions faced by plan administrators, who are responsible for providing information to affected plan members and for preparing the valuations. The turnout for this webinar was excellent, as 319 individuals attended the English session and 16 attended the French session. In response to other regulatory changes that came into effect on July 1, 2012, FSCO held another webinar in December 2012 on the plan administrator's obligations regarding plan members' benefit entitlements when their employment is terminated. This webinar also attracted a large number of pension stakeholders. There were 327 attendees for the English session and 38 for the French session.

FSCO's website continues to be the main channel for communicating with the pension community. In 2012, FSCO posted 88 items related to pensions, including announcements of new legislation and regulations, consultations, pension policies and other related information. FSCO also introduced a Twitter account in 2012, which allows stakeholders and consumers to follow @FSCOTweets for information and updates on activities in FSCO's regulated sectors, including pensions.

FSCO used its regular meetings with its pension advisory committees and representative stakeholder groups to encourage greater contribution to the regulation of pensions. Two regular meetings with the advisory committees were augmented by a useful discussion on pension innovation at FSCO's annual pension forum, which took place in January 2012.

FSCO continued its annual meetings with representatives of retiree groups, pension organizations and professional associations, public sector pension plans, and organized labour in March and April 2012. The major issues that were raised by these stakeholders and FSCO's responses are provided below:

Issue # 1: How can retirees' satisfaction with the pension information they are receiving from plan administrators be improved?

Response # 1: FSCO has focussed on educating plan administrators on their responsibilities through its webinars. It also provides information to all active and retired plan members through its online pension guide entitled *A Guide to Understanding Your Pension Plan*.

Issue # 2: Retired members would like greater access to pension plan documents.

Response # 2: New pension regulations that became effective in 2012 provide a new definition for “retired member” and expand the rights of all plan members to receive certain documents electronically.

Issue # 3: Stakeholders would like to become more involved in FSCO’s Risk-Based Regulation Project.

Response # 3: FSCO will continue to look for ways to involve pension stakeholders in future phases of this project where opportunities arise.

Issue # 4: Plan administrators want more information on the new rules for the valuation and division of pension benefits on the breakdown of a spousal relationship, which came into effect on January 1, 2012.

Response # 4: To date, FSCO has held two webinars on this topic. The webinar that took place in November 2011 provided an overview of the new system, and the webinar that occurred in June 2012 discussed practical issues on how the new rules need to be applied. FSCO has also posted numerous frequently asked questions on family law issues on its website.

Issue # 5: Individuals want more interaction with FSCO and would like to be able to sign up for email alerts on new pension developments.

Response # 5: FSCO introduced a Twitter account in 2012. Industry stakeholders and consumers can follow @FSCOTweets for tips, answers to frequently asked questions, information on compliance requirements, and timely and important updates on activities in FSCO’s regulated sectors. Individuals who are interested in receiving alerts on the latest pension developments can sign up to receive FSCO’s RSS feeds. FSCO is also working on providing greater access to pension information through its SED Project.

Applications and Current Service Standards

Starting in 2009, FSCO committed to improving and streamlining the approval process for defined benefit pension plan applications and to developing performance targets. FSCO has successfully eliminated its backlog of applications and is committed to meeting performance targets, which are posted on its website. Measures that track AIR compliance, implementation of FSCO’s examination recommendations, timeliness of application approvals, satisfaction with the PSP and the impact of FSCO’s outreach programs have been developed. This data is currently being compiled and the results will be posted online in spring 2013.

The following table provides FSCO’s service targets for each application type, the total number of defined benefit applications that FSCO received, and the average number of days it took

FSCO staff to complete and close compliant applications. This data covers the fiscal year beginning on April 1, 2012 and ending on February 28, 2013.

Application Type	Total Number of Applications Received	Average number of days to close a complete and compliant application	FSCO's Service Target
Wind Ups – Full	190	56	120 days
Wind Ups – Partial	24	41	120 days
Asset Transfers s. 80 (successor plans)	2	0*	120 days
Asset Transfers s. 81 (mergers)	9	93	120 days
Surplus Refunds – Full Wind Up	4	0*	150 days
Surplus Refunds – Partial Wind Up	7	75	150 days
Surplus Refunds – Continuing	0	-	150 days
Employer Overpayment Refunds	13	94	90 days
Member Contribution Refunds	19	9	60 days

* indicates no applications received were complete and/or compliant and were not processed

These service standards were met in all categories except for employer overpayment refunds, where a few highly complex transactions took longer than usual. However, as in previous years, the volume of applications for each category is very low. The only exception is wind-ups, which are coming in at the same volume as last year.

Inquiries and Complaints Project

The Inquiries and Complaints Project was completed in October 2012, when FSCO published its new online pension guide entitled *A Guide to Understanding Your Pension Plan*. However, FSCO continues to monitor all inquiries and complaints, to ensure that they are addressed in a timely manner.

For the 2012-13 fiscal year, FSCO's Pension Division received a total of 22,849 inquiries, which include 4,505 pension-related inquiries responded to by FSCO's contact centre. In addition, in 2012, FSCO received 23,537 inquiries regarding financial hardship unlocking. For the non-financial hardship pension inquiries, it took an average of five days to address an inquiry, which exceeds FSCO's service standard of 15 days. During that same period, FSCO handled 334 complaints from active, former and retired plan members about their pension plan and/or plan administrator. The main complaint issues were similar to those raised in 2011: accuracy of benefit calculations; content and accuracy of annual pension statements; timeliness of termination statements; status of applications filed with FSCO; and interpretation of plan entitlements.

FSCO's call volumes are higher this year, as there are a significant number of new inquiries related to the PSP. During the 2012-13 fiscal year, FSCO received 6,309 inquiries regarding the PSP.

Financial Services
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ANNUAL REPORT
ON IMPROVING PENSION REGULATORY SERVICES
FINANCIAL SERVICES COMMISSION OF ONTARIO

JULY 2014

Introduction

This is the fifth annual report on the progress of the Improving Pension Regulatory Services (IPRS) Project.

The IPRS Project was initiated by the Financial Services Commission of Ontario (FSCO) in response to some of the recommendations in the 2008 Ontario Expert Commission on Pensions (OECP) report. The OECP report identified how FSCO could strengthen its pension regulatory services, and recommended that FSCO:

- Increase its engagement and consultation with stakeholders in the pension community;
- Improve the response times for applications for defined benefit pension plans and develop transparent performance standards;
- Enhance the functionality of pension data and the pension data system; and
- Promote the risk-based monitoring of pension plans.

To implement the recommendations, FSCO launched the following projects:

- **Systems Enhancement Development Project** to make enhancements to its pension system and database.
- **Risk-based Regulation Project** to adopt a more comprehensive risk-based regulation approach to carrying out regulatory duties.
- **Stakeholder Engagement Project** to enhance stakeholder engagement and outreach.
- **Defined Benefit Application Processing and Service Target Project** to process defined benefit applications in a more timely manner and establish application processing performance measures.
- **Inquiries and Complaints Project** to review inquiries and complaints handling procedures and identify opportunities for improvements.

In this report, FSCO outlines the key 2013 accomplishments and the progress of these initiatives to date. The report mainly focuses on the Systems Enhancement Development Project and the Risk-based Regulation Project. The report also provides updates on the Stakeholder Engagement Project, the Defined Benefit Application Processing and Service Target Project, and the Inquiries and Complaints Project - which have now been integrated into FSCO's standard regulatory procedures.

Enterprise Development Program (EDP)

The EDP is intended to support and transform the way FSCO provides regulatory services by implementing an enterprise system solution. When it is launched, the EDP will replace FSCO's current legacy systems, including the Pension Data System, with one web-based information management platform to be used across all sectors regulated by FSCO. The EDP will:

- Look at how FSCO does business across the entire organization;
- Determine ways to transform FSCO's business;
- Find similarities in FSCO's processes and the services it delivers (common components);
- Identify the best possible way to deliver those services; and
- Provide FSCO with the tools it needs to effectively regulate the sectors in an increasingly challenging financial marketplace, while providing stakeholders with the services they expect.

In 2013, the two IPRS priority projects, the Systems Enhancement Development Project and the Risk-based Regulation Project, were refocused to complement and reinforce each other and to align with the EDP. The success of both projects is dependent on a FSCO-wide fully integrated system that is responsive to their needs i.e. the EDP.

Systems Enhancement Development Project (SED)

The goals of the SED are to:

- Enhance and redevelop the information technology system in order to provide greater usability and functionality for pensions stakeholders;
- Expand FSCO's database on pension plans and pension stakeholders; and
- Implement a new electronic filing capacity for all required filings and applications.

Mandatory Electronic Filing

Effective January 1, 2013, FSCO implemented mandatory electronic filing, which was a key OECP recommendation.

Electronic filing was made possible with the establishment of FSCO's Pension Services Portal (PSP) in March 2010. The PSP is the main channel through which pension plan administrators and delegated third parties/agents submit pension plan filings in electronic formats. It allows plan administrators and their agents to submit filings, view the status of the filings, and retrieve their filed information.

In 2012, all documents that are required to be filed with FSCO became available on the PSP, including the Annual Information Return, the Investment Information Summary, the Pension Benefits Guarantee Fund Assessment Certificate, the Pension Plan/Fund Financial Statements, the Actuarial Valuation Report, and the Actuarial Information Summary.

Throughout 2012 and prior to the launch of mandatory electronic filing, FSCO staff undertook extensive communications outreach to advise all stakeholders that mandatory electronic filing would come into effect on January 1, 2013.

To track the success of the initiative, FSCO collected compliance data on the electronic mandatory filings from January 1, 2013 to December 31, 2013. The data (see Table 1 on page 4) indicates the compliance percentage of filings that were received electronically. For the majority of filings, compliance rates were above 90 percent.

FSCO expects that compliance rates will continue to increase as it continues to make user-friendly improvements to the PSP, and as stakeholders become more familiar with the PSP.

Table 1: 2013 Pension Division E-filing Results
January 1 - December 31, 2013

Filing Type	Documents Received	Compliance Percentage
Defined Benefit (DB) Annual Information Returns	4075	95.17
Defined Contribution (DC) Annual Information Returns	2767	82.94
Pension Benefits Guarantee Fund Assessment Certificates	1709	96.34
Actuarial Valuation Reports and Actuarial Information Summary	1589	83.00
DB Pension Fund/Plan Financial Statements	4047	93.28
DC Pension Fund/Plan Financial Statements	2163	65.33
Investment Information Summaries	1609	95.17

FSCO also continues to work with plans that have not filed electronically, recognizing that some small plans are not aware of the requirement and that certain types of plans (e.g. multi-employer plans) face special filing challenges.

FSCO remains committed to obtaining 100 percent compliance over the next few years, once stakeholders become more accustomed to the benefits of electronic filing. FSCO will continue to communicate with stakeholders, and work with plan administrators to achieve full compliance.

Pension Services Portal

In order to make further enhancements to its pension system and database, FSCO conducted a survey of PSP users to obtain feedback on their experience with the system and e-filing, and to identify improvements that could be implemented in the future.

In Summer/Fall 2012, the survey was completed by a total of 589 PSP users. The overall results of the survey were positive, and indicated that most PSP users found the system to be user-friendly.

The survey indicated that most respondents use the PSP to electronically file their Annual Information Return. Over 80 percent of the respondents found that it was easy or very easy to: find the PSP link on FSCO's website; activate their PSP account; log into the PSP; and navigate through the PSP.

Approximately 82 percent agreed that electronic filing is faster than paper filing or that it takes about the same amount of time as paper filing.

The most common suggestions for new features that the PSP should offer included:

- Confirmation that the report or change has been received or successfully filed;
- Notification that a filing is incomplete;
- The ability to amend or update submitted items;
- The ability to recall a submission when an error or omission is discovered;
- Enhanced instructions for completing forms;
- The ability to print completed forms when filed; and
- The ability for an applicant to provide an explanation for certain information that has been filed.

In 2013, FSCO started a requirements gathering process for the corporate EDP, and suggestions for improvements from the survey have been incorporated into that process. FSCO launched a follow-up survey in June 2014, and will use the feedback to compare results.

Expanding Electronic Filing

In April 2013, the PSP was upgraded to allow for the electronic registration of pension plan amendments. In 2013, FSCO received 241 amendments through the PSP. From January to June 2014, FSCO received another 66 amendments.

In 2013, FSCO had originally intended to further expand electronic filing to all other types of applications, including the registration of new pension plans. This timeline was adjusted as a result of the reallocation of resources to FSCO's licensing and regulation of healthcare service providers (which was launched in June 2014). New timelines will be established once this initiative is completed.

Pilot Imaging Project

Another key part of the SED Project is creating electronic images of pension plan documents that are sent to FSCO. The first phase was a Pilot Imaging Project, which involved creating electronic copies of all new documents that were filed with FSCO for several hundred pension plans. The project will be implemented in the future as part of the EDP, which will introduce FSCO-wide implementation of imaging in the new EDP system.

Risk-based Regulation Project (RBR)

FSCO's RBR Project was established to promote the risk-based monitoring of pension plans, as recommended by the OECP. By applying a risk-based approach to regulation, FSCO directs its regulatory efforts and activities to situations that are deemed to be higher risk.

The first phase of the project was the development of a risk-based regulation framework so that consistent principles could be applied to the development of FSCO's pension regulatory processes and activities. The framework was finalized in Fall 2011, and will be implemented over the next several years.

The objectives for the risk-based regulation of pension plans are to ensure that FSCO's regulatory activities:

- Enhance the security of plan beneficiaries' benefits;
- Reduce the risk of situations that may lead to calls on the Pension Benefits Guarantee Fund;
- Promote compliance with the legislation, in particular ensuring that FSCO discharges its responsibilities, as set out in the Pension Benefits Act; and
- Encourage sponsors and plan administrators to adopt good governance, risk management, and business practices.

As part of the framework, FSCO identified five broad risk categories on which it would focus: Funding, Investment, Administration, Governance, and Sponsor/industry.

Within each of the risk categories, FSCO identifies certain risk indicators or risk factors that are used in a system-based Risk Indicator Tool (RIT) to help prioritize which plans should be selected for a more detailed risk assessment via a Tier 1 or Tier 2 review.

Assessing Funding, Investment, Administration, and Governance Risks

In 2012, the RBR Project conducted two pilot projects for the purpose of developing the RIT and the Tier 1 review process.

The Financial Risk Pilot Project developed a process for assessing funding and investment risks, and the Operational Risk Pilot Project developed a process for assessing administration and governance risks. These projects were successfully concluded in December 2012.

In 2013, FSCO commenced a pilot project to develop a process for assessing all four risk categories together and combining the two projects into one. Building on the lessons learned from the earlier projects, FSCO developed a RIT and Tier 1 review process that takes into account all four risk categories, allowing FSCO to perform a more holistic and comprehensive risk review.

FSCO will continue to develop/revise the RIT, training material, tools, procedures, systems, and processes that are required to perform Tier 1 reviews. The pilot will provide an opportunity to instruct, guide, and encourage staff to apply a risk-based lens in their review, to share ideas and knowledge, and to identify opportunities where FSCO can more effectively apply risk-based principles to its regulatory activities.

FSCO intends to conduct 300 Tier 1 reviews of pension plans during this pilot, and will focus primarily on defined benefit plans. When completed, these reviews are expected to provide data that will allow for the refinement and improvement of the RIT prioritization results to achieve better correlation with the Tier 1 review outcomes.

Assessing Sponsor/Industry Risks

The fifth risk category, sponsor/industry risk, continues to be the most challenging with respect to the collection of information. FSCO intends to proceed with a Request for Proposals to obtain information on sponsor/industry risks. If successful, the information would be used for the RIT and Tier 1 reviews.

Privacy and Data Collection

Any plan-specific information from the RIT and the Tier 1 review processes is intended solely for internal FSCO use only.

Highlights of FSCO's Achievements in Other IPRS Projects

In 2013, FSCO continued to meet the goals of the Stakeholder Engagement Project, the Defined Benefit Application Processing and Service Target Project, and the Inquiries and Complaints Project, even as these projects became part of FSCO's standard operating procedures. In 2013, these projects had significant accomplishments, which are outlined below.

Stakeholder Engagement Project

As part of the Stakeholder Engagement Project, FSCO committed to:

- Broadening its engagement with the pension community in Ontario;
- Encouraging external stakeholders to be active participants and contributors to the health of the pension industry;
- Ensuring that its policy initiatives are responsive to the concerns of all stakeholders; and
- Increasing the transparency of its pension activities.

In 2013, FSCO met these commitments by communicating regulatory information through webcasts and website postings, as well as by meeting with stakeholders to engage and consult with them on regulatory issues.

Webcasts

FSCO successfully transitioned from providing live webinars – information sessions at a specific time – to posting webcasts on its website. Webcasts are recorded in advance and made available for viewing at any time, making them more accessible and convenient for stakeholders.

The webcasts provide important information for plan administrators and other pension stakeholders on current issues and legislative changes. In 2013, FSCO posted two webcasts in English and French:

- Locked-in accounts (June 2013): the webcast provided information on rules that apply to the accounts, requirements, and restrictions for each type of locked-in account, and withdrawals of money in special circumstances.
- Financial hardship unlocking (December 2013): the webcast informed stakeholders of the new rules effective January 1, 2014, that all applications for financial hardship unlocking must be made to the financial institution that holds the account.

Website Postings

FSCO has made extensive use of its website to communicate with pension stakeholders. In 2013, FSCO posted 68 news items related to pensions, including announcements of new legislation and regulations, consultations, pension policies, and other related information.

Stakeholder Meetings

In January 2013, FSCO hosted its annual Pension Forum of all six pension advisory committees to discuss important pension issues and to look ahead at the coming year. The discussions focused on target benefit pension plans.

FSCO also held its regular bi-annual meetings with its advisory committees in the Spring and Fall of 2013. In addition, special meetings were held with members of the committees to obtain feedback about specific pension topics.

In March 2013, FSCO held its annual meetings with representatives of retiree groups, pension organizations and professional associations, public sector pension plans, and organized labour. Some of the major issues that were raised by these stakeholders and FSCO's responses to these are provided below:

Issue #1: FSCO should provide information and guidance on how plan administrators should apply the Carrigan decision and inform stakeholders of any new rules being considered.

Response: On July 4, 2013, FSCO posted an update on the implications of the Carrigan decision and clarified its position.

Issue #2: FSCO should work with external groups promoting financial literacy, especially with respect to pensions.

Response: This issue was also raised by some members of FSCO's advisory committees. FSCO is currently undertaking a financial literacy initiative, and as part of that project, staff will consider the extent to which it can accommodate pension issues.

Issue #3: Unions would like more information about pension plans that have already wound up.

Response: The current system cannot accommodate the request. Once enhancements are made to the system, FSCO will have a greater capacity to provide more information about wound up pension plans.

Defined Benefit Application Processing and Service Target Project

Beginning in 2009, FSCO committed to improving and streamlining the approval process for defined benefit pension plan applications and to developing performance targets.

Table 2 (see page 8) provides FSCO's 2013 service standard targets for each application type for defined benefit and defined contribution plans and the related performance measures.

The service standards have been met in all but one category: reimbursement (overpayments) to employers in defined benefit plans. FSCO is reviewing its existing practices to ensure that the standard is met in the future.

As has been the case in recent years, the volume of applications for each category is very low. FSCO did not receive applications for surplus refunds on full wind up or from continuing plans. With regards to wind-ups, FSCO continues to receive similar volumes as in previous years. There were no partial wind-up applications in 2013.

As of January 1, 2014, the rules for asset transfer applications filed with the Superintendent were amended. In the next annual report, FSCO will report on any impact this may have on service standards for asset transfer applications filed in 2014.

Inquiries and Complaints Project

The Inquiries and Complaints Project was completed in October 2012, when FSCO published its new online pension guide entitled A Guide to Understanding Your Pension Plan. The guide provides answers to commonly asked questions regarding pension plans and FSCO's regulation of the sector.

FSCO continues to monitor all inquiries and complaints to ensure that they are addressed in a timely manner, and to meet FSCO's service commitment of responding within 15 days.

Volume and Type of Inquiries

From April 1, 2013 to March 31, 2014, FSCO received a total of 22,646 pension-related inquiries (not including inquiries about financial hardship unlocking). During the same period, FSCO handled 324 complaints from active, former, and retired plan members about their pension plan and/or plan administrator.

The main complaints were similar to those raised in previous years, and included complaints regarding the accuracy of benefit calculations; content and accuracy of annual pension statements; timeliness of termination statements; status of applications filed with FSCO; and the interpretation of plan entitlements. FSCO received 6,095 inquiries about the PSP during this period, which is consistent with the number of inquiries during the previous year.

Table 2: Pension Division Current Service Standards
April 1, 2013 - March 31, 2014

Application Type	No. Received	No. of Incomplete Applications	Median Days to Close Compliant Applications	Service Target	Service Target Compliance
Asset Transfers					
DC s. 80	5	3	34	60	✔
DB s. 81	10	9	108	120	✔
DC s. 81	28	19	48	60	✔
Wind Up					
DB Full	222	41	64	120	✔
DC Full	107	25	31	60	✔
Overpayment - Employer					
DB Overpayment	19	10	143	90	✔
Refund - Member					
DB Contributions	3	0	15	60	✔
Total pension inquiries received since April 1, 2013					22,646
Total pension portal inquiries received since April 1, 2013					6,095
Average no. of days to address inquiries (FSCO Service Standard is 15 days)					6 days
Total Complaints					324

Service Commitment Standards

In 2013, FSCO successfully met its current service standard of 15 days. For non-financial hardship pension inquiries, it took an average of six days to address an inquiry.

The Year Ahead

FSCO's focus in 2014 will be directed towards system changes and the development of the enhancements to which it is committed under the EDP and the work of the RBR Project. These two initiatives will proceed in tandem to collect market data which FSCO will analyze through the risk-based principles and processes.

FSCO also remains committed to ensuring engagement with stakeholders, and meeting its service commitments with regards to applications, inquiries, and complaints.

About FSCO

For more information on what we do, how we do it, and why we do it, consult FSCO's Regulatory Framework, which is available on the FSCO website.

The Framework summarizes what FSCO expects from the businesses, individuals, and pension plans that are regulated by FSCO, as well as what can be expected from FSCO in the regulatory process.

Stay up-to-date

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Financial Services
Commission
of Ontario

ANNUAL REPORT
ON IMPROVING PENSION REGULATORY SERVICES
FINANCIAL SERVICES COMMISSION OF ONTARIO

JULY 2015 - FINAL

Introduction

This is the sixth and final annual report on the progress of the Improving Pension Regulatory Services (IPRS) Project.

The IPRS Project was initiated by the Financial Services Commission of Ontario (FSCO) in response to some of the recommendations in the 2008 Ontario Expert Commission on Pensions (OECP) report. The OECP report identified how FSCO could strengthen its pension regulatory services, and recommended that FSCO:

- Increase its engagement and consultation with stakeholders in the pension community;
- Improve the response times for applications for defined benefit pension plans and develop transparent performance standards;
- Enhance the functionality of pension data and the pension data system; and
- Promote the risk-based monitoring of pension plans.

In response to these recommendations, FSCO launched the following multi-year projects in 2009:

- **Systems Enhancement Development Project** to make enhancements to its pension system and database.
- **Risk-based Regulation Project** to adopt a more comprehensive risk-based regulation approach to carrying out regulatory duties.
- **Stakeholder Engagement Project** to enhance stakeholder engagement and outreach.
- **Defined Benefit Application Processing and Service Target Project** to process defined benefit applications in a more timely manner and establish application processing performance measures.
- **Inquiries and Complaints Project** to review inquiries and complaints handling procedures and identify opportunities for improvements.

In 2009 and 2010, FSCO made significant progress on the Stakeholder Engagement, Defined Benefit Application Processing and Service Target and the Inquiries and Complaints projects. By 2011, these projects have been integrated into FSCO's standard regulatory and operating procedures. Information on the year to year progress of these projects can be found in prior IPRS reports.

Also in 2011, the framework for the Risk-based Regulation (RBR) project was developed. Since then, FSCO has conducted three pilot projects for the RBR framework, which were successfully concluded in 2013 and 2014. To date, FSCO has moved to full implementation of the RBR framework by adopting the processes and measures to solidify FSCO's risk-based approach to the regulation of pension plans.

In regards to the Systems Enhancement Development Project (SEDP), FSCO developed the Pension Services Portal (PSP) in 2010. The PSP is the main channel through which pension plan administrators and delegated third parties/agents submit pension plan filings in electronic formats. In 2012 and 2013, the PSP was further enhanced to make it more user-friendly and efficient. In 2013, the SEDP was re-aligned with FSCO's Enterprise Development Program, a single, web-based information management platform. FSCO continues to work on the EDP and with this IPRS report being the last, the ongoing progress of the EDP will be reported in FSCO's Annual Report beginning next year.

This report outlines the key 2014 accomplishments and the progress of these initiatives to date. The report mainly focuses on the SEDP and the RBR Project. It also provides updates on the Stakeholder Engagement Project, the Defined Benefit Application Processing and Service Target Project, and the Inquiries and Complaints Project – although these have already been fully integrated into FSCO's standard regulatory procedures for some time now.

Enterprise Development Program (EDP)

The EDP initiative is intended to support and transform the way FSCO provides regulatory services by implementing an enterprise system solution. The goal of EDP is to replace FSCO's current legacy systems, including the Pension Data System and the Pension Services Portal, with a single information management platform that will be used across all sectors regulated by FSCO. As part of this process, FSCO concluded its Enterprise Business Architecture Project in December 2014.

The outcome of the architecture project is a business reference model that supports FSCO's status as an integrated regulator which includes the pension regulator.

FSCO anticipates rolling out the EDP over the next several years beginning in 2016.

Systems Enhancement Development Project (SEDP)

The goals of the SEDP were to:

- Enhance and redevelop the information technology system in order to provide greater usability and functionality for pensions stakeholders;
- Expand FSCO's database on pension plans and pension stakeholders; and
- Implement a new electronic filing capacity for all required filings and applications.

Mandatory Electronic Filing

Effective January 1, 2013, FSCO implemented mandatory electronic filing of prescribed filings and/or Superintendent forms, which was a key OECP recommendation.

Electronic filing was made possible with the establishment of FSCO's PSP in March 2010, which is the main channel through which pension plan administrators and delegated third parties/agents submit pension plan filings in electronic formats. It also allows plan administrators and their agents to view the status of the filings, and retrieve their filed information.

In 2012, all filings that were required to be submitted with FSCO became available on the PSP, including the Annual Information Return, the Investment Information Summary, the Pension Benefits Guarantee Fund Assessment Certificate, the Pension Plan/Fund Financial Statements, the Actuarial Valuation Report, and the Actuarial Information Summary.

Throughout 2012 and prior to the launch of mandatory electronic filing, FSCO staff undertook extensive communications outreach and successfully advised all stakeholders that mandatory electronic filing would come into effect on January 1, 2013.

To track the success of the initiative, FSCO monitored the level of compliance for the electronic mandatory filings from January 1, 2014 to December 31, 2014. The data (see Table 1) shows that the compliance rates for all electronic filings were well above 90 percent.

Table 1: Pension Division E-filing Results
January 1, 2014 - December 31, 2014

Filing Type	Filings Received	Compliance Percentage [1]
Defined Benefit (DB) Annual Information Returns	4,269	99.30 %
Defined Contribution (DC) Annual Information Returns	3,118	97.83 %
Pension Benefits Guarantee Fund Assessment Certificates	1,731	97.91 %
Actuarial Valuation Reports and Actuarial Information Summary	2,133	97.71 %
DB Pension Fund/Plan Financial Statements	4,267	98.93 %
DC Pension Fund/Plan Financial Statements	3,092	97.30 %
Investment Information Summaries	1,658	98.99 %

(1) Compliance percentage is defined as the ratio of the number of complete filings that were received by the prescribed deadline to the total number of filings expected to be received by the deadline.

FSCO remains committed to obtaining 100 percent compliance over the next few years as it continues to make user-friendly improvements to the PSP, and will continue to communicate with stakeholders, and work with plan administrators to achieve full compliance.

Pension Services Portal

In order to make further enhancements to its pension system and database, FSCO conducted a survey of PSP users to obtain feedback on their experience with the system and e-filing, and to identify improvements that could be implemented in the future.

In Summer/Fall 2012, the survey was completed by a total of 589 PSP users. The overall results of the survey were positive, and indicated that most PSP users found the system to be user-friendly.

In the Summer/Fall 2014, a follow-up survey was completed by a total of 926 PSP users. The results of the survey were once again positive.

Some suggested improvements were:

- Paying PBGF assessments online
- Viewing historical filings
- Submitting Form 7 online
- Selection of multiple plans when completing similar filings

During 2013 and 2014, FSCO continued with the requirements gathering process for EDP, and suggestions for improvements from the 2014 survey will be considered for incorporation into that process.

Expanding Electronic Filing

Filing Extensions

In June 2012, the PSP was upgraded to allow for the electronic filing of extension requests under section 105 of the Pension Benefits Act (PBA). In 2012, 324 filing extensions were submitted through the PSP. In 2014, this number grew to 1,868.

In the fall of 2014, FSCO implemented mandatory electronic filing of all filing extension requests through the PSP.

Amendments

In April 2013, the PSP was upgraded to allow for the electronic registration of pension plan amendments. In 2013, FSCO received 241 amendments through the PSP. In 2014, FSCO received a total of 439 amendments.

The expansion of electronic filing to all other types of applications will be incorporated into the EDP process.

Pilot Imaging Project

Another key component of the SED Project is to create electronic images of pension plan documents that are sent to FSCO. The first phase was a Pilot Imaging Project, which involved creating electronic copies of all new documents that were filed with FSCO for several hundred pension plans. The project will be implemented in the future as part of the EDP, which will introduce FSCO-wide implementation of imaging in the new EDP system.

Risk-Based Regulation Project

FSCO's RBR Project was established to promote the risk-based monitoring of pension plans, as recommended by the OECP. By applying a risk-based approach to regulation, FSCO directs its regulatory efforts and activities to situations that are deemed to be higher risk.

The first phase of the project was the development of a risk-based regulation framework so that consistent principles could be applied to the development of FSCO's pension regulatory processes and activities. The framework was finalized in the fall of 2011.

The objectives for the risk-based regulation of pension plans are to ensure that FSCO's regulatory activities:

- Enhance the security of plan beneficiaries' benefits;
- Reduce the risk of situations that may lead to calls on the Pension Benefits Guarantee Fund;
- Promote compliance with legislation, in particular, ensuring that FSCO discharges its responsibilities as set out in the PBA; and
- Encourage sponsors and plan administrators to adopt good governance, risk management, and business practices.

As part of the framework, FSCO identified five broad risk categories on which it would focus: Funding, Investment, Administration, Governance, and Sponsor/Industry.

Within each of the risk categories, FSCO identifies certain risk indicators or risk factors that are used in a system-based Risk Indicator Tool (RIT) to help prioritize which plans should be selected for a more detailed risk assessment via a Tier 1 or Tier 2 review.

Assessing Funding, Investment, Administration, and Governance Risks

From 2012 to 2014, FSCO conducted three pilot projects for the purpose of developing and refining the RIT and the Tier 1 review process.

In 2012, separate Financial Risk (Funding and Investment) and Operational Risk (Administration and Governance) Pilot Projects were conducted to develop a process for assessing funding, investment, administration, and governance risks. In 2013-2014, FSCO conducted a pilot project to develop a process for assessing all four risk categories together and combining the two projects into one. Building on the lessons learned from the earlier projects, FSCO developed and refined the RIT and Tier 1 review process that takes into account all four risk categories, allowing FSCO to perform a more holistic and comprehensive risk review of pension plans.

All pilot projects concluded successfully at the end of 2014. Experience from the pilots yielded valuable information on changes that needed to be made to improve the RIT, the efficacy of the Tier 1 reviews and the approach to best address concerns identified in the reviews.

Driven by the experience from the pilot projects, FSCO continues towards the full implementation of the RBR framework by adopting the structure, roles and responsibilities, processes and measures to cement FSCO's risk-based approach to the regulation of pension plans.

FSCO will be looking for opportunities to improve the risk-based methodology by assessing the effectiveness of, and revising as appropriate, its procedures, systems, and processes in order to ensure that the RBR framework is agile and able to adjust to changes in the financial marketplace and regulatory environment.

It should be noted that any plan-specific information arising from its risk-based monitoring and review processes is intended solely for internal FSCO use only.

Assessing Sponsor/Industry Risks

FSCO currently does not have access to sufficient information to effectively assess and monitor the financial health of plan sponsors and the industry sectors in which they operate. FSCO needs information to better assess the ability of the plan sponsor to continue funding their pension plan in accordance with the PBA and to identify potential risks to that funding as early as possible.

In order to address this need, FSCO released a Request for Bids ("RFB") in early 2015 inviting prospective bidders to submit bids for the services of Risk Data Products to Assess Insolvency Risk and/or Creditworthiness of Pension Plan Sponsors. If successful, the information acquired from this service contract would be incorporated in the RIT and other regulatory activities.

Highlights of FSCO's Achievements in Other IPRS Projects

In 2014, FSCO continued to meet the goals of the Stakeholder Engagement Project and the Inquiries and Complaints Project. However, certain service goals for the Defined Benefit Application Processing and Service Target Project were not met. The results of these projects are outlined below.

Stakeholder Engagement Project

As part of the Stakeholder Engagement Project, FSCO committed to:

- Broadening its engagement with the pension community in Ontario;
- Encouraging external stakeholders to be active participants and contributors to the health of the pension industry;
- Ensuring that its policy initiatives are responsive to the concerns of all stakeholders; and
- Increasing the transparency of its pension activities.

FSCO met these commitments by communicating regulatory information through website postings, as well as by meeting with stakeholders to engage and consult with them on a variety of regulatory issues

Webcasts

FSCO successfully transitioned from providing live webinars – information sessions at a specific time – to posting webcasts and tutorials on its website. Webcasts and tutorials are recorded in advance and made available for viewing at any time, making them more accessible and convenient for stakeholders.

Effective January 1, 2014, the rules for financial hardship unlocking (FHU) were changed. All applications for financial hardship unlocking must be submitted to the financial institution that holds and administers the locked–in account. As at that date, FSCO no longer accepted applications relating to financial hardship unlocking and was no longer be responsible for reviewing and approving these applications. In keeping with our commitment to provide our stakeholders with resources to comply with our legislation, FSCO posted a tutorial on the most common application, Low Expected Income, and how to complete FHU-Form 4.

Website Postings

FSCO continued to make extensive use of its website to communicate with pension stakeholders. FSCO posted 58 news items related to pensions, including announcements of new legislation and regulations, consultations, pension policies, guidance notes and other related information.

Stakeholder Meetings

In January, 2014, FSCO hosted its annual Pension Forum, which consisted of all six pension advisory committees. The purpose of the forum was to discuss important pension issues and to look ahead at the coming year. The discussions focused on de-risking in pension plans.

In March, 2014, FSCO held its annual meetings with representatives of retiree groups, pension organizations and professional associations, public sector pension plans, and organized labour. A major issue that was raised by these stakeholders related to the request for FSCO to provide guidance on how to deal with un-located beneficiaries (deferred members, survivors and other persons entitled to benefits), the administrators' fiduciary obligations to finding these persons, and steps an administrator is required to take before its obligation is discharged.

FSCO indicated that the PBA requires the administrator to pay the entitlement to plan beneficiaries. While FSCO understands it can be difficult to locate the beneficiaries, the administrator cannot be discharged until the beneficiary is located and his/her benefit settled. FSCO will give consideration to developing a policy which would identify some options for finding these beneficiaries.

FSCO also held its regular bi-annual meetings with its six pension advisory committees in the spring and fall of 2014. In addition, a special meeting was held with members of the Accounting and Assurance Committee to obtain feedback about financial statement disclosure requirements on April 25, 2014.

Defined Benefit Application Processing and Service Target Project

In 2009, FSCO committed to improving and streamlining the approval process for defined benefit pension plan applications and to developing performance targets.

Table 2 provides FSCO's 2014-2015 service standard targets for each application type for defined benefit and defined contribution plans and the related performance measures.

As indicated in last year's report, the new rules for asset transfer applications filed with the Superintendent came into effect on January 1, 2014. Over the course of the 2014-2015 fiscal year, FSCO received a total of 71 asset transfer applications. Of these, 39 applications relate to defined benefit plans. FSCO had developed new processes in response to the new legislative requirements, however, due to the complexity of the new rules and the high number of incomplete applications received for both defined contribution plans and defined benefits plans, additional time was required to correspond with administrators for additional information and documentation. As a result, FSCO was not able to complete its review for a majority of the applications within the established service goals. This created a backlog of asset transfer applications. Recognizing that there is a backlog of such applications, FSCO has made the review of these applications its priority in the 2015-2016 fiscal year and has taken steps to address it by assigning additional resources to complete the review of these applications.

Table 2: Pension Division Current Service Standards
April 1, 2014 - March 31, 2015

Application Type	No. Received	No. of Complete Applications	Median Days to Close Compliant Applications [1]	Service Target	Service Target Compliance [2]
Asset Transfers					
DC s. 80	15	0	-	60	-
DB s. 80	1	1	101	120	✓
DC s. 81	17	2	99	60	✗
DB s. 81	38	0	-	120	-
Wind Up					
DC Full	111	75	28	60	✓
DB Full	197	129	61	120	✓
DB Partial	3	3	196	120	✗
Surplus					
DB Surplus-Wind Up	2	0	-	150	-
DB Surplus- Partial Wind Up	4	2	83	150	✓
DB Surplus-Monsanto	8	0	-	150	-
DC Surplus-Wind Up	1	0	-	120	-
Overpayment – Employer					
DC Overpayment	3	1	42	60	✓
DB Overpayment	31	9	91	90	✗
Refund - Member					
DC Contributions	3	1	45	30	✗
DB Contributions	3	1	20	60	✓

[1] The median is calculated based on completed and compliant applications. Where the number of complete and compliant applications received is zero, there is no data for median.

[2] Where there is no data relating to the median, there is no information on service goal compliance.

Review of Performance Measure

FSCO recognizes that some service goals were not met in fiscal 2014-2015. Over the next fiscal year, FSCO will undertake a review of the established service goals for all applications being made to the Superintendent to determine whether they are still appropriate given the Pension Division's resources as well as the changing legislative environment.

Inquiries and Complaints Project

The Inquiries and Complaints Project was completed in October 2012, when FSCO published its new online pension guide entitled A Guide to Understanding Your Pension Plan. The guide provides answers to commonly asked questions regarding pension plans and FSCO's regulation of the sector.

FSCO continues to monitor all inquiries and complaints to ensure that they are addressed in a timely manner, and meet FSCO's service commitment of responding within 15 days.

Volume and Type of Inquiries

From April 1, 2014 to March 31, 2015, FSCO received a total of 24,660 inquiries. Of these, 17,641 were pension-related inquiries and 7,019 were related to financial hardship unlocking. Other than financial hardship unlocking inquiries and pension services portal inquiries, the top five inquiries relate to:

- Access to information from FSCO;
- Filings;
- Interpretation of the PBA and pension plan terms;
- Family law; and
- Locked-in retirement accounts

Table 3: Pension Division Inquiries Received
April 1, 2014 - March 31, 2015

	Number Received
Pension related inquiries	17,641[(1)]
Financial hardship related inquiries	7,019
Total	**24,660**

[(1)]Of the 17,641 inquiries, 5,206 relate to the pension services portal.

Service Commitment Standards

In 2014, FSCO successfully met its current service standard of 15 days. It took an average of five days to address an inquiry.

The Year Ahead

FSCO's focus in 2015 continues to be directed towards system changes and the development of the enhancements to which it is committed under the EDP. It will also aim to solidify the last piece of the RBR framework with respect to its ability to assess the insolvency risks of pension plan sponsors. These two initiatives will proceed in tandem to collect market data which FSCO will analyze through the risk-based principles and processes.

With additional resources allocated to review the applications received in respect of asset transfers, FSCO hopes to clear its backlog and meet the service standard of 120 days when processing these applications.

Also, as mentioned above, FSCO will undertake to review the established service standards to determine whether they are still appropriate given the Division's resources and the changing legislative environment in pensions.

FSCO also remains committed to ensuring engagement with stakeholders and meeting its service commitments with regards to applications to the Superintendent, inquiries, and complaints.

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Actuarial Guidance Consultations

FSCO began issuing guidance on actuarial matters to the actuarial community in the form of Actuarial Guidance Notes in April, 2011.

The Guidance Notes are posted for public consultation; prior to being finalized and published.

How to Provide Comments

There are several ways to submit your comments:

1. Email: pensionconsultation@fsco.gov.on.ca
2. Mail: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street
   Toronto ON M2N 6L9
3. Fax: (416) 226-7787

If you need clarifications on the Guidance Notes before submitting your response, please email FSCO.

At the end of the consultation period, we will publish the comments/feedback you send us, as part of the "Stakeholder Submissions" in response to this consultation. If you wish your response to remain anonymous, please state this explicitly in your letter. We will take the necessary steps to meet your request. However, please be aware that, should we receive a formal request under Freedom of Information legislation, we may be required to disclose your response, subject to the Freedom of Information and Protection of Privacy Act.

Previous Pension Stakeholder Consultations
Stakeholder Consultations - Final Documents

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Previous Pension Stakeholder Consultations

Actuarial Guidance Notes

FSCO has been providing guidance on actuarial matters to the actuarial community in the form of Actuarial Guidance Notes.

Actuarial Guidance Note - AGN-004

Size: ## kb Size: ## kbConsultation Reference: Alternative Settlement Methods for Solvency Valuations

Date Posted: July 3, 2015

Deadline for Submissions: September 4, 2015

Stakheholder Comments

Size: ## kb Size: ## kb**Actuarial Guidance Note - AGN-003** **Size: ## kb**
Consultation Reference: Actuarial Guidance Note #3 - Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit
Date Posted: May 6, 2013
Deadline for Submissions: June 7, 2013
Stakeholder Comments

Size: 278 kb**Actuarial Guidance Note - AGN-002** **Size: ## kb**
Size: ## Consultation Reference: Actuarial Guidance Note # 2 - Determination of the Solvency Liability Adjustment
Date Posted: April 3, 2012
Deadline for Submissions: May 3, 2012
Stakeholder Comments: No comments were submitted to this public consultation.Size: ## kb

Financial Statements Guidance Notes

FSCO began issuing consultation documents on guidance related to financial statements to pension plan administrators/auditors in the form of Financial Statements Guidance Notes (FSGN) in August, 2012.

Financial Statements Guidance Note - FSGN-001 Size: ## kb
Size: ## kbConsultation Reference: Financial Statements Guidance Note #001
Date Posted: August 30, 2012
Deadline for Submissions: October 25, 2012
Stakeholder Comments

Note: This Guidance Note was finalized and published in February 2013. It was subsequently revised and published as FSGN-100 effective March 2014

Investment Guidance Notes

FSCO began issuing consultation documents on guidance related to investments of pension plan assets in various types of financial instruments in October 2014.

Investment Guidance Note - IGN-005 Size: ## kb
Consultation Reference: Overview of Statements of Investment Policies and Procedures (SIPP) Requirements
Date Posted: December 8, 2015
Deadline for Submissions: February 8, 2016

Investment Guidance Note - IGN-004 Size: ## kb
Consultation Reference: Environmental, Social and Governance (ESG) Factors
Date Posted: June 30, 2015
Deadline for Submissions: August 28, 2015

Investment Guidance Note - IGN-003 Size: ## kb
Consultation Reference: Statements of Investment Policies and Procedures (SIPPs) for Member Directed Defined Contribution Plans Size: ## kb
Date Posted: June 30, 2015
Deadline for Submissions: August 28, 2015

Investment Guidance Note - IGN-002 Size: ## kb
Consultation Reference: Prudent Investment Practices for Derivatives
Date Posted: October 27, 2014
Deadline for Submissions: November 27, 2014
Stakeholder Comments

Investment Guidance Note - IGN-001 Size: ## kb
Consultation Reference: Buy-In Annuities for Defined Benefit Plans
Date Posted: October 7, 2014
Deadline for Submissions: November 7, 2014
Stakeholder Comments

Risk-Based Regulation Framework

The consultation paper solicits pension stakeholders' comments and feedback on FSCO's proposed broad-based framework for the risk-based regulation of pension plans in Ontario. The purpose of introducing this framework is to improve FSCO's overall effectiveness in its monitoring of key pension risks, and to ensure appropriate regulatory response is taken by FSCO to address risk situations, thereby better protecting the interests of pension plan beneficiaries.

Risk-Based Regulation Framework Size: 4502 kb
Consultation Reference: Risk-Based Regulation Framework

Date Posted: March 8, 2011
Deadline for Submissions: April 7, 2011
Stakeholder Comments

Other

Consultation Policy on Administrator's Management of Inquiries and Complaints from Plan Beneficiaries Size: 252 kb and Consultation Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries Size: 221 kb.

This draft policy and related guideline are intended to clarify the responsibilities of plan administrators in responding to inquiries and complaints from plan beneficiaries. The documents also provide information on how inquiries and complaints can be effectively managed.
Consultation Reference: Inquiries and Complaints

Date Posted: December 15, 2010
Deadline for Submissions: February 11, 2011
Stakeholder Comments

Consultation Paper on FSCO's Proposed Solutions, Service Goals and Processes for Defined Benefit Pension Applications Size: 302 kb

This consultation paper solicits pension stakeholders' comments and feedback on FSCO's proposed solutions, service goals and processes for reviewing defined benefit pension applications. For your convenience, the earlier Consultation Paper on the Review of Defined Benefit Pension Application Processing, which was released in the spring of 2009, is included in this consultation paper as Appendix 2.

Consultation Reference: Application Processing
Date Posted: January 11, 2010
Deadline for Submissions: February 10, 2010
Stakeholder Comments: No comments were submitted to this public consultation.

Consultation Policy on Management and Retention of Pension Records by the Administrator
Size: 132 kb
This draft policy is intended to provide plan administrators with information on their obligations and responsibilities related to the management and retention of pension plan records. The policy also provides the administrator with practical guidelines and instructions on prudent record keeping practices.

Consultation Reference: Records Retention
Date Posted: December 22, 2009
Deadline for Submissions: February 26, 2010
Stakeholder Comments

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Stakeholder Consultations - Final Documents

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-00X
TITLE:	Determination of the Solvency Liability Adjustment -Regulation 909 ss. 1.3, 3, 13, 14 and 16
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (date to be determined)
EFFECTIVE DATE:	December 31, 2011

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. All pension policies can be accessed from the Pensions section of the website through the Pension Policies link.

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Purpose of This Policy

The Regulation permits the use of a smoothing method in the solvency valuation in order to moderate short-term fluctuations in the market value of assets and the solvency liabilities. The "solvency liability adjustment", as defined in section 1.3 of the Regulation, is determined using an interest rate that is the average of the market interest rates over the same period of time as the one used to adjust the market value of assets. The averaging period cannot exceed five years.

A question has arisen regarding how the average interest rates should be determined in situations where there is a change in the Canadian Institute of Actuaries' Standards of Practice (the "CIA standards") during the averaging period. The purpose of this policy is to provide guidance for determining the average interest rates in those situations.

This policy applies to actuarial valuation reports filed under the PBA that have a valuation date on or after February 1, 2011.

Application of CIA Standards

A report filed under the PBA in respect of a pension plan must meet the requirements of the PBA and the

Regulation. Pursuant to section 16 of the Regulation, an actuary preparing an actuarial valuation report for filing under section 3, 13 or 14 of the PBA is required to use methods and assumptions that are consistent with accepted actuarial practice. Specifically, in calculating the solvency liability for a pension, deferred pension, or ancillary benefit, the actuary is expected to:

- use the methods and assumptions described in section 3500 of the CIA standards, or
- to follow the guidance set out in the CIA Educational Notes on purchased annuities, depending on whether the benefit is assumed to be settled by a lump sum transfer or by a group annuity purchase.

In calculating the lump sum commuted value paid from a pension plan, the actuary is required to select economic and demographic assumptions in accordance with section 3500 of the CIA Standards as follows:

Valuation Date	Interest Rate Assumption	Mortality Assumption
On or before January 31, 2011	Assumptions depend on the reported rates for the applicable CANSIM series for <u>the second calendar month</u> preceding the month in which the valuation date falls	UP94 Table projected forward to the year 2020 using mortality projection scale AA (UP-94@2020)
On or after February 1, 2011	Assumptions depend on the reported rates for the applicable CANSIM series for <u>the calendar month</u> preceding the month in which the valuation date falls	UP-94 Table with generational projection using mortality project scale AA (UP-94 generational)

For the purposes of estimating the purchase costs for group annuities, the CIA, through the Committee on Pension Plan Financial Reporting, issues guidance to actuaries by way of Educational Notes and periodic supplements.

Note that the CIA standards for calculating pension commuted values and the actuarial basis for calculating group annuity purchase costs have been changed from time to time. The Appendix to this policy provides a sample of the CIA assumptions over the five years ending on January 1, 2012.

Acceptable Methodology

In reviewing an actuarial valuation report filed under the PBA in respect of a pension plan, FSCO staff will determine if the assumptions and methods used in the preparation of the report are consistent with accepted actuarial practice. Furthermore, FSCO staff will determine if those assumptions and methods are appropriate for the plan. This policy describes an acceptable methodology for determining the solvency liability adjustment, illustrated by way of the following hypothetical plan situation:

- The plan provides only non-indexed benefits;
- The plan is expected to have $15 million in annuity settlements upon wind up;
- The valuation date of the report for filing under the PBA is January 1, 2012; and
- A five-year averaging period is adopted for calculating the solvency liability adjustment. In

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particular, the average interest rates are calculated as the average of the interest rates determined on January 1, 2012 and the previous four anniversary dates.

<u>Benefits to be settled by lump sum transfer</u>

For the purpose of calculating the solvency liability adjustment in respect of benefits that are expected to be settled by lump sum transfer, FSCO accepts a method that applies the actuarial basis for pension commuted values described in section 3500 of the CIA standards, effective on the valuation date as if it had become effective throughout the averaging period. On this basis, the average interest rates for the actuarial valuation as of January 1, 2012 would be determined as follows:

Valuation Date	Select Period Rate (i_{1-10})	Ultimate Period Rate(i_{10+})	Mortality Table
January 1, 2012	2.40%	3.90%	1994 Uninsured Pensioner Mortality Table with generational projection using mortality projection scale AA
January 1, 2011	3.60%	4.90%	
January 1, 2010	4.00%	5.50%	
January 1, 2009	3.00%	5.00%	
January 1, 2008	5.00%	5.20%	
5-year Average	**3.60%**	**4.90%**	

<u>Benefits to be settled by group annuity purchase</u>
For the purpose of calculating the solvency liability adjustment in respect of benefits that are expected to be settled by group annuity purchase, FSCO expects the actuary to calculate the average interest rate using the interest rates for group annuity purchase published in the CIA Educational Notes that were applicable at the respective anniversary dates, with an adjustment to account for any change in the *base* mortality table. Suppose for the above hypothetical plan it has been determined that the appropriate adjustments for the change in mortality table from UP-94@2020 and UP-94@2015 to the UP-94 generational mortality table are 0.05% and 0.15%, respectively[1]. In this case, the average interest rate for the actuarial valuation as of January 1, 2012 would be determined as follows:

Valuation Date	V39062 (1)	Interest Spread Adjustment (2)	Mortality Adjustment (3)	Annuity Proxy (1)+(2)+(3)	Mortality Table
January 1, 2012	2.41%	+ 0.90%	n/a	3.31%	1994 Uninsured Pensioner Mortality Table with generational projection using mortality projection scale AA
January 1, 2011	3.48%	+ 1.00%	+ 0.05%	4.53%	
January 1, 2010	4.09%	+ 0.40%	+ 0.05%	4.54%	
January 1, 2009	3.45%	+ 1.40%	+ 0.15%	5.00%	
January 1, 2008	4.10%	+ 0.40%	+ 0.15%	4.65%	
5-year Average				**4.41%**	

Based on the methodology described above, the average annual interest rates that would be used in conjunction with the UP-94 generational mortality tables to determine the solvency liability adjustment for the actuarial valuation performed as of January 1, 2012 are:

- Benefits assumed to be settled though a lump sum transfer: 3.60% for 10 years, 4.90% thereafter
- Benefits assumed to be settled though an annuity purchase: 4.41%

[1] As stated in the CIA Educational Notes, the adjustment for change in the mortality assumption will depend on the membership and characteristics of the plan.

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Please note that this policy does not preclude the use of alternative smoothing methods that are appropriate for a pension plan. FSCO will consider on a case by case basis, submissions from the actuary which provide support for the use of a smoothing method that is different from the one described in this policy.

Appendix – Sample Historical Actuarial Assumptions for Calculating Pension Commuted Values and Group Annuity Purchase Costs

	Commuted Value Basis			Annuity Proxy Basis	
Valuation Date	Select Period Interest Rate (i_{1-10})	Ultimate Period Interest Rate(i_{10+})	Mortality Table	Interest Rate (including interest spread adjustment)	Mortality Table
January 1, 2012(1)	2.40%	3.90%	UP94 Generational	3.31%	UP94 Generational
January 1, 2011(2)	3.70%	5.00%	UP94@2020	4.48%	UP94@2020
January 1, 2010(2)	3.70%	5.40%	UP94@2020	4.49%	UP94@2020
January 1, 2009(3)	3.50%	5.00%	UP94@2015	4.85%(4)	UP94@2015
January 1, 2008(3)	4.50%	5.00%	UP94@2015	4.50%(4)	UP94@2015

(1) CIA Commuted Value Basis revised on December 31, 2010
(2) CIA Commuted Value Basis effective April 1, 2009
(3) CIA Commuted Value Basis effective February 1, 2005
(4) Assuming a total premium greater than $15 million

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SECTION:	Actuarial Guidance Note
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TITLE:	Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit - Regulation 909 s. 5
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Purpose

Under subsection 5(3) of the Regulation, where an employer provides a letter of credit (LOC) instead of making special payments with respect to a solvency deficiency,

"*the employer is required to make interest payments with respect to the solvency deficiency, calculated at the rate of interest described in subsection (2), unless the interest payments are included in the amount of the letter of credit.*"

This Actuarial Guidance Note describes FSCO's expectations with respect to the application of this subsection and clarifies how interest payments are to be determined.

Application of Interest

A LOC must relate to the scheduled special payments that are required with respect to a solvency deficiency. Where a solvency special payment is not secured by a LOC, the employer must make the solvency special payment by the scheduled due date.

If an employer obtains one or more LOCs to secure solvency special payments, interest on those payments must be paid in cash to the pension fund unless the aggregate amount of the LOCs is sufficient to cover the required interest payments in addition to securing the solvency special payments.

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Interest Rates

The interest rates used to determine the interest amount required to be paid on solvency special payments secured by a LOC should be the interest rates used to determine the solvency deficiency in the most recent report filed under section 14 of the Regulation. Where different interest rates were applied to determine the solvency deficiency, an average interest rate (weighted by relevant solvency liabilities) should be used to determine the required interest payments.

Where a schedule of solvency special payments secured by a LOC is established in a cost certificate filed pursuant to FSCO Policy A400-100 with respect to an amendment effective after the valuation date of the last filed valuation report but prior to the valuation date of the next report that is required to be filed under section 14, the interest rate to use should be the same as that used to determine the incremental solvency special payments associated with the amendment.

FSCO may request a copy of the schedules used to calculate the interest payments.

Timing of Interest Payments

Interest should accumulate on the balance of unpaid solvency special payments on a monthly basis until the expiry date of the LOC. At the end of each month the LOC is in effect, if the total of the unpaid solvency special payments and accumulated interest exceeds the amount of the LOC, the employer is expected to pay the difference on that date. Alternatively, FSCO would accept the accumulated interest to be remitted to the pension fund on a date not later than the expiry date of the LOC (prior to any renewal). For clarity, interest must continue to accrue and is compounded on a monthly basis.

Where there is a prior year credit balance (PYCB), the employer may not apply the PYCB towards the required interest payments. This is in accordance with subsection 4(3) of the Regulation which provides that the PYCB may only be applied to reduce payments attributable to normal cost and special payments.

A detailed illustration is provided in the Appendix.

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Appendix – Sample Plan Holding a Letter of Credit

For the purpose of illustrating the application of interest, the following plan scenario has been assumed:

- The plan has two solvency special payment schedules with amounts payable monthly in arrears.
- Schedule 1 was determined in a most recently filed report using a discount rate of 4.00% per annum and Schedule 2 was determined in an interim cost certificate at a discount rate of 3.00% per annum.
- Schedule 1 and Schedule 2 have required monthly solvency special payments of $2,000 and $1,000 respectively.
- The employer provides a LOC in the amount of $3,000 in January, increasing by $3,000 per month until the end of June. The LOC amount remains level at $18,000 from June until its expiry date of December 31.

The table below illustrates the required interest payments that must be made by the employer upon the expiry date of the LOC.

Month	**Schedule 1** Special payments covered by LOC	Interest* accrued to Dec 31 @ **4.00%**	**Schedule 2** Special payments covered by LOC	Interest* accrued to Dec 31 @ **3.00%**	Total special payments covered by LOC	Total Interest accrued to Dec 31
Jan	2,000.00	73.21	1,000.00	27.47	3,000.00	100.68
Feb	2,000.00	66.45	1,000.00	24.94	3,000.00	91.39
Mar	2,000.00	59.70	1,000.00	22.42	3,000.00	82.12
Apr	2,000.00	52.98	1,000.00	19.90	3,000.00	72.88
May	2,000.00	46.28	1,000.00	17.39	3,000.00	63.67
Jun	2,000.00	39.61	1,000.00	14.89	3,000.00	54.50
Jul	**	0.00	**	0.00	**	0.00
Aug	**	0.00	**	0.00	**	0.00
Sep	**	0.00	**	0.00	**	0.00
Oct	**	0.00	**	0.00	**	0.00
Nov	**	0.00	**	0.00	**	0.00
Dec	**	0.00	**	0.00	**	0.00
Total	12,000.00	338.23	6,000.00	127.01	18,000.00	465.24

* The interest rates above are annual effective rates. Therefore, interest has been calculated on a compound basis.

** The employer must resume making monthly special payments that are not covered by the LOC from July onward.

Total Unpaid Solvency Special Payments with interest to Dec. 31	18,465.24
Amount of LOC	<u>18,000.00</u>
Interest to be paid at December 31	465.24

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SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-004
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APPROVED BY:	Superintendent of Financial Services
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

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Purpose

Under the PBA and Regulation, the administrator of a pension plan that provides defined benefits is required to file, on either an annual or triennial basis, actuarial valuation reports to establish the funding requirements of the plan in accordance with the Regulation. The reports and certificates required under the PBA and Regulation must be prepared by an actuary, who must use methods and actuarial assumptions that are consistent with accepted actuarial practice.

The PBA provides authority for the Superintendent of the Financial Services Commission of Ontario (FSCO) to require the preparation of a new actuarial valuation report if FSCO concludes that the methods or assumptions used in the preparation of a report in respect of the plan are not consistent with accepted actuarial practice, or are inappropriate.

The Actuarial Standards Board of the Canadian Institute of Actuaries (CIA) introduced revisions to subsections 3240 and 3260 of the CIA Standards of Practice – Practice-Specific Standards for Pension Plans (Standards of Practice), which became effective September 18, 2013. On the same date, the CIA issued guidance in the form of an educational note (Educational Note) by the Committee on Pension Plan Financial Reporting for actuaries who decide to use alternative settlement methods for hypothetical wind-up and solvency valuations. FSCO is of the opinion that the use of some alternative settlement methods may not be appropriate for an actuarial valuation report filed under the PBA and Regulation.

This Actuarial Guidance Note describes FSCO's expectations when an actuary assumes an alternative settlement method in the preparation of an actuarial valuation report to be filed with FSCO for purposes of the PBA and Regulation. For clarity, the guidance note does not apply to actual wind-up situations, and FSCO would not accept the use of any alternative settlement methods for actual wind up situations.

General

When FSCO is determining whether the methods and assumptions used in a report to determine the hypothetical wind-up or solvency liabilities filed in respect of a pension plan are appropriate, FSCO considers whether actuarial methods and assumptions have been chosen with a level of prudence consistent with the plan's funding and investment objectives, with due consideration to the underlying characteristics of the pension plan obligations.

The Standards of Practice clarify that the assumption of alternative settlement methods for hypothetical wind-up and solvency valuations is limited to situations where it is anticipated that annuities could not be purchased due to group annuity capacity limitations or where it is permitted by law, regulatory policy or guideline. Even in a situation where group annuity capacity limitations may exist, the Standards of Practice permits the actuary to assume that benefits would be settled by the purchase of annuities regardless of any capacity limitations. This assumption would be accepted by FSCO.

In general, the actuary should assume benefits would be settled by the purchase of annuities when performing a hypothetical wind-up or solvency valuation. If an alternative settlement method is used, then the actuary should be prepared to justify and provide adequate support as to why the benefits could not be settled by the purchase of annuities and why, even if this were the case, it would not be appropriate to assume such settlement given that it is permitted by the Standards of Practice.

For this purpose, the actuary may not rely solely on the capacity thresholds stated in the Education Note (i.e., $500 million for non-indexed annuities and $200 million for indexed annuities) since these thresholds may change over time. It should be noted that statistics from the insurance industry (e.g., Life Insurance and Market Research Association, Canadian Life and Health Insurance Association) show that the Canadian group annuity market has exceeded $1 billion each year since 2007 except for one year. Actual annuity transactions that have taken place, as well as input from insurance companies should also be considered in estimating what the threshold is.

The Educational Note states that the use of an alternative settlement approach may result in liabilities either higher or lower than those produced by assuming the benefits would be settled through a single annuity purchase. FSCO expects that the actuary will exercise sound judgment when selecting the approach and to ensure that the method is reasonable, supportable and appropriate given the plan's circumstances.

If an alternative settlement method is used, FSCO may request, in addition to the disclosures required in the Standards of Practice and the Educational Note, other information or documentation in support of the rationale for the alternative settlement method assumed.

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FSCO would accept an alternative settlement method which contemplates an exercise of regulatory discretion or a change in legislation, if the resulting liabilities are no less than the liabilities produced using the prevailing guidance issued by the Pension Plan Financial Reporting Committee (PPFRC) and assuming there are no capacity constraints. In all other situations, FSCO will consider, on a case by case basis, submissions from the actuary which provide support that the use of an alternative method which varies from FSCO's expectations as described in this Actuarial Guidance Note, is appropriate for the pension plan.

Alternative Settlement Methods

1. <u>Purchase of a Series of Annuities</u>

In the case where the actuary assumes that the liabilities would be settled through a series of purchases over a period of time, FSCO expects that the liabilities would not be less than the liabilities produced using the prevailing guidance issued by the PPFRC and assuming no capacity constraints.

The actuary should disclose the assumptions made with respect to estimating future annuity purchases in addition to justifying the provision for expenses over the duration of the annuity purchases.

2. <u>Establishment of a Replicating Portfolio</u>

Paragraph 3240.17 Standards of Practice states that "*the actuary may assume settlement by means of a replicating portfolio*" with the assumption that the "*replicating portfolio would provide for an appropriate level of security for the pension benefits covered*".

If the actuary is contemplating the use of a replicating portfolio as an alternative settlement method, FSCO would require that the actuary provide appropriate justification for the use and rationale for this method. This should include comments on the relevant fixed income investment market capacity, and information about the credit and liquidity profile of the instruments included. In describing the margins for adverse deviations, the actuary should describe each of the key risks considered in setting the margin.

The use of a replicating portfolio is intended to apply only where it is believed that the group annuity capacity limitations will be exceeded. Therefore, the appropriate level of security of benefits covered that is provided by the replicating portfolio should be the same or similar to that of an annuity purchase, if there were no capacity limitations restricting the ability to purchase the annuities.

FSCO would require significant disclosures for a plan applying this alternative approach including but not limited to:

- The allocation of investments in the portfolio and justification of the allocation.
- The mortality experience applied to the expected benefit cash flows and justification if such experience does not reflect plan-specific experience.
- A justification of the level of expenses associated with establishing and maintaining the portfolio.

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- The average duration of the liabilities to be settled and the average duration of the portfolio.
- The assumptions regarding the options elected by plan members.
- Description of the margins for adverse deviations to ensure a high probability that the pension benefit promises will be met. The actuary should use judgment when considering whether the margins are appropriate for the plan.

The Educational Note specifies that the portfolio would include "*a substantial allocation to high-quality fixed-income investments.*" FSCO expects that to achieve a level of security commensurate with the prevailing guidance, a substantial allocation to fixed-income investments such as bonds issued or guaranteed by the Government of Canada or investment grade bonds issued or guaranteed by the government of a Canadian province would be required. FSCO would require that the actuary provide adequate disclosures with respect to the allocation and the underlying investments.

The Educational Note states that the "*actuary would provide meaningful disclosures regarding the benefit security implications of the settlement method based on either stochastic modelling or stress testing.*" FSCO would generally expect the disclosures to provide adequate information for FSCO to make an assessment of the level of benefit security provided.

3. <u>Lump Sum Payments to Members</u>

Unless specified in the legislation, FSCO would not accept this settlement method. The PBA does not contemplate lump sum payments to retired members.

4. <u>Assuming Modifications to Benefit Terms</u>

The valuation should be performed in accordance with the terms of the pension plan at the valuation date. Therefore, unless the plan is amended, FSCO will not accept this alternative settlement method.

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Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Financial Statements Guidance Note Consultations

Final Document

Financial Statements Guidance Note #1-Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s.76 Size: ## kb

Stakeholder comments

Background Information

FSCO issued its first guidance related to financial statements to administrators/auditors in the form of Financial Statement Guidance Notes (FSGN). This page provides a link to the paper (Financial Statements Guidance Note # 1 – Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76 Size: 627 kb) which will precede the formal issuance of the first Financial Statements Guidance Note. All stakeholders are encouraged to review this document and submit their comments. It was available for comment until October 25, 2012.

FSCO solicited pension stakeholders' comments on FSCO's expectations for financial statements disclosure in regards to:

1. Statement of Changes in Pension Obligations;
2. Interest in a Master Trust;
3. Capital Management (including SIP&P and Contributions); and
4. Financial Instruments.

How to Provide Comments

There are several ways to submit your comments on the FSGN # 1 paper.

1. You may send your comments by email to: pensionconsultation@fsco.gov.on.ca. Please include in the subject line of your email "Financial Statements Guidance Note."
2. You may mail your comments to:

   Attention: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street, Box 85
   Toronto ON M2N 6L9

   Please include a subject line in your letter referencing "Financial Statements Guidance Note".

3. You may send your comments by fax to (416) 226-7787. Please include a subject line in your fax referencing "Financial Statements Guidance Note."

If you need clarifications on the Financial Statements Guidance Note prior to submitting your response, please contact:

Hirsh Tadman, Senior Pension Policy Analyst
Tel: (416) 226-7875
Email: Hirsh.Tadman@fsco.gov.on.ca

Please note that we will publish the feedback you send to us as part of our response to the consultation. If you wish your comments to remain anonymous, please state this explicitly in your response. We will take the necessary steps to meet your request. However, please be aware that, should we receive a formal request under Freedom of Information legislation, we may be required to disclose your response, subject to the Freedom of Information and Protection of Privacy Act.

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SECTION:	Financial Statements Guidance Note
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PURPOSE

Under the PBA and the Regulation, the administrator is required to file financial statements for the pension fund or plan as of the plan's fiscal year end date. Subject to the requirements of section 76 of the Regulation, the financial statements and the auditor's report must be prepared in accordance with the principles and standards that are set out in the Canadian Institute of Chartered Accountants Handbook (CICA Handbook). In 2010, the CICA Handbook was restructured and updated. New accounting standards for pension plans are set out in Part IV of the CICA Handbook, as Section 4600 replaced Section 4100 (from the previous version of the CICA Handbook). The CICA Handbook applies to pension plan financial statements for fiscal years beginning on or after January 1, 2011.

The Financial Services Commission of Ontario (FSCO) is of the opinion that the new accounting standards for pension plans should apply to both pension plans and pension funds. The purpose of this Financial Statement Guidance Note (Guidance Note) is to provide regulatory guidance for certain principles-based requirements set out in the CICA Handbook (or incorporated by reference) and, in particular, to specify FSCO's expectations with respect to disclosure for regulatory purposes, in regards to:

1. **Statement of Changes in Pension Obligations** (refer to sections 4600.10(c) and 4600.28 in the CICA Handbook);
2. **Interest in a Master Trust** (refer to sections 4600.05(q)(i), 4600.05(r) and 4600.15 in the CICA Handbook);
3. **Capital Management (including SIP&P and Contributions)** (refer to sections 4600.37 and paragraphs 135-136 of IAS 1– Presentation of Financial Statements in Part I of the CICA Handbook)**;** and
4. **Financial Instruments: Disclosures** (refer to sections 4600.32 and IFRS 7 – Financial Instruments – Disclosure in Part I of the CICA Handbook).

APPLICATION OF THIS GUIDANCE NOTE

All pension plans, irrespective of size, must comply with the requirements of section 76 of the Regulation. However, for regulatory purposes, the application of this Guidance Note will vary, as set out in the table below, depending on the size of the pension plan. Smaller pension plans, those with assets less that $10 million measured at fair value at year end, including those which are exempt from the requirement to file an auditor's report (currently under $3 million), will be expected to comply with sections 1 and 2 of the disclosure requirements of the Guidance Note. Plans with assets of $10 million or more measured at fair value at the fiscal year-end of the plan will be expected to fully comply with the disclosure requirements of the Guidance Note.

Size of the assets at year-end	Auditor's report requirement	Disclosure expectations
Less than $3 Million	No	Compliance with sections 1 and 2 only
Between $3 Million and $10 Million	Yes	Compliance with sections 1 and 2 only
$ 10 Million or more	Yes	Full compliance with all sections

The Superintendent will accept these disclosure requirements, if they are included either in the financial statements or incorporated by cross-reference from the financial statements to some other statements and such other statements are filed with the Superintendent. Such other statements will be considered to be part of the financial statements and subject to the same requirements for disclosure to plan members and others.

In providing this disclosure, FSCO does not anticipate that the administrator of the pension plan (administrator) will need to develop a new set of data or statistics, as the administrator can rely on information that was already provided internally to key management personnel.

FSCO'S DISCLOSURE EXPECTATIONS

1. Statement of Changes in Pension Obligations

Section 4600 of the CICA Handbook introduces the requirement that a pension plan's financial statements must present the pension obligations of a defined benefit plan (refer to section 4600.12 (g)) and the resulting surplus or deficit (refer to section 4600.12(h)) on the face of the statement of financial position. Furthermore, section 4600.10(c) also requires a statement of changes in pension obligations, as described in section 4600.28. Section 4100 from the previous version of the CICA Handbook, allowed a pension plan to present the pension obligation in the notes to the financial statements.

It should be noted that FSCO will accept pension plan or pension fund financial statements that are filed under section 76 of the Regulation, which do not disclose pension obligations, since the PBA specifies the requirements for determining and disclosing pension liabilities in actuarial valuation reports filed with FSCO.

When financial statements are prepared for regulatory filings (as pension fund financial statements), the statement of financial position (which excludes pension obligations), is generally renamed as the "statement of net assets available for benefits".

FSCO expects the following disclosure:

The pension plan or pension fund financial statements will disclose the following:

- *the basis of accounting in a note to the financial statements;*
- *the departure from the principles and standards set out in the CICA Handbook (where applicable) to meet the requirements of section 76 of the Regulation; and*
- *For pension fund financial statements, Canadian Auditing Standard 800 will be applicable - the special purpose framework for financial statements - the auditors' report will:*
    - *State that the financial statements are prepared in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act.*
    - *Include a paragraph on the basis of accounting and restriction on use*

2. Interest in a Master Trust

Master trust holdings make up more than 50 per cent of the assets that are held by defined benefit plans which are regulated by FSCO. Section 4600.15 of the CICA Handbook no longer allows the use of proportional consolidation or equity accounting for a pension plan's participation in master trusts.

This means that pension plans — some of whose assets are primarily (and sometimes solely) invested in a master trust — could present only a single line item to report their investment assets as **an interest in a master trust** (as per section 4600.05 (q)(i)). Section 4600.14 stresses the importance of distinguishing investment assets and liabilities "by type, because that information is useful to users in understanding the risks associated with a pension plan's investments". FSCO requires more detailed information on the master trust holdings as they relate to the pension plan.

FSCO expects the following disclosure:

The pension plan or pension fund financial statements will disclose in a note to the statements:

- *sufficient information (quantitative and qualitative) to understand the risks associated with a plan's or fund's investment in master trusts, subject to the materiality requirement;*
- *information on the types of investments, fair value hierarchy (see section 4) and disclosure required under section 76(13) of Regulation 909 for the entire master trust, in addition to the single line presentation on the face of the statement, as required under Section 4600; and*
- *the plan's or fund's position in the master trust (e.g., number of units over total issued, or percent holding of the total).*

3. Capital Management (including SIP&P and Contributions)

Under the accounting standards that are set out in the CICA Handbook, pension plans administrators are required to disclose information regarding capital management, in accordance with the requirements in paragraphs 135-136 of IAS 1 – Presentation of Financial Statements. Pension plans administrators that decide to use accounting standards for private enterprises, in Part II of the CICA Handbook (instead of the IFRS in Part 1 of the CICA Handbook), are nevertheless required by section 4600.37 to provide capital disclosures, as indicated in paragraphs 135-136 of IAS 1 in Part 1 of the CICA Handbook.

Plan's objectives, policies and processes for managing capital

When these disclosures are provided, the administrator can rely on the information that is provided internally to key management personnel including the pension plan's Statement of Investment Policies & Procedures (SIP&P) (section 78 of the Regulation). The administrator should draw a succinct and significant portrait on how it has achieved (or not achieved) the SIP&P's objectives in managing the plan's capital assets. There is no need for the plan administrator to develop a new set of data and statistics.

Most pension plan administrators define their capital either as net assets available for benefits, or net funded position. In such cases, the statement of net assets available for benefits, or the statement of financial position (as applicable), could be used for the disclosure that is required under IAS 1, paragraph 135(b). Similarly, the statement of changes in net assets would be adequate for the portion of paragraph 135(c) that asks for details of changes in paragraph 135(b).

Contributions accrued and due are externally imposed capital requirements

Section 56(1) of the PBA requires that the administrator "who is responsible for receiving contributions under the pension plan shall ensure that all contributions are paid when due". FSCO considers required contributions as "externally imposed capital requirements", for the purpose of complying with paragraphs 135(a)(ii), 135(d) and 135(e).

FSCO expects the following disclosure:

Capital *– the financial statements must include sufficient information for the regulator to be able to evaluate the pension plan administrator's objectives, policies and processes for managing capital. The disclosures should include:*

- *a description of what the plan administrator manages as capital; and*
- *the dollar amount of the capital being managed, or a reference as to where it can be found.*

SIP&P *– the following disclosures should be included with respect to the SIP&P:*

- *a statement that the plan administrator has adopted a SIP&P and the date when it was established;*
- *the date the SIP&P was last amended;*
- *if a SIP&P has not been established as required, a statement that the plan does not have one;*
- *if the SIP&P was amended during the period covered by the financial statements, the details of the change;*
- *a description of the following included in the SIP&P:*
    - *categories of investments and loans referred to in the SIP&P*
    - *asset mix targets*
    - *rate of return expectations*
    - *investment options offered to plan members of a defined contribution plan*
- *a measurement of the results achieved by the plan administrator during the period related to targets or benchmarks included in the SIP&P; and*
- *a statement that the pension plan investments fell within the asset mix target ranges for a defined benefit plan as at the end of the year.*

Contributions *– the financial statements must include:*

- *a disclosure on whether or not any required contributions were past due at the end of the period.*
- *multi-employer pension plans (MEPPs) which cannot certify that no contribution remains past due at the end of the period should acknowledge the situation and describe their internal control processes regarding the remittance of contributions.*

4. Financial Instruments: Disclosures

Under accounting standards as set out in the CICA Handbook, pension plans administrators are required to provide (in regards to investments that are financial instruments) the disclosures that are required by IFRS 7 – Financial Instruments: Disclosures. Pension plans that decide to use accounting standards for private enterprises, in Part II of the CICA Handbook (instead of the IFRS in Part 1 of the CICA Handbook), are nevertheless required by section 4600.32 to provide financial instrument disclosures using IFRS 7, as indicated in Part 1 of the CICA Handbook.

When these disclosures are provided, the administrator can rely "on the information provided internally to key management personnel", to offer useful insight on how the pension plan's administrator views and manages financial instruments risk. There is no need for the development of a new set of data and statistics.

Pension plan administrators are required under section 4600.19 to measure all investment assets and liabilities at fair value [1]. Section 4600.32 of the CICA Handbook requires a pension plan administrator to also provide the disclosures that are required by IFRS 7 for all of its investment assets and investment liabilities in financial instruments. It also requires a description of how fair values have been determined, in regards to investments that are not financial instruments.

When fair value is estimated by valuation techniques, the result is more subjective than those established from an observable market price. Accordingly, paragraph 27 of IFRS 7 requires financial instruments to be classified in a three-level measurement hierarchy, to help assess the extent of this subjectivity when making these measurements. Additional disclosures are required under paragraph 27B of IFRS 7 for financial instruments that are classified as "not based on observable market data" (Level 3).

Paragraph 31 of IFRS 7 requires pension plans administrators to "disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed at the end of the reporting period." For each type of risk, some **qualitative disclosures** (i.e., exposures to the risk, how they arise, pension plans administrator's objectives, policies and processes for managing the risk, and method used to measure it) and **quantitative disclosures** (as described in paragraphs 36 – 42 of IRFS 7) must be disclosed.

The various types of risks defined in Appendix A of IFRS 7 are:

- **Credit risk** – failure to discharge an obligation by a counter party to a financial instrument will cause a financial loss to the pension plan.
- **Liquidity risk** – the pension plan will encounter difficulty in meeting pension and/or other obligations that are settled by delivering cash or another financial asset held for managing liquidity risk.
- **Market risk** – the fair value or future cash flows of financial instruments will fluctuate because of changes in market prices. Paragraph 40 of IFRS 7 requires a pension plan to disclose **a sensitivity analysis for each type of market risk**, along with the methods and assumptions used in preparing it. Alternatively, paragraph 41 allows a plan administrator who uses dynamic analysis (e.g., a value-at-risk model that combines many market variables to manage financial instrument risks) to disclose these types of model findings, instead of those required by paragraph 40. The types of market risks, risk variables and risk factors are presented in the following table:

TYPE OF MARKET RISKS	RISK VARIABLES	RISK FACTORS
Currency risk – changes in foreign exchange rates	Foreign currencies exchange rates	Level of foreign currency hedging
Interest rate risk – changes in market interest rates	Interest rates	Duration of interest-bearing financial instruments
Other price risk – changes in market prices (other than those arising from currency risk or interest rate risk), whether those changes are caused by factors specific to the individual financial instruments or its issuer, or factors affecting all similar financial instruments traded in the market.	Equity markets benchmark price index	Sensitivity of equity financial instruments to equity index benchmark prices (also known as Beta)

The sensitivity analysis that is required under paragraph 40(a) shows the effect on the net assets available for benefits (or net financial position, as applicable) of reasonably possible changes in an externally available risk

(1) While section 76 of the Regulation refers to "market value", the accounting standards have evolved toward the use of "fair value" which is primarily a market-based measurement. FSCO recognises the standards for fair value measurement as equivalent or superior to the legacy market value measurement. Similarly, section 76 of the Regulation also refers to "book value" which was in use when pension plans were required to account using historical prices only. FSCO also recognises the expression "historical cost" as the equivalent of the legacy book value.

variable, assuming such changes had occurred at the end of the reporting period, and had been applied to the risk exposures in existence at that date.

If the plan administrator believes that the model used to determine the fair value of a financial instrument that was classified as Level 3 (not based on observable market data) precludes the computation of a representative price risk sensitivity analysis required under paragraph 40(a), it should disclose that no sensitivity analysis is available for that financial instrument, identify which financial instruments (or groups of them) were excluded and their fair value as of the end of the period.

FSCO expects the following disclosure:

The financial statements should contain sufficient information for the regulator to assess the level of subjectivity in fair value measurement, and to get insight on how the plan administrator views and manages financial instrument risks. More specifically, the disclosures should include:

- *for those investments that are financial instruments – a table presenting each type of investment assets and liabilities classified in the three-level measurement hierarchy of IFRS 7, paragraph 27;*
- *when a plan has in interest in a master trust – the fair value hierarchy table presents each type of investment assets and liabilities of the whole master trust, along with the plan's position (total dollar amount or percentage) in the master trust;*
- *for all investments that are not financial instruments – a description of how fair value have been determined;*
- *a description of the nature and extent of risks arising from financial instruments to which the plan is exposed at the end of the period, and how the administrator manages those risks;*
- *a credit ratings schedule of interest-bearing financial instruments (AAA, BBB etc.);*
- *a maturity analysis of interest-bearing financial instruments;*
- *a sensitivity analysis of the foreign currency denominated financial instruments, with regard to a possible change of 5 per cent in the foreign currency exchange rate (one analysis for each applicable foreign currency subject to the materiality requirement);*
- *a sensitivity analysis of interest-bearing financial instruments, with regard to a possible change of 1 per cent in the overall level of interest rates;*
- *a sensitivity analysis of equity financial instruments, with regard to a possible change of 10 per cent in the appropriate equity index benchmark (one analysis for each applicable category of equity investments permitted by the SIP&P and subject to the materiality requirement); and*
- *the methods and assumptions used in preparing these sensitivity analyses.*

***Note:** only the first four bullets are required for defined contribution plans where members direct the investment decisions for the assets in their accounts.*

APPENDIX

FSCO has prepared some examples of financial statement notes that could be referred to by plan administrators, when preparing financial statements which will be filed in respect of section 76 of the Regulation. These are illustrative examples only and by no means a prescribed format required by FSCO.

EXAMPLE 1: Statement of Change in Pension Obligations

The financial statements of the pension plan for employees of XYZ Corporation were prepared without the disclosure of pension obligations. Here is an example of how the auditor's report was qualified and how the basis of accounting is disclosed in the notes:

Example of Independent Auditor's Report to the Administrator of the Pension Plan for Employees of XYZ Corporation

We have audited the accompanying financial statements of the **pension plan for employees of XYZ Corporation** (the Plan) as of December 31, 20XY. They include the statements of net assets available for benefits as of December 31, 20XY and 20XX, and the statements of changes in net assets available for benefits for the years then ended, and a summary of significant accounting policies and other explanatory information. The financial statements have been prepared by the administrator in accordance with the basis of accounting disclosed in Note 2 – Basis of Accounting, for filing under Section 76 of Regulation 909 of the Pension Benefits Act (Ontario).

The Administrator's Responsibility for the Financial Statements

The administrator of the plan (the administrator) is responsible for the preparation and fair presentation of these financial statements in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act (Ontario). This includes determining that the applicable financial reporting framework is acceptable for the preparation of the financial statements in these circumstances, and for such internal control as the administrator determines is necessary, to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with Canadian generally accepted auditing standards (GAAS). GAAS require that we comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making these risk assessments, the auditor considers internal control relevant to the plan's preparation and fair presentation of the financial statements. This is done in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the plan's internal control. An audit also includes evaluating the appropriateness of accounting policies used, the reasonableness of accounting estimates made by the administrator, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained in our audits is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the net assets available for benefits of the plan as of December 31, 20XY and 20XX, and the changes in net assets available for benefits for the years then ended in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act (Ontario).

Basis of Accounting and Restriction on Use

Without modifying our opinion, we draw attention to Note 2 to the financial statements, which describe the basis of accounting. The financial statements are prepared to assist the plan in meeting the requirements of the Pension Benefits Act (Ontario) and the Financial Services Commissi of Ontario (FSCO). As a result, the financial statements may not be suitable for another purpose. Our report is intended solely for the administrato and FSCO. It should not be used by parties other than the administrator or FSCO.

Note 2 – Basis of Accounting

These financial statements have been prepared in accordance with the accounting policies set out below, to comply with the accounting guidance provided by FSCO for financial statements under Section 76 of Regulation 909 of the Pension Benefits Act (Ontario). The basis of accounting used in these financial statements materially differs from Canadian generally accepted accounting principles (GAAP). It excludes the pension obligations of the plan's benefits and related information (and as a result do not purport to show the adequacy of the plan's assets to meet its pension obligations), and includes disclosures beyond that required by the CICA Handbook.

EXAMPLE 2: Investments in a Master Trust

The investment assets of the pension plan for employees of XYZ Corporation are made solely of units in the XYZ Master Trust. Here is an example of how investments are reported on the statement of net assets available for benefits and how the master trust details are presented in the notes:

The Pension Plan for Employees of XYZ Corporation

STATEMENT OF NET ASSETS AVAILABLE FOR BENEFITS

As of December 31, 20XY

	20XY $	20XX $
Assets		
Investments in a master trust (note 3)	11,595,000	11,480,000
Employer contributions receivable (note 7)	75,000	60,000
	11,670,000	11,540,000
Liabilities		
Accrued expenses (note 8)	30,000	25,000
Net Assets Available for Benefits	**11,640,000**	**11,515,000**

Note 3 – Investments in a Master Trust

As of December 31, 20XY and 20XX, the assets of the plan were invested in the XYZ Corporation Master Trust Fund (the Master Trust Fund). The detail of the Master Trust Fund investments and the plan's proportionate share thereof are:

	20XY		20XX	
	Fair value **$**	**Cost** **$**	**Fair value** **$**	**Cost** **$**
Bond pooled funds	13,100,000	11,650,000	12,200,000	10,525,000
Canadian equity pooled funds	7,000,000	6,015,000	7,500,000	5,450,000
Foreign equity pooled funds	5,900,000	5,600,000	6,500,000	5,040,000
Other financial instruments	480,000	480,000	420,000	420,000
	26,480,000	23,745,000	26,620,000	21,435,000
Plan's share of Master Trust assets ($)	11,595,000	9,925,000	11,480,000	9,025,000
Plan's share of Master Trust assets (%)	43.8%		43.1%	

As of December 31, 20XY, the Master Trust Fund held the following investments where the fair value or cost exceeded 1% of the total fair value or total cost of the Master Trust Fund's assets.

	Fair value **$**	**Cost** **$**
ABC Canadian Bonds Universe Exchange Trade Fund	5,305,000	5,225,000
ABC Canadian Long Bonds Fund	7,795,000	6,425,000
DEF Canadian Equity Exchange Trade Fund	4,375,000	4,050,000
DEF Small Caps Alpha Fund	2,625,000	1,965,000
GHI U.S. Large Caps Equities Fund	2,995,000	2,575,000
GHI EAFE Equities Index Exchange Trade Fund	2,905,000	3,025,000

EXAMPLE 3: Capital Management

The note is prepared with the information available to the administrator through its Statement of Investment Policies and Procedures (the SIP&P), investment managers' quarterly reports and performance measurement monitoring documentation. There is no need to repeat information that is already available elsewhere in the financial statements (e.g. details of contributions paid may be included in another note dealing with the Funding Policy prepared for compliance with section 4600.29(c)).

Note 4 – Capital Management

The capital of the plan is represented by the net assets available for benefits. The plan's objective when managing the capital is to safeguard its ability to continue as a going concern and to maintain adequate assets to support pension obligations.

The plan's administrator has adopted a Statement of Investment Policies and Procedures (the SIP&P) which states investment objectives, guidelines and benchmarks used in investing the capital of the plan, permitted categories of investments, asset-mix diversification and rate of return expectations. The SIP&P was last amended effective July 1st, 20XV.

The plan's absolute return expectation over a five-year horizon has been set in the SIP&P at 6% annualized rate of return, net of investment management fees. The plan's annualized five-year average rate of investment return (net of fees) as of December 31st, 20XY was 3.9% (5.2% as of December 31st, 20XX).

The SIP&P permits four broad categories of assets. A set of benchmarks has been identified to measure against each category's annual rate of investment return (net of fees). The total investments annual rate of return is measured against a composite index made up of the weighted average of each category's benchmark return using the target allocation of the SIP&P to weight the various categories. The plan's relative annual rate of investment return expectation is to equal or exceed the composite index on a net of fees basis. The plan's investment was allocated within the allowed asset categories range, as of the date of the financial statements. The following table presents the asset allocation and annual rate of investment return for each asset category, and total investments, along with appropriate benchmarks.

Asset categories *	Benchmark	Asset allocation (%)			Annual rate of investment return (%)			
		SIP&P Target**	As of December 31st		Benchmark		Actual (net of fees)	
			20XY	20XX	20XY	20XX	20XY	20XX
Cash & Equivalents	DEX 91 days T-Bills Index	2.0	1.8	1.6	1.0	0.5	0.4	0.4
Fixed-Income	DEX Mid Term Bond Index	48.0	49.5	45.8	10.9	7.8	11.8	6.7
Canadian Equities	S&P/TSX 60 Index	25.0	26.4	28.2	-9.1	13.2	-6.3	13.4
Foreign Equities	MSCI World Index (C$)	25.0	22.3	24.4	-3.2	5.9	-1.4	5.0
Total Investments	**Composite Index**	**100.0**	**100.0**	**100.0**	**2.2**	**8.7**	**3.5**	**7.8**

The plan invests in units of the Master Trust Fund, which itself invests in pooled funds managed by ABC Asset Management Ltd, DEF Canada Group of Funds and GHI Global Investors (the investment managers), in accordance with the SIP&P and investment mandates specific to each investment manager. The plan's investment positions expose it to a variety of financial risks which are discussed in Note 5 – Financial Instrument Risks. The allocation of assets among various asset categories is monitored by the plan administrator on a monthly basis. A comprehensive review is conducted quarterly, which includes measurement of returns, comparison of returns to appropriate benchmarks, ranking of returns to appropriate universes and risk analysis.

The employer is required under the PBA to pay contributions, based on actuarial valuations, necessary to ensure the benefits are funded on the plan's provisions. More details on members and employer contributions that were paid during the period can be found in Note 7 – Funding Policy. No contributions remain past due as of the end of the period covered by the financial statements.

* In the case of a defined contribution plan, this column heading would read as "Investment Options" and presents the various options offered to plan members.
** Idem. There would be no such target for a defined contribution plan when options are elected by plan members.

EXAMPLE 4: Financial Instruments: Disclosures

This note is prepared with the information available to the plan administrator through internal documentation, investment managers' quarterly reports and performance monitoring documentation.

Note 5 – Financial Instruments Risks

The plan's investments in financial instruments are susceptible to the following risks:

1. Fair Value Measurement Risk

The following is a breakdown of the master trust investments and the plan's proportionate share of it using the fair value hierarchy set forth in paragraph 27 of IFRS 7 – Financial Instruments: Disclosures. The hierarchy assesses the subjectivity of inputs used in the fair value measurement in a three-level classification:

- Level 1 – fair value based on quoted prices (unadjusted) in active markets for identical assets or liabilities;
- Level 2 – fair value based on inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly (ie as prices) or indirectly (ie derived from prices); and
- Level 3 – fair value based on inputs for the asset or liability that are not based on observable market data (unobservable inputs).

	As of December 31st, 20XY			
	Level 1	**Level 2**	**Level 3**	**Total**
	$	**$**	**$**	**$**
Bond pooled funds and ETF	5,305,000	7,795,000	-	13,100,000
Canadian equity pooled funds and ETF	4,475,000	2,525,000	-	7,000,000
Foreign equity pooled funds	-	5,900,000	-	5,900,000
Other financial instruments	-	480,000	-	480,000
	9,780,000	16,700,000	-	26,480,000
Plan's share of master trust assets ($)	4,280,000	7,315,000	-	11,595,000

	As of December 31st, 20XX			
	Level 1	**Level 2**	**Level 3**	**Total**
	$	**$**	**$**	**$**
Bond pooled funds and ETF	4,650,000	7,550,000	-	12,200,000
Canadian equity pooled funds and ETF	4,750,000	2,750,000	-	7,500,000
Foreign equity pooled funds	-	6,500,000	-	6,500,000
Other financial instruments	-	420,000	-	420,000
	9,400,000	17,220,000	-	26,620,000
Plan's share of master trust assets ($)	4,055,000	7,425,000	-	11,480,000

2. *Credit Risk*

The plan is subject to indirect exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when they are due. The SIP&P restrictions prohibit directly or indirectly investing more than 5% of assets in any one entity, or two or more associated or affiliated entities. Furthermore, the SIP&P restricts investing more than 5% of assets in fixed-income instruments with a credit rating below BBB.

The following are the master trust investments in interest-bearing financial instruments, the exposure to credit risk and the plan's proportionate share of it.

Credit Ratings	**AAA** $	**AA** $	**A** $	**BBB** $	**BB** $	**Total** $
As of December 31st, 20XY						
master trust	1,310,000	5,500,000	4,210,000	1,830,000	250,000	13,100,000
plan's share ($)	570,000	2,410,000	1.845,000	800,000	110,000	5,735,000
As of December 31st, 20XX						
master trust	1,100,000	5,240,000	4,025,000	1,595,000	240,000	12,200,000
plan's share ($)	470,000	2,260,000	1,735,000	690,000	105,000	5,260,000

3. *Liquidity Risk*

Liquidity risk is the risk that the plan may be unable to meet pension payment obligations in a timely manner and at a reasonable cost. Management of liquidity seeks to ensure that even under adverse conditions, the plan has access to immediate cash that is necessary to cover benefits payable, withdrawals and other liabilities. The SIP&P requires the plan's investments to be highly liquid, so they can be converted into cash on short notice. The plan's exposure to liquidity risk is considered negligible.

The following is a maturity analysis of the master trust investments that are held for managing liquidity risk and the plan's proportionate share of it.

Maturity	**< 1 year** $	**1 – 5 yrs** $	**5 – 10 yrs** $	**10 – 20 yrs** $	**> 20 yrs** $	**Total** $
As of December 31st, 20XY						
master trust	655,000	1,965,000	3,930,000	4,585,000	1,965,000	13,100,000
plan's share ($)	290,000	860,000	1.720,000	2,005,000	860,000	5,735,000
As of December 31st, 20XX						
master Trust	610,000	1,830,000	3,660,000	4,270,000	1,830,000	12,200,000
plan's share ($)	260,000	790,000	1,580,000	1,840,000	790,000	5,260,000

4. *Market Risk: Currency*

The master trust holds financial instruments denominated in currencies other the Canadian dollar — the measurement currency. The plan is therefore exposed to currency risk as the value of these financial instruments will fluctuate due to changes in foreign exchange rates. The SIP&P requires the plan's investments denominated in foreign currencies to be hedged back to the Canadian dollar to a minimum of 50%.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits, following reasonably possible changes in foreign currency exchange rates, for each currency to which the plan has a significant exposure.

Currency risk	**Currency**	**Change in exchange rates**	**Change in Net Assets Available for Benefits as of December 31st 20XY** $	**December 31st 20XX** $
United States dollar	US $ / C$	+ / - 5%	- / + 38,000	- / + 43,100
Euro	€ / C$	+ / - 5%	- / + 13,400	- / + 12,500
Japanese Yen	¥ / $C	+ / - 5%	- / + 8,300	- / + 9,800
Great Britain Pound	£ / C$	+ / - 5%	- / + 4,900	- / + 4,600
Other currencies		+ / - 5%	- / + 6,500	- / + 6,200
Total			- / + 71,100	- / + 76,200

5. Market Risk: Interest Rate Risk

The master trust holds interest-bearing financial instruments. The plan is therefore exposed to interest rate risk, as the value of interest-bearing financial instruments will fluctuate with changes in interest rates. The plan administrator views interest rate risk on interest-bearing financial instruments as a hedge that offset the larger interest rate risk on pension benefit liabilities. In order for this offset to significantly reduce the overall level (on assets and pension benefit liabilities) of the plan's interest rate risk, the SIP&P requires that at least 50% of holdings in interest-bearing financial instruments be invested in long maturities.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits following a reasonably possible change in interest rates for all maturities (a parallel shift in the yield curve).

Interest rate risk		**Change in Net Assets Available for Benefits as of**	
	Change in interest rates	**December 31st 201XY** $	**December 31st 20XX** $
Interest-bearing financial instruments	+ / - 1%	- / + 757,000	- / + 641,700

6. Market Risk: Equity Prices Risk

The master trust holds equity financial instruments. The plan is therefore exposed to equity price risk as the value of equity financial instruments will fluctuate due to changes in equity prices. In order to limit the level of equity price risk, the SIP&P limit the sensitivity of the plan's investments in equities with regard to specific stock market benchmarks (also known as Beta or "ß") to a maximum of 1.00.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits, following reasonably possible changes in equity prices for each stock market benchmark to which the plan has a significant exposure.

Equity prices risk			**Change in Net Assets Available for Benefits as of**	
	Stock market benchmark	**Change in prices index**	**December 31st 20XY** $	**December 31st 20XX** $
Canadian equities	S&P/TSX 60 Index	+ / - 10%	+ / - 291,200	+ / - 313,700
Foreign equities	MSCI World Index (C$)	+ / - 10%	+ / - 235,100	+ / - 257,900
Total			+ / - 526,300	+ / - 571,600

7. Market Risk: Methods and Assumptions Used in Preparing the Sensitivity Analyses

The various sensitivity analyses are based on similar disclosures presented in the audited financial statements of the various fund holdings of the master trust. When the master trust invests in more than one fund with similar financial instruments risk, the impact on the plan's net assets available for benefits is calculated separately for each of these funds, and then added together. The fiscal years of these funds are not necessarily coincident with plan year-end and varies from April 30th 20XY through December 31st 20XY. When funds with similar financial instruments risk use a different level of reasonably possible change to assess the impact on their net assets value, this impact is prorated in order to use a consistent level of reasonable possible change in presenting the aggregate impact on the plan's net assets available for benefits.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

FSCO Consultations - Submissions Received

Actuarial Guidance Consultation

Actuarial Guidance Note 004- Alternative Settlement Methods for Solvency Valuations

- Association of Canadian Pension Management Size: ## kb
- Canadian Institute of Actuaries Size: ## kb
- Enbridge Size: ## kb
- Fiat Chrysler Automobiles Size: ## kb
- Mercer Size: ## kb
- OMERS Size: ## kb
- Towers Watson Size: ## kb
- Vale Canada Limited Size: ## kb

Actuarial Guidance Note 003 - Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit Size: ## kb

- Towers Watson Size: ## kb

Actuarial Guidance Note 001- Canadian Institute of Actuairies, Practice-Specific Standards for Pension Plans effective on December 31, 2010

- Association of Canadian Pension Management
- Colleges of Applied Arts & Technology Pension Plan
- Heathcare of Ontario Pension Plan
- Mercer
- Towers Watson

Administrator's Management of Inquiries and Complaints from Plan Beneficiaries

Consultation Policy on Administrator’s Management of Inquiries and Complaints from Plan Beneficiaries and Consultation Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries

- Ontario Bar Association

- Ontario Municipal Employees Retirement System

Financial Statements Guidance Notes

Financial Statements Guidance Note #1-Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s.76 Size: ## kb

- Aon Hewitt Size: ## kb
- Colleges of Applied Arts and Technology Pension Plan Size: ## kb
- Healthcare of Ontario Pension Plan Size: ## kb
- IBM Canada Ltd. Size: ## kb
- James Koo Size: ## kb
- Ontario Municipal Employees Retirement System Size: ## kb
- Opseu Pension Plan Trust Fund Size: ## kb
- PricewaterhouseCoopers LLP Size: ## kb
- Teachers’ Pension Plan Size: ## kb
- Towers Watson Size: ## kb

Investment Guidance Notes

IGN-002: Prudent Investment Practices for Derivatives Size: ## kb

- Ontario Municipal Employees Retirement System Size: ## kb
- Pension Investment Association of Canada Size: ## kb
- Teachers' Pension Plan Size: ## kb
- Towers Watson Size: ## kb

IGN-001: Buy-In Annuities for Defined Benefit Plans Size: ## kb

- CLHIA Size: ## kb
- Morneau Shepell Size: ## kb
- Sunlife Size: ## kb
- Towers Watson Size: ## kb

Management and Retention of Pension Records

Consultation Policy on Management and Retention of Pension Records by the Administrator # kb Size: ## kb

- Association of Canadian Pension Management Size: ## kb
- DuPont/INVISTA Pensioners Association-Canada
- Eckler Ltd.
- Hewitt Associates
- Morneau Sobeco
- Multi-Sector Non Profit Benefit Plan Administrators
- Ontario Bar Association
- Ontario Municipal Employees Retirement System
- Ontario Teachers' Pension Plan
- OPSEU Pension Trust
- Weise, C.

Risk-Based Regulation Framework

Risk-Based Regulation Framework Size: ## kb

- AON/Hewitt
- Association of Canadian Pension Management
- Canadian Federation of Pensioners
- Canadian Institute of Actuaries
- Colleges of Applied Arts & Technology Pension Plan
- James C. Murray (member of the Ontario Advisory Council on Pensions and Retirement Income)
- Morneau Shepell
- Ontario Municipal Employees Retirement System
- Ontario Pension Board
- OPSEU Pension Trust
- OSLER
- Pension Investment Association of Canada
- Teacher's Pension Plan

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Recent FSCO consultations

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-004
TITLE:	Alternative Settlement Methods for Solvency Valuations
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (date to be determined)
EFFECTIVE DATE:	(date to be determined)

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

public consultation

Purpose

Under the PBA and Regulation, the administrator of a pension plan that provides defined benefits is required to file, on either an annual or triennial basis, actuarial valuation reports to establish the funding requirements of the plan in accordance with the Regulation. The reports and certificates required under the PBA and Regulation must be prepared by an actuary, who must use methods and actuarial assumptions that are consistent with accepted actuarial practice.

The PBA provides authority for the Superintendent of the Financial Services Commission of Ontario (FSCO) to require the preparation of a new actuarial valuation report if FSCO concludes that the methods or assumptions used in the preparation of a report in respect of the plan are not consistent with accepted actuarial practice, or are inappropriate.

The Actuarial Standards Board of the Canadian Institute of Actuaries (CIA) introduced revisions to subsections 3240 and 3260 of the CIA Standards of Practice – Practice-Specific Standards for Pension Plans (Standards of Practice), which became effective September 18, 2013. On the same date, the CIA issued guidance in the form of an educational note (Educational Note) by the Committee on Pension Plan Financial Reporting for actuaries who decide to use alternative settlement methods for hypothetical wind-up and solvency valuations. FSCO is of the opinion that the use of some alternative settlement methods may not be appropriate for an actuarial valuation report filed under the PBA and Regulation.

This Actuarial Guidance Note describes FSCO's expectations when an actuary assumes an alternative settlement method in the preparation of an actuarial valuation report to be filed with FSCO for purposes of the PBA and Regulation. For clarity, the guidance note does not apply to actual wind-up situations, and FSCO would not accept the use of any alternative settlement methods for actual wind up situations.

General

When FSCO is determining whether the methods and assumptions used in a report to determine the hypothetical wind-up or solvency liabilities filed in respect of a pension plan are appropriate, FSCO considers whether actuarial methods and assumptions have been chosen with a level of prudence consistent with the plan's funding and investment objectives, with due consideration to the underlying characteristics of the pension plan obligations.

The Standards of Practice clarify that the assumption of alternative settlement methods for hypothetical wind-up and solvency valuations is limited to situations where it is anticipated that annuities could not be purchased due to group annuity capacity limitations or where it is permitted by law, regulatory policy or guideline. Even in a situation where group annuity capacity limitations may exist, the Standards of Practice permits the actuary to assume that benefits would be settled by the purchase of annuities regardless of any capacity limitations. This assumption would be accepted by FSCO.

In general, the actuary should assume benefits would be settled by the purchase of annuities when performing a hypothetical wind-up or solvency valuation. If an alternative settlement method is used, then the actuary should be prepared to justify and provide adequate support as to why the benefits could not be settled by the purchase of annuities and why, even if this were the case, it would not be appropriate to assume such settlement given that it is permitted by the Standards of Practice.

For this purpose, the actuary may not rely solely on the capacity thresholds stated in the Education Note (i.e., $500 million for non-indexed annuities and $200 million for indexed annuities) since these thresholds may change over time. It should be noted that statistics from the insurance industry (e.g., Life Insurance and Market Research Association, Canadian Life and Health Insurance Association) show that the Canadian group annuity market has exceeded $1 billion each year since 2007 except for one year. Actual annuity transactions that have taken place, as well as input from insurance companies should also be considered in estimating what the threshold is.

The Educational Note states that the use of an alternative settlement approach may result in liabilities either higher or lower than those produced by assuming the benefits would be settled through a single annuity purchase. FSCO expects that the actuary will exercise sound judgment when selecting the approach and to ensure that the method is reasonable, supportable and appropriate given the plan's circumstances.

If an alternative settlement method is used, FSCO may request, in addition to the disclosures required in the Standards of Practice and the Educational Note, other information or documentation in support of the rationale for the alternative settlement method assumed.

public consultation

FSCO would accept an alternative settlement method which contemplates an exercise of regulatory discretion or a change in legislation, if the resulting liabilities are no less than the liabilities produced using the prevailing guidance issued by the Pension Plan Financial Reporting Committee (PPFRC) and assuming there are no capacity constraints. In all other situations, FSCO will consider, on a case by case basis, submissions from the actuary which provide support that the use of an alternative method which varies from FSCO's expectations as described in this Actuarial Guidance Note, is appropriate for the pension plan.

Alternative Settlement Methods

1. <u>Purchase of a Series of Annuities</u>

In the case where the actuary assumes that the liabilities would be settled through a series of purchases over a period of time, FSCO expects that the liabilities would not be less than the liabilities produced using the prevailing guidance issued by the PPFRC and assuming no capacity constraints.

The actuary should disclose the assumptions made with respect to estimating future annuity purchases in addition to justifying the provision for expenses over the duration of the annuity purchases.

2. <u>Establishment of a Replicating Portfolio</u>

Paragraph 3240.17 Standards of Practice states that "*the actuary may assume settlement by means of a replicating portfolio*" with the assumption that the "*replicating portfolio would provide for an appropriate level of security for the pension benefits covered*".

If the actuary is contemplating the use of a replicating portfolio as an alternative settlement method, FSCO would require that the actuary provide appropriate justification for the use and rationale for this method. This should include comments on the relevant fixed income investment market capacity, and information about the credit and liquidity profile of the instruments included. In describing the margins for adverse deviations, the actuary should describe each of the key risks considered in setting the margin.

The use of a replicating portfolio is intended to apply only where it is believed that the group annuity capacity limitations will be exceeded. Therefore, the appropriate level of security of benefits covered that is provided by the replicating portfolio should be the same or similar to that of an annuity purchase, if there were no capacity limitations restricting the ability to purchase the annuities.

FSCO would require significant disclosures for a plan applying this alternative approach including but not limited to:

- The allocation of investments in the portfolio and justification of the allocation.
- The mortality experience applied to the expected benefit cash flows and justification if such experience does not reflect plan-specific experience.
- A justification of the level of expenses associated with establishing and maintaining the portfolio.

public consultation

- The average duration of the liabilities to be settled and the average duration of the portfolio.
- The assumptions regarding the options elected by plan members.
- Description of the margins for adverse deviations to ensure a high probability that the pension benefit promises will be met. The actuary should use judgment when considering whether the margins are appropriate for the plan.

The Educational Note specifies that the portfolio would include "*a substantial allocation to high-quality fixed-income investments.*" FSCO expects that to achieve a level of security commensurate with the prevailing guidance, a substantial allocation to fixed-income investments such as bonds issued or guaranteed by the Government of Canada or investment grade bonds issued or guaranteed by the government of a Canadian province would be required. FSCO would require that the actuary provide adequate disclosures with respect to the allocation and the underlying investments.

The Educational Note states that the "*actuary would provide meaningful disclosures regarding the benefit security implications of the settlement method based on either stochastic modelling or stress testing.*" FSCO would generally expect the disclosures to provide adequate information for FSCO to make an assessment of the level of benefit security provided.

3. <u>Lump Sum Payments to Members</u>

Unless specified in the legislation, FSCO would not accept this settlement method. The PBA does not contemplate lump sum payments to retired members.

4. <u>Assuming Modifications to Benefit Terms</u>

The valuation should be performed in accordance with the terms of the pension plan at the valuation date. Therefore, unless the plan is amended, FSCO will not accept this alternative settlement method.

public consultation

Sept. 3, 2015

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Toronto, ON M2N 6L9

Email: pensionconsultation@fsco.gov.on.ca

Dear Sir/Madam:

RE: Actuarial Guidance Note 004: Alternative Settlement Methods for Solvency Valuations

ACPM is a national non-profit volunteer-based organization acting as the informed voice of plan sponsors, administrators and their service providers, advocating for improvement to the Canadian retirement income system. Our membership represents over 400 retirement plans consisting of more than 3 million plan members, with assets under management in excess of $330 billion.

We are pleased to submit comments on Actuarial Guidance Note (AGN) 004 regarding alternative settlement methods for solvency valuations. The AGN describes the conditions under which actuaries may utilize the methods described in the Canadian Institute of Actuaries' (CIA) guidance note released in September 2013. The AGN is important to plan sponsors, administrators and members of Ontario registered pension plans that are required to fund on a solvency basis or are subject to other solvency-driven requirements (such as filing frequency, or transfer ratio reporting and monitoring).

Our comments below align with our views on solvency valuations as noted in our paper *DB Pension Plan Funding: Sustainability Requires a New Model*. In a nutshell, the funding regime for pension plans required to fund on a solvency basis is in dire need of an overhaul. ACPM is very pleased that the Quebec government has proposed to eliminate solvency funding for all types of pension plans and replace it with a funding regime that is, in principle, similar to the one the Ontario government has put forth for multi-employer target benefit plans. We encourage FSCO to work together with the Ontario Ministry of Finance and replace solvency funding with a similar regime for all pension plans.

General

ACPM welcomes the CIA's (Canadian Institute of Actuaries) guidance note as a step forward in changing the solvency funding regime to deal with the practicalities of the current annuity market, which on the whole is immature and evolving. We are concerned about some of FSCO's restrictions on the use of the CIA's proposed alternative settlement methods.

It is important to note the difference between a solvency valuation (i.e. hypothetical windup valuation), its associated funding and an actual windup. In our view, solvency funding is a mechanism to accelerate contributions to an ongoing plan to enhance benefit security for the plan's membership. Therefore, there should be some acknowledgement by FSCO that a solvency valuation need not reflect the exact conditions of an actual windup. Otherwise Ontario legislation wouldn't permit certain benefits to be excluded from a solvency valuation.

In general, we agree with FSCO that an actuary should provide justification to use an alternative settlement method. As noted in the AGN, the use of alternative settlement methods could produce liabilities that are higher or lower than the solvency liabilities on an annuity purchase basis. However, it is not clear why FSCO states that it will review the results on a case-by-case basis when the liabilities are lower. It would be better to specify the criteria within the AGN that would be applied in performing such review and that the criteria specified in the AGN be reasonable.

Purchase of a series of annuities

The AGN states that the solvency liabilities of a plan calculated when assuming a series of annuities are purchased over time should be no less than assuming they are all purchased on the valuation. We find it hard to presuppose that no reasonable method could produce lower results, so we would like FSCO to modify this position in order to allow methods producing results that could be either lower or higher, as long as the actuary demonstrates that the method is reasonable.

Replicating portfolio

The AGN notes that under the replicating portfolio method, FSCO would expect that a substantial portion of the fixed-income allocation would be to Government of Canada and provincial bonds. We note that it is common for insurance companies, who also need to ensure there is a high probability that the promised benefits will be paid to their annuitants, to also invest in corporate bonds and mortgages, therefore these asset classes should also be acceptable for inclusion in the replicating portfolio.

Lump sum payments

We acknowledge that the PBA does not contemplate lump sum payments to retirees (other than for shortened life expectancy). However, faced with a very large plan windup where the annuity market could not handle the purchase of annuities, it is possible that the Ministry of Finance would change the PBA to allow the lump sum payments for the particular plan. There are many precedents when the Regulations of the PBA have been changed to handle a particular situation of a large pension plan (e.g. for Nortel retirees). Additionally, and as noted earlier, solvency valuations currently do not reflect the benefit payments required to be provided under the PBA on actual wind-up. Therefore, ACPM recommends FSCO support this alternative settlement method as described in the CIA's guidance note.

Modifications to benefits

The focus of the CIA's guidance note regarding modification to benefits seems to be on pension plans indexed to inflation. We note indexing is not required to be valued in solvency valuations for Ontario registered plans so this section is less relevant in Ontario.

That said, we note that the indexed annuity market is severely limited because of the shortage of assets available to insurance companies to appropriately back them. On actual plan wind-up, there would be a high likelihood that an indexed plan would not be able to fully annuitize, or the premium would be prohibitive, reducing the members' benefits otherwise payable from the plan. If FSCO does not yet have an internal policy on how it would deal with such an event, we recommend one be developed, and that the policy should include modifications to the plan's benefits such as the ability to replace variable indexing with fixed indexing in a prudent manner.

We thank you for the opportunity to provide comments on the AGN and please feel free to contact us at anytime.

Sincerely,

Bryan D. Hocking
Chief Executive Officer

August 7, 2015

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Toronto ON
M2N 6L9

Dear Sir/Madam:

Alternative Settlement Methods for Solvency Valuations

The Canadian Institute of Actuaries (CIA) is the national organization of the actuarial profession. The CIA establishes the Rules of Professional Conduct, guiding principles, and monitoring and discipline processes for qualified actuaries. All members must adhere to the profession's Standards of Practice. The CIA follows its Guiding Principles, including Principle 1, which holds the duty of the profession to the public above the needs of the profession and its members. The CIA also assists the Actuarial Standards Board (ASB) in developing standards of practice applicable to actuaries working in Canada.

We are pleased to offer the following comments on FSCO's actuarial guidance note Alternative Settlement Methods for Solvency Valuations, published on July 3, 2015.

The CIA commends FSCO for publishing an actuarial guidance note on this subject. Current Ontario legislation requires that certain benefits be settled through an annuity purchase upon the actual wind-up of a pension plan. However, there are serious questions about the ability of large plans and plans with indexed benefits to purchase an annuity based on the current state of the Canadian market. The reality is that if one of these plans were to be wound up today, in practice a change in legislation would likely be required so that the settlement of benefits could take place in a manner other than through the purchase of annuities. It is important for stakeholders to consider whether the hypothetical wind-up and solvency valuations of these plans should reflect a realistic manner of settling benefits. One of the key reasons that the ASB made changes to the Standards of Practice and the CIA Committee on Pension Plan Financial Reporting (PPFRC) issued the Alternative Settlement Methods for Hypothetical Wind-Up and Solvency Valuations educational note was to facilitate the use of realistic methods for settling benefits.

Our detailed comments on the draft guidance note are as follows.

ACTUAIRES PROFESSIONNELS DE L'AVENIR 50 ans years ACTUARIES PROFESSIONALS OF THE FUTURE

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Appropriateness of an Alternative Settlement Method

The draft guidance note indicates that the "actuary should be prepared to justify and provide adequate support as to why the benefits could not be settled by the purchase of annuities and why, even if this were the case, it would not be appropriate to assume such settlement given that it is permitted by the Standards of Practice."

We agree that the actuary should be prepared to justify the assumption that benefits could not be settled via annuity purchase for a particular plan.

Although the Standards of Practice permit the actuary to assume annuities can be purchased for this purpose, this is very unlikely to actually occur in practice for large plans and plans with indexed benefits. In these situations, reflecting an alternative settlement method represents a more realistic scenario than assuming that an annuity could theoretically be purchased for the plan on wind-up, and therefore should be the preferred postulated scenario in a hypothetical wind-up or solvency valuation. While the simplifying assumption that annuities could be purchased would be acceptable actuarial practice in Canada, it would not be best practice in these situations.

Group Annuity Market Capacity Constraints

The draft guidance note says that the actuary should not rely on the annuity market capacity thresholds in the educational note. The educational note was prepared using the best information available to the PPFRC at the time of publication in 2013. We note that the current educational note thresholds are higher than the largest actual single group annuity purchase in Canada to date; while we agree that the group annuity market is evolving and that capacity will likely increase over time, such increases in capacity remain conjectural at this time.

The PPFRC expects to review the thresholds on an annual basis, references these thresholds in its annual Assumptions for Hypothetical Wind-Up and Solvency Valuations educational note, and would anticipate updating the alternative settlement methods educational note to reflect material changes as the market evolves. For many pension actuaries, the best available information on actual group annuity market capacity is the information published by the PPFRC. Hence, we suggest that FSCO should allow actuaries to rely on these thresholds.

Composition of a Replicating Portfolio

Under the replicating portfolio approach, the draft guidance note suggests that the hypothetical portfolio should be constructed using a substantial allocation to federal and/or provincial bonds.

This is inconsistent with how such a portfolio would be constructed in practice. Federal bonds and, to a lesser extent, provincial bonds are highly liquid instruments. Investors are willing to pay a significant premium in order to be able to easily trade these investments. Under a replicating portfolio scenario, the underlying investments do not need to be liquid since they would be expected to be "buy and hold" investments. Consequently, it would be needlessly expensive to construct a portfolio made up predominately from highly liquid bonds.

In practice, we understand that other high-quality (but less liquid) bonds, including corporate bonds, commercial mortgages, and private debt instruments, are commonly used by Canadian insurers to support their group annuity products. It is reasonable to assume that a plan sponsor establishing a replicating portfolio would give consideration to investing in such securities.

To the extent that FSCO's rationale for imposing this restriction relates to a reduction in benefit security that could result as a result of bond defaults and other risks that may be higher in non-government bonds, in our view this concern could be dealt with through the selection of appropriate margins.

For the reasons cited above, the educational note makes reference to a substantial allocation to high-quality fixed-income investments, but does not specify that such investments are restricted to those issued by the federal or provincial governments of Canada.

Replicating Portfolio Benefit Security vs. Group Annuity Products

The draft guidance note says that the level of security under the replicating portfolio approach should be the same or similar to that of an annuity purchase determined without reference to capacity restrictions.

It is not reasonable to expect pension actuaries to ascertain the level of security involved with an annuity payable from an insurance company. This would require an assessment of the financial health of insurers, an understanding of how an insurance company reorganization or liquidation would occur, etc.

We agree that FSCO should provide its views regarding the level of benefit security that would be required under the replicating portfolio approach. The educational note indicates that the replicating portfolio should "ensure a high probability that the benefit promises will ultimately be met". The most effective approach for FSCO to express this view would be to provide guidance on what should be considered a "high probability".

Lump Sum Payments to Members

The draft guidance note does not permit the assumption that benefits would be settled by providing lump sums to retired members. Given that this approach is actually being used for the Nortel pension plans, the guidance note should permit this approach to be contemplated for plans of similar size and complexity. This is particularly true in scenarios that assume that pensioners would be permitted, but not required, to receive a lump sum payment instead of an annuity.

Assuming Modifications to Benefit Terms

The draft guidance note does not permit the assumption that benefit terms would be modified under the hypothetical wind-up scenario. We note that the published guidance from the Alberta Superintendent of Pensions indicates that this method is acceptable for the solvency valuation of pension plans registered in Alberta and we believe that this approach could also be reasonable for Ontario-registered pension plans. In particular, larger plans that have benefits indexed based on a Consumer Price Index-linked or excess-interest formula, and smaller plans with complex indexation formulas, are expected to have difficulty settling their liabilities through an annuity purchase due to the nature of these benefits. We are aware that FSCO has permitted this approach in an actual wind-up situation. Consequently, we suggest that this approach be permitted for plans for which a modification to their indexation provisions would likely be required in order to facilitate an annuity purchase.

Conclusion

We recognize that FSCO's primary concern is protecting the security of benefits for plan members. The CIA shares these concerns since we hold the duty of the public above the needs of the profession and its members.

Nevertheless, the CIA believes that it is important that pension plan funding should be based on reality.

The final guidance note should permit actuaries and plan sponsors to assume a realistic method of settling benefits in hypothetical wind-up and solvency valuations. The interests of the public are better served by actuarial reports that reflect realistic methods of settlement for the particular plan rather than being based on a theoretical ability to purchase annuities that is very unlikely to occur in practice.

The CIA hopes its comments provided herein will be of value.

Respectfully submitted,

Rob Stapleford
President

ENBRIDGE

Jane Haberbusch
Vice President, Human Resources
Tel 416 753 6246
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DEPUTY SUPERINTENDENT/PENSION DIVISION
TO: Lynda Tek CC: Lester, LYNDA, JUNA
File Location: 754-PPB-E-15 Log: PEN-51690
REPLY DSP. SIG. Provide Comments
TAA AUG 10 2015 Briefing Note /House notes
REPLY CEO SIG. FYI
Due: Aug 19, 2015 BP: Aug 18, 2015
Comments:

August 6, 2015

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Toronto ON
M2N 6L9

Re: **AGN-004: Replicating Portfolio Settlement Method for Wind-up and Solvency Valuations**

Dear Sir/Madam,

On behalf of Enbridge Gas Distribution ("EGD"), please accept our submission with respect to AGN-004. This letter comments on the draft actuarial guidance regarding the use of a replicating portfolio as an alternative settlement method for hypothetical wind-up and solvency valuations.

In general, we are pleased that FSCO has followed the lead of the Canadian Institute of Actuaries ("CIA") and the Office of the Superintendent of Financial Institutions ("OSFI") in considering the replicating portfolio approach for Ontario registered pension plans. However, we have concerns about the practical implications of the draft guidelines. In particular, the additional restrictions and conditions imposed upon the plan actuary over and above those outlined in the CIA Education Note[1] (or required by OSFI) restrict the ability of plan sponsors like EGD to apply the approach to Ontario registered pension plans. In particular the EGD sponsored *Pension Plan for Employees of Enbridge Gas Distribution Inc. and Affiliates ("EGD RPP").*

We strongly encourage FSCO to remove the additional restrictions and conditions from the draft guidance note, and allow actuaries to prepare valuations using the replicating portfolio framework set out in the CIA Educational Note[1] and approved by other Canadian pension regulators, namely OSFI.

Implications for the EGD RPP

Given the size of the EGD RPP (wind-up liabilities are over $1 billion), the CPI linked Cost of Living Adjustments the plan provides, and current estimates of capacity in the Canadian annuity market, we believe that the establishment of a replicating portfolio on plan wind-up is a more realistic scenario than the assumption that annuities will be purchased to settle benefits. Our parent company, Enbridge Inc. has reached the same conclusion with respect to the federally regulated *Retirement Plan for Enbridge Inc. and Affiliates ("EI RPP").* The EI RPP actuarial valuations now use the replicating portfolio alternative settlement method for hypothetical wind-up and solvency valuations based on the framework outlined in the CIA Education Note. It is unclear why FSCO would impose additional restrictions and conditions when OSFI has accepted the CIA Educational Note without these.

In its current form, FSCO's draft guidance effectively makes the replicating portfolio approach unusable and will force EGD to continue to contribute toward a liability target based on the unrealistic assumption that annuities will be purchased on wind-up. In consultation with our actuaries, we have determined that the additional liability generated as a result is in the order of $25 million - $40 million[2]. Given that EGD's intention is to maintain the plan in perpetuity, and that on an ongoing valuation basis the plan is overfunded, the

[1] http://www.cia-ica.ca/docs/default-source/2013/213082e.pdf
[2] Based on draft valuation results as at December 31, 2014

replicating portfolio approach as defined in the CIA Education Note would help minimize additional, onerous funding requirements.

Defined benefit pension plans are a cornerstone of our compensation philosophy and the ongoing sustainability of the EGD RPP is important to both our employees and our company. While we are committed to ensuring the security of promised benefits through funding in accordance with regulation, we believe the interests of our plan members, our company and the public are better served by actuarial reports that reflect the reality of the plan's circumstance to the best of the actuary's ability and in accordance with published guidance from the actuarial profession.

Concluding Recommendations

We encourage FSCO to amend the draft guidance note to remove the additional restrictions and imposed conditions for the use of a replicating portfolio alternative settlement approach. In our opinion, the framework set out in the CIA Educational Note is wholly sufficient and a valuation prepared following the requirements of the CIA Educational Note should be acceptable to regulators and other plan stakeholders.

We would be pleased to meet with FSCO to discuss our submission at your convenience.

Sincerely,

J Haberbusch

Jane Haberbusch
Vice President, Human Resources

Copy:
Dave Charleson, Senior Director, Human Resources & Facilities
Chris Heller, Senior Manager, Pensions, Benefits, & Relocations

FIAT CHRYSLER AUTOMOBILES

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
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04 August 2015

CONFIDENTIAL
Subject: Alternative Settlement Methods for Solvency Valuations

On behalf of FCA Canada Inc. ("FCA"), I would like to thank you for providing us with the opportunity to comment on the draft actuarial guidance note published by the Financial Services Commission of Ontario ("FSCO") on July 3, 2015.

As a result of discussions with our actuaries, we understand that the guidance note materially restricts the use of alternative settlement methods to a range of practice much narrower than contemplated under the Canadian Institute of Actuaries Standards of Practice and accompanying guidance[1] (the "Educational Note"). As a very large employer in Ontario, this guidance would apply to two of our pension plans covering over 25,000 union and non-union plan participants and pensioners.

While FCA is committed to sponsor and fund our Canadian pension plans, we contend that the contribution requirements resulting from existing regulations covering solvency valuations is a material cost and liability to long established Ontario businesses, and unduly burden those employers who continue to sponsor defined benefit plans for their employees. While we continue to work towards being competitive as a manufacturing company in Ontario, we are concerned with any policy that would lead to keeping these costs higher than reasonable and necessary.

While we recognize that a published guidance note concerning the use of alternative settlement methods is desirable and appropriate, the note as currently drafted would not allow employers such as FCA who could not settle benefits via a typical annuity purchase to effectively use and recognize an alternative settlement basis in our reports. While other jurisdictions (for example, we understand that OSFI has accepted the approach suggested in the "Educational Note") seem to be softening their contribution requirements, the guidance note as currently drafted would prevent the much needed reductions in our pension costs both in contributions to the respective Plans and in premiums remitted to the Pension Benefits Guarantee Fund.

[1] http://www.cia-ica.ca/docs/default-source/2013/213082e.pdf

FCA Canada Inc.
One Riverside Drive West, Windsor, ON N9A 5K3

FIAT CHRYSLER AUTOMOBILES

Our specific comments on the draft guidance note are as follows.

Appropriateness of an Alternative Settlement Method

The draft guidance note includes the following comment:

> *If an alternative settlement method is used, then the actuary should be prepared to justify and provide adequate support as to why the benefits could not be settled by the purchase of annuities and why, even if this were the case, it would not be appropriate to assume such settlement given that it is permitted by the Standards of Practice.*

We agree that the actuary should be prepared to justify the assumption that benefits could not be settled via annuity purchase for a particular plan. However, if such a justification is provided including adequate support as to why the benefits could not be settled by the purchase of annuities then there should not be any further requirement to support this assumption. Although the Standards of Practice permit the actuary to assume annuities can be purchased for this purpose, this would have no basis in reality in our situation. We strongly believe that a better approach would be to base our solvency valuations on a more realistic method of settling benefits if our plans were to actually be wound-up.

Composition of a Replicating Portfolio

The draft guidance note includes the following comment:

> *FSCO expects that to achieve a level of security commensurate with the prevailing guidance, a substantial allocation to fixed-income investments such as bonds issued or guaranteed by the Government of Canada or investment grade bonds issued or guaranteed by the government of a Canadian province would be required.*

We are concerned that the implied restriction to fixed-income bonds issued by the Government of Canada or the government of a province of Canada is too narrow. The Educational Note makes reference to a substantial allocation to high-quality fixed-income investments, but does not specify that high-quality bonds are restricted to those issued by the federal or provincial governments of Canada. Other high-quality bonds, including corporate bonds, commercial mortgages, and private debt instruments, are commonly used by Canadian insurers to support group annuity products without unduly compromising benefit security. It is reasonable to assume that FCA when establishing a replicating portfolio would do so as well. It would be more appropriate to focus on the level of benefit security provided by the selected margins used in connection with the hypothetical portfolio of assets.

FIAT CHRYSLER AUTOMOBILES

Replicating Portfolio Benefit Security vs. Group Annuity Products
The draft guidance note includes the following comment:

> *Therefore, the appropriate level of security of benefits covered that is provided by the replicating portfolio should be the same or similar to that of an annuity purchase, if there were no capacity limitations restricting the ability to purchase the annuities.*

We agree that the benefit security provided by a hypothetical replicating portfolio is an important consideration. However, it is not practical to require pension actuaries to benchmark benefit security under hypothetical replicating portfolios vs. a hypothetical group annuity product. There is no readily available information on the probability of Canadian insurer annuity default and (as FSCO has noted in the section of the guidance note on market capacity) the conditions of the group annuity market change over time. A more appropriate requirement would be to provide guidance in line with the Educational Note. In particular, the Educational Note indicates that the replicating portfolio, including margins for adverse deviations, should "ensure a high probability that the benefit promises will ultimately be met".

We agree with our actuaries that the framework set out in the Educational Note is wholly sufficient and that a valuation prepared following the requirements of the Educational Note should be acceptable to regulators and other users of the valuation. We believe that the final guidance note should not override good actuarial practice and effectively force actuaries and plan sponsors to adopt assumptions and methods that are based on unrealistic scenarios. In addition, given the level of contributions being made to our pension plans as a result of solvency funding requirements, we believe our plan will be overfunded and these contributions could be better used to keep our business viable in Ontario and in a globally competitive environment. The interests of the public are better served by actuarial reports that reflect the reality of the plan's circumstance to the best of the actuary's ability and in accordance with published guidance from the profession.

FCA is committed to work with the Ontario government to ensure amendments to the legislation supports Ontario manufacturing and do not detract from our global competitiveness as an attractive jurisdiction for future product investment. We thank you for the opportunity to comment on this particular actuarial guidance note.

Sincerely,

FCA Canada Inc.

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September 4, 2015

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Toronto ON M2N 6L9

Sent via email to pensionconsultation@fsco.gov.on.ca

Re: Alternative Settlement Methods for Solvency Valuations

Thank you for this opportunity to comment on the draft Actuarial Guidance Note AGN-004 ("Guidance Note").

As a large, jointly-sponsored defined benefit pension plan for more than 450,000 working and retired employees from almost 1,000 employers, OMERS mission is to provide retirement security to members. We support a balanced and thoughtful approach to regulation of pension plans.

While the OMERS Primary Pension Plan (the "Primary Plan") has an exemption under subsection 1.3.1 (3) of Regulation 909 (that is, the Primary Plan's members and employers are effectively exempt from making special payments due to solvency deficiencies), the Primary Plan is nevertheless affected in several ways by its solvency and hypothetical wind-up valuations. For one, subsection 15 (1) of the *Ontario Municipal Employees Retirement System Act, 2006* specifies that the Primary Plan must have a ratio of solvency assets to solvency liabilities of at least 1.00 before certain plan amendments can be made.

The Guidance Note refers to methods of determining a hypothetical wind-up liability for pension plans which are very large. The Primary Plan is sufficiently large such that its obligations upon its hypothetical wind-up could not simply be settled through an annuity purchase.

For almost every actuarial valuation report on the Primary Plan filed with FSCO *since 1989*, the method to determine the solvency and wind-up liability used by the actuary was equivalent to the alternative settlement method of the Guidance Note entitled "Lump Sum Payments to Members". Effectively, the reports' methods contemplated a plan settlement by entitling all members, including retired members, to the equivalent commuted value of their accrued pension. As given in the actuaries' opinion in those reports, this is accepted actuarial practice. Furthermore, an Educational Note from the Canadian Institute of Actuaries (which is referenced in the Guidance Note) specifically outlines this method, which indicates that the CIA sanctions its use in appropriate circumstances. We note that, in their comments to this Guidance Note, the CIA continues to support this method.

The Guidance Note states that this particular manner of settlement to retired members is not contemplated in the *Pension Benefits Act* (PBA). The Guidance Note indicates that FSCO would not accept this method for a plan unless either (a) the actuary can make a convincing

OMERS

case that this method is “appropriate for the pension plan” or (b) the resulting liabilities are no less than the liabilities produced using the prevailing annuity purchase proxy guidance assuming no capacity constraints.

We acknowledge the PBA appears to only permit lump sum settlements to members other than those receiving pensions. However we would point out the PBA defines “wind up” as “the termination of a pension plan and the **distribution of the assets** of the pension fund”. That is, the PBA clearly contemplates that plan assets must not indefinitely remain in the pension fund of a pension plan that is wound up. The Guidance Note states two other alternative methods which FSCO would accept, but these scenarios do not contemplate a distribution of assets except perhaps over a very long time horizon. These settlement methods are arguably not permitted by the PBA either. If FSCO accepts these two alternative settlement methods, it should not reject others solely on the basis that they are not contemplated in the PBA.

Legislators view the possibility of a wind-up of the Primary Plan as very remote, as evidenced by the exemptions to fund the Primary Plan on a solvency basis. In the highly unlikely event that the Primary Plan is wound up in the current environment, it would be impossible for the administrator to adhere to the PBA which currently requires a distribution of the assets, in part, via annuity purchase. In such a case, we hope that FSCO would exercise some flexibility in accepting a practical solution.

It is important to note we are not advocating that lump sums are our preferred settlement method in this hypothetical event. Rather, we believe that the approach our actuaries have been using for many years is a legitimate and plausible approach to calculating a solvency liability for the Primary Plan.

Thank you for considering this submission. We would be pleased to meet with you to address any questions that you may have.

Regards,

Anne Soh, FCIA
Vice-President, Actuarial Services
and Plan Actuary

Marshall Posner, FCIA
Director, Actuarial Services

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September 3, 2015

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pensionconsultation@fsco.gov.on.ca

Re: Towers Watson Submission on Draft FSCO Actuarial Guidance Note: Alternative Settlement Methods for Solvency Valuations (AGN-004)

Towers Watson welcomes the opportunity to provide comments on the Financial Services Commission of Ontario's draft Actuarial Guidance Note AGN-004: "Alternative Settlement Methods for Solvency Valuations" (Guidance Note).

Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson employs 16,000 associates worldwide, with over 400 engaged in providing services to Canadian pension plans.

Our comments are as follows:

Purpose

The Guidance Note sets out FSCO's position with respect to the alternative settlement methods for hypothetical wind-up and solvency valuations described in the Canadian Institute of Actuaries' Educational Note, "Alternative Settlement Methods for Hypothetical Wind-Up and Solvency Valuations", dated September 18, 2013 (the "Educational Note"). FSCO would not, however, accept the use of alternative settlement methods in an actual wind-up.

We think that FSCO should reconsider this position. In the Educational Note, use of alternative funding methods in a hypothetical wind-up or solvency valuation is based on the premise that such a method could at least potentially be used in an actual wind-up. It states that:

> the actuary would only contemplate an alternative settlement method if such method and the assumptions used are permissible under legislation, or if the actuary has reason to believe that it would likely be acceptable to the regulator, even if such method may require a change to legislation upon actual wind-up.

It also states that the actuary can contemplate that a regulator will use its discretion to permit the alternative settlement method.

We appreciate that in an actual wind-up situation, the actuary may need to have a discussion with FSCO before an alternative settlement method is used and reflected in the wind-up report. But FSCO should not state that, in a wind-up, alternative settlement methods are unacceptable under any circumstances.

General

The Guidance Note states that when FSCO determines whether the methods and assumptions to determine the hypothetical wind-up or solvency liabilities are appropriate, it considers whether they have been "chosen with a level of prudence consistent with the plan's funding and investment objectives". FSCO should revise this paragraph because most plans' funding policies focus on long-term benefit and contribution sustainability, which is inconsistent with focusing on the plan's solvency and possible wind-up.

We agree that if an alternative settlement method is used, the actuary should be prepared to justify and provide adequate support as to why the benefits could not be settled by the immediate purchase of annuities. However, the Guidance Note also states that the actuary must justify and provide adequate support as to why it is inappropriate to assume a settlement via the immediate purchase of annuities, given that such an assumption is permitted by the Canadian Institute of Actuaries' Standards of Practice regardless of any group annuity capacity limitations that may exist in the event of an actual wind-up.

We do not believe that an actuary must show why it is inappropriate to assume a settlement through an annuity purchase before being able to use an alternative settlement method. Instead, an actuary should only have to show that the alternative method is more appropriate under the circumstances than assuming an annuity purchase. Furthermore, it is not clear what type of supporting information would be required. The Standards of Practice require that either an annuity purchase is assumed and the actuary describes the related practical limitations, or an alternative settlement method is used with appropriate disclosures. Where an alternative settlement method is used, the intent would generally be to reflect a more realistic wind-up scenario.

FSCO states it will accept an alternative settlement method that contemplates an exercise of regulatory discretion or a change in legislation if the resulting liabilities are no less than the liabilities produced assuming an immediate purchase of annuities but will also consider, on a case-by-case basis, alternative methods that vary from FSCO's expectations. It is unclear, however, how to interpret this where the use of an alternative settlement method is consistent with the Guidance Note but results in liabilities lower than the liabilities produced by assuming an immediate purchase of annuities.

The two acceptable alternative settlement methods under the Guidance Note would likely require an exercise of regulatory discretion or a change in legislation. We presume that such situations would not need to be considered on a case-by-case basis, but suggest the Guidance Note state that such situations do not need to result in lower liabilities. The Guidance Note should also indicate that FSCO will discuss the merits of alternatives before a valuation report is filed.

Alternative Settlement Methods

1. Purchase of a Series of Annuities

   The Guidance Note states that FSCO expects the liabilities under this approach would not be less than the liabilities produced by assuming an immediate purchase of annuities. We do not believe such a restriction is necessary, as long as the assumptions made with respect to the cost of annuity purchases in future years and interim investment returns and expenses are appropriate.

2. Establishment of a Replicating Portfolio

   The Guidance Note states that the level of security provided by the replicating portfolio should be the same as or similar to that of an annuity purchase. This would seem, however, to require a deep understanding of the risks, regulations, governance practices and other aspects of the Canadian insurance industry. Such understanding is typically beyond the pension actuary's domain of practice and, furthermore, a pension actuary would likely be unable to certify that an alternative settlement method would have the same or similar security as a replicating portfolio. We believe the actuary should be able to rely on the Standards of Practice and the guidance set out in the Educational Note, without additional conditions being imposed.

3. Lump Sum Payments to Members

   The Guidance Note states that this method would not be acceptable because the Ontario *Pension Benefits Act* does not contemplate it. But it is not clear how this alternative settlement method differs from other acceptable methods in that respect. We suggest that the Guidance Note provide more justification for why such an approach would not be acceptable. Even if FSCO would not generally accept this alternative method and therefore does not wish to issue broad guidance, it would be helpful if FSCO indicated it is willing to consider this approach on a case-by-case basis.

* * *

We greatly appreciate the opportunity to comment on the draft Guidance Note. We would welcome the opportunity to address any questions you may have regarding our comments.

Sincerely,

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Jennifer Maki
Chief Executive Officer
Vale Canada Limited

August 7, 2015

Pension Policy Unit
Financial Services Commission of Ontario
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Dear Sir/Madam:

Subject: Alternative Settlement Methods for Solvency Valuations

We are writing to provide our comments on the Actuarial Guidance Note entitled "Alternative Settlement Methods for Solvency Valuations" published by the Financial Services Commission of Ontario (FSCO) on July 3, 2015.

Background

Vale Canada Limited ("Vale") operates the global Base Metals business for Vale S.A. of Brazil, one of the world's largest diversified mining companies. Headquartered in Toronto, the global Base Metals business operates on five continents producing nickel, copper, cobalt and precious metals for the world – but our birthplace, and our largest operation, is right here in Sudbury, Ontario where we began more than a century ago.

In Canada, Vale has close to 7,000 employees with operations in four Provinces. We administer three registered pension plans in Ontario with total defined benefit ("DB") assets of $3.5 billion. More specifically, there are approximately $1.9 billion of assets held in relation to the DB component of the Pension Plan for Hourly-Paid Employees in the Ontario Division of Vale Canada Limited Represented by United Steelworkers (the "OPP") which covers unionized hourly employees in Sudbury and $1.6 billion of assets held in relation to the DB component of the Retirement System of Vale Canada Limited Applicable to Salaried Employees Paid In Canadian Dollars ("CRS") which covers salaried employees across Canada, including Ontario.[1] Both plans provide benefits which are partially indexed to inflation. These two plans cover almost 4,800 active employees and almost 13,000 retirees. The third registered plan in Ontario that we administer is a defined contribution plan for seasonal employees represented by the United Steelworkers Union, Local 2020 in Sudbury.

[1] Assets values are as at December 31, 2014.

Vale
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Since the acquisition of Inco in 2006, Vale has spent more than $4.3 billion on capital projects in Ontario alone, resulting in significant jobs and economic benefits for the province. Our mines are more than 100 years old and we must be able to continually invest in them in order for our Canadian operations to remain viable and competitive.

Being part of a global organization, our Canadian operations compete for investments with Vale operations in other countries. In order to win those investment dollars, it is critical that we keep our operational costs at a reasonable level. Employment costs represent approximately 50% of our total operating costs in Canada and pension costs are a major component of this. While Vale is committed to maintaining and adequately funding our pension plans, it is vital for the future of our business that we maintain pension costs at a reasonable level.

Our Position on Alternative Settlement Methods

Vale is pleased that FSCO has published an actuarial guidance note on this subject. We believe that the current legislation regarding solvency and hypothetical wind-up valuations is not suited to pension plans like the Vale plans (i.e., very large pension plans that are indexed to inflation).

Current Ontario legislation requires that certain benefits be settled through an annuity purchase upon the actual wind-up of a pension plan. However, there are serious doubts about the ability of large plans, particularly those that provide indexed benefits, to purchase annuities based on the current state of the Canadian annuity market.

The largest annuity transaction to date in Canada covering indexed pensions covered liabilities of about $150 million. If the Vale plans were wound up, the legislation would require the purchase of annuities more than 20 times bigger than the largest such transaction to date in Canada. The reality is that if the Vale plans were to be wound up, a change in legislation would almost certainly be required to facilitate the settlement of benefits in a manner other than the purchase of annuities. We strongly believe that the hypothetical wind-up and solvency valuations of our plans should be based on a realistic manner of settling benefits that reflects actual market based settlement options rather than an assumption that annuities could theoretically be purchased. In particular, we feel that the replicating portfolio approach is the most likely approach to settling the benefits.

Composition of a Replicating Portfolio

Under the replicating portfolio approach, the draft guidance note suggests that the hypothetical portfolio should be constructed using a substantial allocation to federal and/or provincial bonds. This is inconsistent with how such a portfolio would be constructed in practice. Federal bonds and, to a lesser extent, provincial bonds are highly liquid instruments. Investors pay a substantial premium for this liquidity. Under a replicating portfolio approach, the underlying investments do not need to be liquid since they would be held to maturity. Consequently, it would be inefficient to construct a portfolio composed of predominately highly liquid bonds.

In practice, other high-quality (but less liquid) instruments including corporate bonds, commercial mortgages, private debt, infrastructure instruments, etc. are commonly used by Canadian insurers to back their group annuity products. It is reasonable to assume that a plan sponsor establishing a replicating portfolio would give consideration to investing in such securities.

Security of Benefits under Replicating Portfolio Approach

The draft guidance note indicates that the level of security under the replicating portfolio approach should be the same or similar to that of an annuity purchase determined without reference to capacity restrictions.

It is not clear to us how plan sponsors or pension actuaries could possibly assess the level of security associated with an annuity payable from an insurance company. We suggest that FSCO provide an objective market based standard regarding the level of benefit security that would be required under the replicating portfolio approach.

The Canadian Institute of Actuaries' Educational Note indicates that the replicating portfolio should "ensure a high probability that the benefit promises will ultimately be met". We believe that FSCO should follow the approach laid out in the educational note. In this regard, we understand that the Office of the Superintendent of Financial Institutions (OSFI) has permitted this approach to be used for many years for large federally regulated pension plans. We respectfully suggest that FSCO re-examine OFSI's experience with large plans as the methodology adopted by OFSI has been a success from both a regulatory and a plan sponsor perspective.

In conclusion, we believe that the final FSCO guidance note should permit plan sponsors to assume a realistic method of settling benefits in hypothetical wind-up and solvency valuations. The interests of the public are better served by actuarial reports that reflect objective market based methods of settlement for the particular plan rather than being based on a theoretical ability to purchase annuities which is very unlikely to occur in practice.

We would be pleased to meet with FSCO staff to further discuss this submission if it would be helpful. We thank you for the opportunity to comment on the draft guidance note.

Jennifer Maki
Chair of the Vale Pension Committee and
Chief Executive Officer

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-003
TITLE:	Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit -Regulation 909 s. 5
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (September 2013)
EFFECTIVE DATE:	January 1, 2013

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Purpose

Under subsection 5(3) of the Regulation, where an employer provides a letter of credit (LOC) instead of making special payments with respect to a solvency deficiency,

"*the employer is required to make interest payments with respect to the solvency deficiency, calculated at the rate of interest described in subsection (2), unless the interest payments are included in the amount of the letter of credit.*"

This Actuarial Guidance Note describes FSCO's expectations with respect to the application of this subsection and clarifies how interest payments are to be determined.

Application of Interest

A LOC must relate to the scheduled special payments that are required with respect to a solvency deficiency. Where a solvency special payment is not secured by a LOC, the employer must make the solvency special payment by the scheduled due date.

If an employer obtains one or more LOCs to secure solvency special payments, interest on those payments must be paid in cash to the pension fund unless the aggregate amount of the LOCs is sufficient to cover the required interest payments in addition to securing the solvency special payments.

Interest Rates

The interest rates used to determine the interest amount required to be paid on solvency special payments secured by a LOC should be the interest rates used to determine the solvency deficiency in the most recent report filed under section 14 of the Regulation. Where different interest rates were applied to determine the solvency deficiency, an average interest rate (weighted by relevant solvency liabilities) should be used to determine the required interest payments.

Where a schedule of solvency special payments secured by a LOC is established in a cost certificate filed pursuant to FSCO Policy A400-100 with respect to an amendment effective after the valuation date of the last filed valuation report but prior to the valuation date of the next report that is required to be filed under section 14, the interest rate to use should be the same as that used to determine the incremental solvency special payments associated with the amendment.

FSCO may request a copy of the schedules used to calculate the interest payments.

Timing of Interest Payments

Interest should accumulate on the balance of unpaid solvency special payments on a monthly basis until the expiry date of the LOC. At the end of each month the LOC is in effect, if the total of the unpaid solvency special payments and accumulated interest exceeds the amount of the LOC, the employer is expected to pay the difference on that date. Alternatively, FSCO would accept the accumulated interest to be remitted to the pension fund on a date not later than the expiry date of the LOC (prior to any renewal). For clarity, interest must continue to accrue and is compounded on a monthly basis.

Where there is a prior year credit balance (PYCB), the employer may not apply the PYCB towards the required interest payments. This is in accordance with subsection 4(3) of the Regulation which provides that the PYCB may only be applied to reduce payments attributable to normal cost and special payments.

A detailed illustration is provided in the Appendix.

Appendix – Sample Plan Holding a Letter of Credit

For the purpose of illustrating the application of interest, the following plan scenario has been assumed:

- The plan has two solvency special payment schedules with amounts payable monthly in arrears.
- Schedule 1 was determined in a most recently filed report using a discount rate of 4.00% per annum and Schedule 2 was determined in an interim cost certificate at a discount rate of 3.00% per annum.
- Schedule 1 and Schedule 2 have required monthly solvency special payments of $2,000 and $1,000 respectively.
- The employer provides a LOC in the amount of $3,000 in January, increasing by $3,000 per month until the end of June. The LOC amount remains level at $18,000 from June until its expiry date of December 31.

The table below illustrates the required interest payments that must be made by the employer upon the expiry date of the LOC.

Month	**Schedule 1** Special payments covered by LOC	Interest* accrued to Dec 31 @ **4.00%**	**Schedule 2** Special payments covered by LOC	Interest* accrued to Dec 31 @ **3.00%**	Total special payments covered by LOC	Total Interest accrued to Dec 31
Jan	2,000.00	73.21	1,000.00	27.47	3,000.00	100.68
Feb	2,000.00	66.45	1,000.00	24.94	3,000.00	91.39
Mar	2,000.00	59.70	1,000.00	22.42	3,000.00	82.12
Apr	2,000.00	52.98	1,000.00	19.90	3,000.00	72.88
May	2,000.00	46.28	1,000.00	17.39	3,000.00	63.67
Jun	2,000.00	39.61	1,000.00	14.89	3,000.00	54.50
Jul	**	0.00	**	0.00	**	0.00
Aug	**	0.00	**	0.00	**	0.00
Sep	**	0.00	**	0.00	**	0.00
Oct	**	0.00	**	0.00	**	0.00
Nov	**	0.00	**	0.00	**	0.00
Dec	**	0.00	**	0.00	**	0.00
Total	12,000.00	338.23	6,000.00	127.01	18,000.00	465.24

* The interest rates above are annual effective rates. Therefore, interest has been calculated on a compound basis.

** The employer must resume making monthly special payments that are not covered by the LOC from July onward.

Total Unpaid Solvency Special Payments with interest to Dec. 31	18,465.24
Amount of LOC	18,000.00
Interest to be paid at December 31	465.24

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June 5, 2013

Attention: Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Sir/Madam:

Towers Watson Submission – Actuarial Guidance Note #3

Towers Watson welcomes the opportunity to provide comments on the draft Actuarial Guidance Note, AGN-003, "Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit", issued by the Financial Services Commission of Ontario (FSCO).

Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson employs about 14,000 associates worldwide, with approximately 350 engaged in providing services to Canadian pension plans.

We find that AGN-003 generally provides a good explanation on how to determine interest when using a letter of credit (LOC). There is, however, one scenario that we would like clarified and we, therefore, respectfully submit the following comment for consideration by FSCO.

It would be helpful if, in the Appendix to AGN-003, FSCO set out a plan scenario (or expanded the existing plan scenario) to address a situation with the following assumptions:

- an initial LOC is put in place in Year 1 to cover the solvency payments of $36,000 due during the year;
- related interest payments are covered by the LOC;
- there are no changes to the required solvency special payments between Year 1 and Year 2;
- no contributions to fund the solvency deficiency are made during Year 1; and
- the other assumptions set out in current plan scenario in the draft AGN-003 remain.

In this scenario, we would expect that, at the end of Year 1, the LOC's face amount would be $36,000 plus interest, and the LOC would be renewed for this amount plus the additional $3,000 per month for Year 2. It could then be clarified whether interest accrues in Year 2 not only on the Year 2 special payments that are covered by the LOC, but also on the Year 1 payments with interest covered by the LOC, with this cumulative interest amount being payable to the pension fund at the end of Year 2.

Please contact one of us if you have any questions on this submission or require further details.

Thank you for your consideration.

Sincerely,

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Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Actuarial Guidance Note
INDEX NO.:	Public Consultation Document Released April 2011
TITLE:	Canadian Institute of Actuaries, Practice-Specific Standards for Pension Plans effective on December 31, 2010.
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (date to be determined)
EFFECTIVE DATE:	December 31, 2010

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Under the PBA and Regulation, the administrator of a pension plan that provides defined benefits is required to file, on either an annual or triennial basis, actuarial valuation reports to establish the funding requirements of the plan in accordance with the Regulation. The reports and certificates required under the PBA and Regulation must be prepared by an actuary, who must use methods and actuarial assumptions that are consistent with accepted actuarial practice.

The PBA provides authority for the Superintendent of the Financial Services Commission of Ontario (FSCO) to require the preparation of a new actuarial valuation report, where FSCO is of the opinion that the assumptions or methods used in the preparation of a report in respect of the plan are not consistent with accepted actuarial practice, or are inappropriate.

The Actuarial Standards Board of the Canadian Institute of Actuaries (CIA) introduced revisions to the CIA Standards of Practice – Practice-Specific Standards for Pension Plans, which became effective on December 31, 2010. FSCO is of the opinion that the application of some of these revisions may result in the use of assumptions which are not considered to be appropriate for an actuarial valuation report filed under the PBA and Regulation.

This Actuarial Guidance Note describes FSCO's expectations when an actuary is selecting assumptions that will be used in the preparation of an actuarial valuation report to be filed with FSCO for purposes of the PBA and Regulation.

In addition, the Note clarifies FSCO's expectations about the application of a new Educational Note

Pension Consultation

issued by the CIA.

General

When FSCO is determining whether the actuarial assumptions used in a report filed in respect of a pension plan are appropriate, FSCO considers whether actuarial assumptions have been chosen with a level of prudence consistent with the plan's funding objectives, with due consideration to the underlying characteristics of the pension plan obligations.

FSCO closely monitors and reviews the going concern assumptions and methods selected for actuarial valuations to ensure that they are independently reasonable, are appropriate in aggregate, and incorporate margins where appropriate.

FSCO will consider, on a case by case basis, submissions from the actuary which provide support that the use of assumptions which vary from the expectations of FSCO as described in this policy, are appropriate for the pension plan.

1. **Margins for Adverse Deviations**

Section 3230.01 of the revised Standards of Practice provides that "*For a going concern valuation the actuary should ... select either best estimate assumptions or best estimate assumptions modified to incorporate margins for adverse deviations... to the extent, if any, required by law or by the terms of an appropriate engagement,...*"

In the case of a pension plan which commits the employer to provide members who retire from the plan with a fixed or ascertainable amount of pension[1], FSCO generally expects that the actuary preparing a report on the plan for filing under the PBA and Regulation will include appropriate margins for adverse deviations when choosing prudent economic and other actuarial assumptions. In selecting the actuarial assumptions and determining the appropriate margins to apply, the actuary should discuss with the plan administrator the plan's past and expected future experience and identify both the range of reasonable assumptions and the likelihood of them being achieved, in the context of meeting the plan's funding objectives.

In the case of:

a) a multi-employer pension plan (MEPP) which is funded by fixed contributions pursuant to collective bargaining agreements, or
b) a jointly sponsored pension plan (JSPP) in which the employer or employer representatives and the members share responsibility for its funding and governance,

the actuary should discuss with the Board of Trustees or other entity responsible for the administration of the MEPP or JSPP whether it is appropriate to include margins for adverse deviations in the actuarial valuation, with due consideration to the interests of plan stakeholders and potential inequities among generations of plan members, their employers and other plan stakeholders.

[1] The employer obligations under most single employer defined benefit pension plans are of this nature.

Pension Consultation

2. <u>Discount Rate Selection and the Investment Policy</u>

In the determination of the going concern valuation discount rate, the CIA provides further guidance to actuaries in the Educational Note, *Determination of Best Estimate Discount Rates for Going Concern Funding Valuations*

As the *best estimate* discount rate is largely driven by the investment policy of the pension plan, FSCO expects that in developing the best estimate discount rate, the actuary will discuss with the plan administrator whether the plan's investment policy reflects the plan's funding objectives, as well as the nature of the plan's liabilities, the demographic profile of the plan, the risk tolerances of the plan stakeholders, the investment objectives, and any other relevant factors. In the actuarial valuation report filed in respect of a plan, the actuary should provide comments on the potential risks related to meeting the plan's funding objectives, due to the investment policy adopted by the plan administrator.

3. <u>Salary Growth Assumption</u>

Previously, the Standards of Practice for pension plans explicitly required the actuary to include a salary growth assumption in the valuation of an earnings-related plan. This explicit requirement to include assumed future salary increases in a going concern valuation has been eliminated from the revised Standards of Practice for Pension Plans but is still a needed assumption under section 1700 of the General Standards of Practice.

FSCO expects that, for a final or best average earnings plan, the actuary will continue to include an assumption for future salary increases in the actuarial valuation report filed in respect of the plan.

4. <u>Active Management</u>

Section 3230.03 of the revised Standards of Practice states that the actuary may not anticipate any additional returns, *net of fees and expenses*, from an active investment management strategy except to the extent the actuary has reason to believe, based on relevant supporting data, that such additional returns will be consistently and reliably earned over the long term.

FSCO expects the guidance contained in the CIA Educational Note, *Determination of Best Estimate Discount Rates for Going Concern Funding Valuations*, to be followed in justifying any assumption for value added returns from active management contained in the actuarial valuation report filed in respect of the plan. Nevertheless, the guidance may not be complete in all circumstances and FSCO may request additional information from the actuary, administrator, investment manager and/or plan sponsor for the justification of an assumption of additional returns from active management.

Pension Consultation

May 21, 2011

Financial Services Commission of Ontario
Attention: Pension Policy Unit
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Sir:

ACPM Comments on FSCO's draft **Actuarial Guidance** Note released April 2011

The Association of Canadian Pension Management (ACPM) is the informed voice of Canadian pension plan sponsors, administrators and their allied service providers. Established in 1976, the ACPM advocates for an effective and sustainable Canadian retirement income system through a non-profit organization supported by a growing membership and a team of volunteer experts. Our members are drawn from all aspects of the industry from one side of this country to the other. We represent over 400 pension plans consisting of more than 3 million plan members, with total assets under management in excess of $330 billion.
The ACPM promotes its vision for the development of a world leading retirement income system in Canada by championing the following Guiding Principles:

• Clarity in legislation, regulations and retirement income arrangements;

• Balanced consideration of other stakeholders' interests; and

• Excellence in governance and administration

ACPM is pleased, with the valued assistance of its Ontario Regional Council, to provide comments on FSCO's draft Actuarial Guidance Note released as a public consultation document in April of 2011 and entitled "Canadian Institute of Actuaries, Practice-Specific Standards for Pension Plans effective on December 31, 2010".

ACPM understands that FSCO may have concerns that going concern actuarial valuation assumptions developed in accordance with the revised *CIA Standard of Practice – Practice Specific Standards for Pension Plans* and the CIA's Educational Note may not be considered by FSCO as appropriate for an actuarial valuation filed under the PBA and Regulation. The ACPM welcomes guidance from FSCO in this area, as it is complimentary to ACPM's desire for clarity in legislation, regulations and retirement income arrangements. However, ACPM is concerned to the extent that such guidance may be unclear, or may result in requirements for higher margins for adverse deviations than have applied in the past or unwarranted complexity and additional costs in the development or justification of those margins by actuaries in their assumption setting.

In light of those concerns, the ACPM has a number of comments. We believe that, in relation to certain aspects of the guidance, more pragmatism should be incorporated to acknowledge and allow for the wide variety of DB plans and their characteristics (e.g.

plan size, governance structure, respective mandates of actuaries and other consultants to those plans, etc.). In particular, the following aspects should be eliminated or their apparent scope should be significantly reduced:

- **Section 1** of the Note specifies: *"In selecting the actuarial assumptions and determining the appropriate margins to apply, the actuary should discuss with the plan administrator the plan's past and expected future experience and identify both the range of reasonable assumptions and the likelihood of them being achieved, in the context of meeting the plan's funding objectives."*

  The determination of a range of reasonable assumptions and the likelihood of them being achieved would be unrealistic for certain assumptions. For example, the actuary and the plan administrator may not have access to the employer's salary policies (e.g. due to confidentiality of business strategies) which would make such determination impossible to perform. As another example, discussion of past experience in relation to a plan's demographic assumptions and attempts to quantify a reasonable range for such assumptions may be difficult and/or meaningless for smaller plans, where such experience would have little statistical credibility. Moreover, ACPM is concerned with the potentially significant additional costs (e.g. research, modeling, reporting) that such determination could bring. For many plans, the costs of this extra work would be excessive in relation to its low additional value. For instance, for many plans, the most important determinate of the annual contribution requirement is the solvency funding position and resulting solvency amortization payments; therefore, the going concern funding measure – and the related discussion and analysis implied by the note - has little impact on the total funding contributions for these plans.

- **Section 3** of the Note specifies: *"... the actuary will discuss with the plan administrator whether the plan's investment policy reflects the plan's funding objectives, as well as the nature of the plan's liabilities, the demographic profile of the plan, the risk tolerances of the plan stakeholders, the investment objectives, and any other relevant factors. In the actuarial valuation report filed in respect of a plan, the actuary should provide comments on the potential risks related to meeting the plan's funding objectives, due to the investment policy adopted by the plan administrator."*

  ACPM is very concerned with the potential implications of this portion of the Note. For many plans, any involvement in development, review or amendment of the investment policy is outside the scope of the actuary's engagement (e.g. another consultant or internal resources may be used for this purpose). Where the valuation actuary's engagement is limited in this way, the requirement to have these discussions and the requirement for the actuary to provide comments in the filed valuation report on potential risks related to the investment policy would require the actuary to perform work that is outside the scope of the mandate for which they have been hired. At the least, it would constitute a significant, and potentially quite expensive, expansion of the role of the valuation actuary. Even in the situation where the actary's mandate does extend to the investment policy, this requirement could create a significant amount of additional work and expense in the actuarial valuation. Again, we question the additional value of these requirements relative to the potentially high relative costs of this work for a small plan and/or for a plan where the going concern funding is of low relative importance to the overall funding requirement. In ACPM's opinion, the implementation of additional duties for service providers of pension plans, and resultant additional plan costs, should be made only after extensive consultation with the pension industry.

- **Section 4** of the Note specifies: *"Nevertheless, the guidance may not be complete in all circumstances and FSCO may request additional information from the actuary, administrator, investment manager and/or plan sponsor for the justification of an assumption of additional returns from active management."*

  The text seems to contemplate circumstances where the CIA's guidance is incomplete rather than situations where, for instance, the actuary's consideration of various data and analysis is incomplete. It would be helpful if the Note elaborated on the circumstances in which the CIA's guidance could be judged to be incomplete.

The Note's effective date is December 31, 2010, which implies a retroactive impact for many plans. The work related to the December 31, 2010 or January 1, 2011 actuarial valuation results may already be fully or substantially completed and compliance with the Note would cause additional work and expense that is both unexpected and unbudgeted for.

Further, where the actuary has presented valuation results to the plan administrator, there may now be practical difficulties in the actuary having the discussions mandated by the Note. The application of the Note should therefore allow for the reality of actuarial work and related discussions between the actuary and the plan administrator being fully or substantially completed at the time the Note is finalized.

The existing legislative, regulatory, economic and legal environment, is proving challenging to sponsors and administrators of DB plans, with many concluding that continuing to provide a DB plan is not feasible. Any new measures imposed on DB plans must strive for clarity in their application and carefully consider the interests of all stakeholders to the plans, so as not to unnecessarily create further impediments to maintaining a DB plan in Ontario.

Should there be any questions, we make ourselves available at your convenience.

Sincerely,

Bryan D. Hocking
Chief Executive Officer

cc:
Derek Dobson, Chair, ACPM Ontario Regional Council
Chris Brown, President, ACPM
Mitch Frazer, Chair, Advocacy and Government Relations Committee

caat
PENSION PLAN

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May 19, 2011

Attention: Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street, Suite 1600
Toronto, ON M2N 6L9

RE: Actuarial Guidance Consultation

On behalf of the CAAT Pension Plan, I'm pleased to have this opportunity to respond to the actuarial guidance note, regarding the Canadian Institute of Actuaries, Practice-Specific Standards for Pension Plans, effective on December 31, 2010.

The CAAT Pension Plan is a multi-employer, jointly sponsored defined benefit pension plan with bi-cameral governance structure having equal member and employer representation on its governance committees. The Plan has $5.5 billion in assets to meet the pension promise to 32,000 active and retired members. The CAAT Pension Plan covers the employees of Ontario's 24 colleges of applied arts and technology and four associated non-college employers.

Thank you for providing clarity on the regulation and for recognizing that jointly sponsored pension plans like CAAT have shared risk mechanisms built into its governance structures. For example, the CAAT Pension Plan has taken great care to develop a funding policy which outlines the Plan's funding objectives and strives to balance the security of benefits with a stable contribution rate and intergenerational equity.

We applaud the recognition by FSCO that valuation provisions intended to safeguard member benefits in particular pension plans, may be deleterious to jointly sponsored (and multi-employer) pension plans. As such, we fully support the recognition of jointly sponsored pension plans, such as the CAAT Pension Plan, who have joint risk-taking and decision-making governance structures.

The CAAT Pension Plan fully supports the approach that the boards or trustees for JSPPs and MEPPs discuss with their actuary whether it is appropriate to include margins of adverse deviation in the actuarial valuation. As fiduciaries, the boards would give due consideration to the interest of plan members, their employers and other stakeholder, and to the issue of intergenerational equity.

Regarding the discount selection and investment policy, the CAAT Pension Plan uses asset allocation studies to ensure key risks of the funding policy are aligned with the plan's investment objectives. We agree with the intent of this provision and already manage the CAAT Pension Plan to ensure the SIPP, funding policy and valuation assumptions are parts of the whole, like the legs of a balanced stool.

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HOOPP
Healthcare of Ontario
Pension Plan

May 19, 2011

Financial Services Commission of Ontario
Attention: Pension Policy Unit
5160 Yonge Street, Suite 1600
Toronto ON M2N 6L9

Subject: ACTUARIAL GUIDANCE

Dear Sirs/Mesdames:

Thank you for the invitation to provide comments on Actuarial Guidance Note #1 – Canadian Institute of Actuaries, Practice-Specific Standards for Pension Plans effective on December 31, 2010, which was recently posted to the FSCO website.

HOOPP is one of the country's largest pension plans, serving 375 participating employers and nearly 260,000 plan members, with assets of approximately $36 billion. Consistent with our mandate and mission, we have focused our attention and comments on the draft Actuarial Guidance Note mainly on those issues of particular relevance and importance to HOOPP.

Our comments/questions are as follows:

Unrelated to a specific section

- The timing of this consultation may be problematic for HOOPP and for many other pension plans which are in the process of considering the filing of recent valuations or preparing their valuations for filing. Certain pension plans may have filed these valuation results already. HOOPP has already completed and reviewed the plan's December 31, 2010 results and its Board of Trustees has approved them. While we do not believe HOOPP's valuation results would be impacted by the draft Actuarial Guidance Note, we also do not believe HOOPP should be required to have its 2010 results reviewed again and perhaps revised by our external actuaries, nor revisited with our Board. We would ask that the timing of the implementation of a final Actuarial Guidance Note be such that valuations with an effective date before January 1, 2011 will not be affected. Of course, the implementation date should ultimately be determined based on when the Actuarial Guidance Note is actually finalized.

- It is not clear to us how FSCO intends to apply the Actuarial Guidance Note. We believe greater clarity is required as to the regulatory protocols which will apply to it. Will these be guidelines which FSCO may consider in reviewing/approving a valuation report similar to other FSCO guidelines or, is the Actuarial Guidance Note to be used as an extension of the PBA and its Regulations?

General

"FSCO considers whether actuarial assumptions have been chosen with a level of prudence consistent with the plan's funding objectives".

As a formal funding policy is not required to be filed with FSCO, it is not certain how FSCO would make this determination. Without a formal funding policy, how would FSCO determine a pension plan's funding objectives? Is it FSCO's intention that the reference in the Actuarial Guidance Note to "the plan's funding objectives" will be interpreted to mean the plan's minimum funding requirements?

Discount Rate Selection and the Investment Policy

"In the actuarial report filed in respect of a plan, the actuary should provide comments on the potential risks related to meeting the plan's funding objectives, due to the investment policy adopted by the plan administrator."

- Not all pension plans provide their actuaries with investment policy information beyond the filing of their Statement of Investment Policies & Procedures. This raises the question whether actuaries will have access to the necessary investment information to fulfill this new requirement.

- In the case of HOOPP, there is a great deal of information generated about the potential funding risks. However, providing to the actuary the volume of information that would be required to enable the actuary to provide such comments may be a very onerous and expensive change to the valuation report preparation process. We will require further direction from FSCO about this provision in the Actuarial Guidance Note to ensure this request will truly accomplish the objectives which FSCO intends and does not result in significant additional fees to plan administrators or plan sponsors with no substantive benefit to the plan membership.

Active Management

"...the guidance may not be complete in all circumstances and FSCO may request additional information from the actuary, administrator, investment manager and/or plan sponsor for the justification of an assumption of additional returns from active management."

The primary concern we raised with the CIA when the new Standards were published for consultation was that "active management" is simply not well enough defined. We believe there are many justifications for including in the discount rate assumption what may be termed by many as "active management".

We would be happy to meet with you to discuss our comments and to further discuss the draft Actuarial Guidance Note. Thank you again for the opportunity to express our views with respect to this consultation draft.

Sincerely,
HEALTHCARE OF ONTARIO PENSION PLAN
Per:

David Miller
General Counsel and Senior Vice-President, Governance

Cc: John A. Crocker
Greg Tebbutt

We agree with FSCO's expectations that the actuary will continue to include an assumption for future salary increases in the actuarial valuation report filed for the plan.

And finally, regarding actively managed investments, the CAAT Pension Plan supports FSCO's expectation that justification of assumption for value-added returns from active management be contained in the valuation report filed for the Plan. However we caution that expected alpha to be generated in non-traditional asset structures (for example, private market investments that by their nature are actively managed and have no passive benchmarks) should not be confused with the value-add of active management for traditional asset classes such as public equities. The former need not require extensive detail of support within an actuarial valuation report because with a properly governed, jointly-sponsored plan the board of trustees provides the required oversight to ensure expected future returns, which are used to derive the discount rate, are within the context of the asset mix and other SIPP-related objectives and constraints.

The Board of Trustee for the CAAT Pension Plan thanks FSCO for its efforts to refine the practice specific standards for pension plans. Further, we thank FSCO for allowing us the opportunity to participate in this process.

Yours truly,

CAAT Pension Plan

Derek Dobson,
CEO & Plan Manager

c.c. Lester Wong, Senior Actuarial Consultant, FSCO

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May 20, 2011

Attention: Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street, Suite 1600
Toronto, ON M2N 6L9

By E-mail

Re: Public Consultation Document: Actuarial Guidance Note, April 2011

On behalf of Towers Watson, we are pleased to provide our comments to the Financial Services Commission of Ontario (FSCO) on its Public Consultation Document entitled "Canadian Institute of Actuaries, Practice-Specific Standards for Pension Plans effective on December 31, 2010" (Consultation Document). Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson offers solutions in the areas of employee benefits, talent management, rewards, and risk and capital management. Towers Watson employs close to 14,000 associates on a worldwide basis, with over 350 being engaged in providing services to Canadian pension plans.

We understand that the Consultation Document was issued in reaction to the Canadian Institute of Actuaries' recently changed Standards of Practice (indeed, some other jurisdictions have already published similar guidance), in particular the new standard for an actuary to use best estimate actuarial assumptions in going concern valuations of defined benefit pension plans.

Our comments on the Consultation Document are related to some aspects of it which we find inappropriate, contradictory or very difficult to put into practice. Furthermore, we believe it is important for FSCO to recognize the broader financial picture for sponsors of single employer defined benefit pension plans. Some parts of the recently passed Bills 236 and 120 strengthen plan funding and increase administrative costs. The government included these parts as a response to the "Fine Balance" recommendations of the Ontario Expert Commission on Pensions. FSCO should be wary of adding additional funding requirements and more administrative costs, disturbing the balance. There is already an extremely burdensome environment in which to sponsor a defined benefit pension plan.

We believe a regulator's primary funding-related concern should be with plan solvency, and that a plan's going concern valuation should be a more minor concern.

1. Good Governance vs. Minimum Compliance

To us, FSCO appears to have taken a position which goes beyond the provisions of the *Pension Benefits Act*, R.S.O. 1990 (PBA) and Regulation 909, R.R.O. 1990 (Regulation). For many plans, we believe it is responsible governance practice for the plan administrator to seek advice on margins and the risks of adopting certain investment policies, taking into account the funding policy adopted by the plan sponsor. The PBA and Regulation do not mandate governance practices. We support an approach where governance issues continue be addressed by general guidelines, rather than via specific rules or directives. We have no concerns with FSCO publishing a note urging parties to engage in "best practices". However, we do not believe FSCO should mandate any approach that is not required by the PBA or Regulation.

2. Administrative Costs

To the extent certain actions mentioned in the Consultation Document are mandated by FSCO, unless the actions are already part of regular processes (which is not the norm), pension plans would bear additional administrative costs. The consequences of additional costs and required actions by plan administrators or sponsors might be fewer defined benefit plans.

3. Accepted Actuarial Practice

The PBA and Regulation state that an actuarial valuation is to be prepared in accordance with accepted actuarial practice. We believe that the Standards of Practice (SoP) adopted by the Actuarial Standards Board, as amended from time to time, represent accepted actuarial practice. As such, an actuarial valuation report prepared in accordance with the SoP should be appropriate in most cases. The Consultation Document seems to take the position that a going concern valuation which follows the SoP (use of best estimate assumptions without margins) is inherently inappropriate for any single employer pension plan. In essence, the Consultation Document is effectively overruling the SoP. We believe this is overreaching and could be construed as an attempt to regulate an aspect of plan funding that the Regulation itself has not addressed.

4. Plan's Funding Objectives

The phrase "plan's funding objectives" is used several times throughout the Consultation Document. We note that is not the *plan* that has funding objectives, as the plan is simply a vehicle through which a future pension income is promised by an employer (in the case of a single employer pension plan). The plan's administrator, often the employer, has a fiduciary duty to the plan's members. However, when making funding policy decisions, the employer is acting as the plan's sponsor and is not held to a fiduciary standard of care. This is clearly recognized in the Pension Plan Funding Policy Guideline issued by CAPSA in March 2011. Therefore, references to "plan's funding objectives" should be replaced with "plan sponsor's funding objectives".

5. Margins and Solvency Funding

In many pension plans today, the employer is making special payments to the pension plan to liquidate a solvency deficiency, and in many of these cases, the solvency special payments are a substantial portion of the total employer contribution. It can be argued, from a going concern viewpoint, that the solvency special payments are a form of margin since they would not have been required if the valuation were performed on only a going concern basis. Minimum funding rules should not require going concern margins for plans in these circumstances. Instead, the level of any margin should reflect the implicit margins provided by the solvency valuation and the requirements to fund to this alternative target.

6. Effective Date

If the Consultation Document is made effective December 31, 2010, it will have a retroactive effect on a large amount of work already performed on actuarial valuations as at December 31, 2010 and later dates. Some valuation reports have already been filed with FSCO, while others are at various stages of completion. Releasing this document in draft in late April 2011 with a retroactive effect, and without some kind of grandfathering or transition phase, is very unreasonable. It is also imprudent to impose extra costs on a plan without reasonable advance notice because fee budgets and contracting arrangements may have already been fixed.

7. Issues with Specific Passages

We have concerns with the following passages in the Consultation Document.

FSCO generally expects that the actuary … will include appropriate margins for adverse deviations when choosing prudent economic and other actuarial assumptions.

7.1. As noted in the Consultation Document, the SoP instruct the actuary to establish margins for adverse deviations in one or more assumptions only to the extent required by law (it is not so required in this case) or by the terms of an appropriate engagement. The terms of engagement are those the actuary has with his or her client. If the client is comfortable with the level of risk associated with using best estimate assumptions and therefore does not direct the actuary to incorporate margins, then that should be sufficient. FSCO could instead express its expectation that the ramifications of not including margins be considered. At the very least, we urge FSCO to not express an expectation to adopt larger margins than were generally established by the actuary in accordance with the Standards of Practice prior to the recent change.

At the very least, it would be consistent with the requirements of the SoP to replace the phrase "*FSCO generally expects that the actuary… will include*" with "*FSCO generally expects that the plan administrator will instruct the actuary… to include*", although we do not endorse the statement as noted in section 3 above.

7.2 The phrase "*prudent economic and other actuarial assumptions*" could imply that margins are expected for *all* actuarial assumptions. We propose inserting the phrase to "*one or more*" just before it.

In selecting the actuarial assumptions and determining the appropriate margins to apply, the actuary should discuss with the plan administrator the plan's past and expected future experience and identify both the range of reasonable assumptions and the likelihood of them being achieved, in the context of meeting the plan's funding objectives.

7.3. While discussing these topics with the plan administrator seems a reasonable and good approach for the actuary to take, in the absence of a provision in the PBA or Regulation that requires it, we do not believe FSCO can mandate such a discussion. We acknowledge FSCO should be able to use means to ensure that accepted actuarial practice is being followed (which effectively requires that the actuary understands the funding policy), however we urge this passage make clear that the noted discussion is a 'best practice', not a requirement.

7.4. Given the arguments put forward in section 7.1 above, it would be consistent with the requirements of the SoP to replace the phrase "*In selecting the actuarial assumptions … the actuary should discuss with the plan administrator…*" with "*In reviewing the actuarial assumptions … the plan administrator should discuss with the actuary*".

7.5. To "*identify both the range of reasonable assumptions and the likelihood of them being achieved in the context of meeting the plan's funding objectives"* can require significant work and analysis. For most plans, particularly smaller ones, it is likely that the value of this extra work would not be worth the additional expenses. The determination of the likelihood of assumptions being achieved cannot be performed with precision, as the future is uncertain. In our opinion, it would be more appropriate and reasonable to replace this whole phrase with "*identify plausible and reasonable assumptions that the plan administrator is comfortable with*".

FSCO expects that… the actuary will discuss with the plan administrator whether the plan's investment policy reflects the plan's funding objectives, as well as the nature of the plan's liabilities, the demographic profile of the plan, the risk tolerances of the plan stakeholders, the investment objectives, and any other relevant factors. In the actuarial valuation report filed in respect of a plan, the actuary should provide comments on the potential risks related to meeting the plan's funding objectives, due to the investment policy adopted by the plan administrator.

7.6 In the absence of a provision in the PBA or Regulation that requires it, we do not believe that FSCO can mandate the above-mentioned discussion to take place. Moreover, under the PBA and Regulation, the actuary does not have any role or duty with respect to the plan's investment policy or an assessment of the plan's potential risks. Should FSCO consider such an expanded role or duty for the actuary, we believe that this topic should be subject to a wide consultation with the pension industry.

7.7 The issue of the appropriateness of the investment policy is addressed by the "*prudent person*" rule in Regulation. An assessment of the investment policy is outside the determination of the plan's financial position, which is the main purpose of an actuarial valuation.

7.8 The phrase "*the actuary will discuss*" might imply that if the actuary does not have such a discussion, or if the relevant discussion(s) does not cover the listed topics, then the actuary is in breach of some rule. The same can be said about the phrase "*the actuary should provide comments*". We suggest less definitive words to imply the expectation is a best practice.

7.9 In many cases, the actuary is not equipped to have a discussion about the investment policy for several possible reasons: (1) the actuary's area of expertise may not be in setting investment policies, (2) the investment policy may not be clear on one or more of the items listed, especially the funding objectives, (3) the actuary may not be familiar with the risk tolerances of the plan's stakeholders. We furthermore note that such a discussion would not necessarily have an impact on the results presented in an actuarial valuation report.

7.10 We have not seen many investment policies which "reflect the plan's funding objectives". The federal regulation which describes the contents of statements of investment policies and procedures (Pension Benefits Standards Regulations section 7.1) does not explicitly state that the plan's funding objectives be included.

7.11 With respect to the second sentence of the paragraph, we have the following specific comments:

- In order to ensure that his/her comments are relevant and valid, the actuary may have to spend a considerable amount of effort to understand and assess the potential implications of the investment policy, and related potential risks, especially where the valuation actuary was not involved in the development of the investment policy.
- Increased sophistication in investment policies and increasing use of non-traditional investments increase the difficulty for the valuation actuary to make valid comments on the potential risks due to the investment policy, particularly where the actuary is not involved in the process to set the investment policy.

We strongly believe that this entire paragraph must be removed from the Consultation Document.

Thank you for considering our comments. Towers Watson would be pleased to provide further information on the issues discussed in this submission.

Sincerely,

Marshall Posner
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Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Administrator
INDEX NO.:	Consultation Policy Released December 2010
TITLE:	CP - Administrator's Management of Inquiries and Complaints from Plan Beneficiaries - PBA ss. 22 and 29 - Regulation 909 s.45
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (date to be determined)
EFFECTIVE DATE:	To be determined

Public consultation

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

The purpose of this policy is to clarify the responsibilities of the administrator of a pension plan (administrator) in responding to inquiries and complaints from plan beneficiaries (members, retired members, former members, surviving spouses, dependants, former spouses, and other person(s) who have an entitlement under the plan). The policy also provides the administrator with information on how to effectively manage inquiries and complaints from plan beneficiaries.

This policy is not intended to create additional rights, obligations or responsibilities for those involved in the administration of the pension plan and pension fund, or for the recipients of pension entitlements, beyond those required under the PBA and Regulation, or by the common law.

Responsibilities of the Administrator

The administrator is responsible for the oversight, management and administration of the pension plan, and the administration and investment of the pension fund. Both the PBA and the common law impose a duty on the administrator to ensure that the pension plan and pension fund operate in accordance with the requirements of the law and in the best interests of plan beneficiaries. As a result, the administrator is ultimately accountable to plan beneficiaries.

In accordance with section 22 of the PBA, the administrator has a duty of care and owes fiduciary duties to plan beneficiaries. Examples of the administrator's responsibilities to plan beneficiaries include:

- correctly paying benefit entitlements to plan beneficiaries when they are due;
- disclosing information about the pension plan, as it pertains to plan beneficiaries, within legislated timeframes; and
- responding to plan beneficiaries' inquiries and complaints.

As a fiduciary, the administrator is expected to observe high standards of integrity and honesty, and to act in good faith and in the best interests of plan beneficiaries. For example, when the administrator reviews a plan beneficiary's inquiry or complaint about the pension plan, the terms of the plan should be interpreted in a fair and impartial manner. (For additional information about the administrator's fiduciary duties owed to plan beneficiaries, visit the website of the Canadian Association of Pension Supervisory Authorities (www.capsa-acor.org) to access Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire.)

When dealing with plan beneficiaries' inquiries and complaints, the administrator needs to be knowledgeable about the legislation that applies to registered pension plans. Such legislation may include, but is not limited to:

- the PBA and Regulation;
- the pension standards legislation of any other applicable jurisdiction (for multi-jurisdictional pension plans);
- the Income Tax Act (Canada);
- the Employment Standards Act, 2000;
- the Labour Relations Act, 1995;
- the Family Law Act;
- the Workplace Safety and Insurance Act, 1997; and
- the Freedom of Information and Protection of Privacy Act.

If the administrator does not have the necessary knowledge to deal with plan beneficiaries' inquiries or complaints, some or all of these responsibilities may be delegated to those individuals or third-party service providers (service providers) who have the required knowledge. However, these delegates are subject to appropriate ongoing oversight by the administrator.

The administrator should also consider how plan records will be managed and maintained in order to have them readily available when dealing with plan beneficiaries' inquiries and complaints. For guidance on prudent record keeping practices, see FSCO policy A300-200 (Management and Retention of Pension Plan Records by the Administrator).

In cases where the pension plan forms part of a collective bargaining agreement (or where plan beneficiaries have union representation, even though the pension plan may not be collectively bargained), the administrator may be required to inform the collective bargaining agent about certain complaints from plan beneficiaries. For these situations, the terms of the collective bargaining agreement would generally specify the union's involvement with respect to these complaints.

Communicating with Plan Beneficiaries

The PBA and Regulation require the administrator to inform plan beneficiaries about their entitlements under the plan, and to provide information about the plan provisions that apply to them through various pension statements, notices or other documents (e.g., annual pension statements, member booklets, ad hoc notices about plan amendments, etc.).

The administrator is also responsible for informing plan beneficiaries about their rights and obligations regarding the pension plan. This includes their right to know what pension plan information they are entitled to receive (e.g., pension statements, etc.), when and how often they are entitled to receive that information (e.g., how often they will receive pension statements, copies of plan records, etc.), and where they may access that information (e.g., where they can inspect plan records, etc.).

In addition to any legislated requirements, it would be appropriate for the administrator, as a governance matter relating to communications, to make the following information readily available to plan beneficiaries:

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- Who plan beneficiaries should contact for inquiries and complaints (provide the individual's name, title, telephone number, fax number, e-mail address, mailing address, etc.).
- The type of supporting information that needs to be included with each inquiry or complaint.
- How plan beneficiaries should submit their inquiries or complaints (e.g., in writing).
- The expected timeframe for receiving a response from the plan administrator.
- Where plan beneficiaries may inspect the plan records that are listed under section 45 of the Regulation (e.g., plan texts, plan amendments, trust agreements, prescribed filings, etc.).
- The administrator's internal dispute resolution process (if one exists) for situations where a plan beneficiary disagrees with the administrator's response and other options that may be available to him or her (e.g., how to request further consideration by the administrator's review panel (if any), directing the individual to FSCO, etc.).
- The plan beneficiary's right to make a submission to FSCO in cases where a complaint cannot be resolved by the administrator. (Note: FSCO reviews each complaint on a case-by-case basis and determines whether the complaint can be resolved. Submissions by both the plan beneficiary and administrator will be considered before FSCO makes a determination about whether the administrator's actions are in compliance with the PBA, Regulation and FSCO's published policies. The administrator should consider advising plan beneficiaries of the information that is available on FSCO's website under General Information About Inquiries and Complaints for Pension Plan Beneficiaries.)

The information that is listed above can be built into any of the statements or records that are required to be provided to plan beneficiaries, or it can be made available on the administrator's website, newsletters, bulletin boards, etc. The administrator should determine the best method of communicating this information to plan beneficiaries, to ensure that this information is readily available to anyone who has an inquiry or complaint, and that plan beneficiaries know how their inquiries and complaints will be handled by the administrator.

Policy on Managing Inquiries and Complaints

It may be helpful for the administrator to develop and implement a written policy on how to manage inquiries and complaints from plan beneficiaries. FSCO recommends that the policy clarify (among other things) the roles and responsibilities of those individuals or service providers who are entrusted with this task. In FSCO's view, the policy will contribute towards:

- consistency and efficiency in the management of inquiries and complaints;
- consistency and timeliness in the responses that are provided to plan beneficiaries;
- identification of specific areas of plan administration that require improvement (e.g., by keeping track of the frequency of inquiries or complaints relating to a particular issue, etc.);
- improvement of communications with plan beneficiaries (e.g., by managing plan beneficiaries' expectations with respect to response times, etc.); and
- clarification of the administrator's fiduciary obligations.

FSCO recommends that administrators refer to FSCO's Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries when they are developing such a policy.

The content of the policy will vary from plan to plan, depending on the number, frequency and complexity of inquiries and complaints that are generally handled by the administrator. In addition, the content of the policy will depend on whether inquiries and complaints are handled in-house or by service providers. The administrator should determine the policy's content based on what is most appropriate for the pension plan.

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Delegation of the Administratorôs Duties

The administrator may delegate the responsibility of responding to inquiries and complaints from plan beneficiaries to a service provider. However, the administrator must continue to supervise the work of the service provider, and ensure that inquiries and complaints from plan beneficiaries are being processed in accordance with the requirements of the PBA, Regulation, terms of the pension plan, and any other applicable legislation. It should be noted that the service provider is subject to the same standard of care that is imposed on the administrator under section 22 of the PBA.

The delegation should be made in writing and clearly specify the duties of the service provider. The agreement between the administrator and service provider should address (among other things), privacy concerns and any limitations on using plan beneficiaries' information for any reason other than benefit administration. The agreement should also provide instructions on how inquiries and complaints need to be processed on behalf of the administrator. (Note: The administrator needs to ensure that plan beneficiaries are notified of any arrangements with the service provider, and give proper authorization for the release of personal information, in accordance with applicable privacy legislation.)

If the service provider has its own policy on the management of inquiries and complaints, it may be adopted if the administrator is satisfied that it complies with the requirements of the PBA, Regulation, terms of the pension plan and any other applicable legislation.

It is important for the administrator to be aware of plan beneficiaries' issues — even though they are handled by the service provider — since the administrator is ultimately responsible for the final decisions that are made with respect to those issues, and any subsequent actions that may have to be taken, as directed by FSCO, the Financial Services Tribunal or the courts. Therefore, the administrator should establish policies and procedures to ensure that such information is made available by the service provider. As a general practice, staff in FSCO's Pension Division will copy the administrator on any correspondence between FSCO and the service provider.

Timing of Responses to Inquiries and Complaints

The administrator should respond to plan beneficiaries' inquiries or complaints within a reasonable period of time. For the majority of inquiries and complaints, FSCO expects the administrator to provide a response within 30 days of receiving the written inquiry or complaint. If the administrator is unable to respond within the 30 days, plan beneficiaries should be notified of the reason for the delay and an anticipated date for when the response will be provided.

When responding to plan beneficiaries' requests for access to plan records under section 29 of the PBA, section 45(5) of the Regulation requires the administrator to comply with these requests within 30 days after receiving each written request. Plan beneficiaries are entitled to have access to information that applies to them (as set out in section 45(5) of the Regulation), once in a calendar year.

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How to Provide Comments

FSCO welcomes comments regarding this consultation document. There are a number of options for submitting your comments.

1) You may send your comments by e-mail to: pensionconsultation@fsco.gov.on.ca
   Please include in the subject line of your e-mail "**inquiries and complaints"**.

2) You may mail your comments to the following address:

   Attention: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street
   Box 85, 8th Floor
   Toronto ON   M2N 6L9

   Please include a subject line in your letter referencing "**inquiries and complaints**".

3) You may send your comments by fax to (416) 226-7787. Please include a subject line in your fax referencing "**inquiries and complaints**".

Submissions for "**inquiries and complaints**" are due by **February 11, 2011**.

Thank you for your interest and participation.

Please note that submissions will be made publicly available on FSCO's website (www.fsco.gov.on.ca) at the end of the consultation period. If you do not want your submission to be made public, please clearly indicate this in your submission.

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Consultation Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries – Released December 2010

Plan administrators are encouraged to develop a written policy to document their process for managing inquiries and complaints from plan beneficiaries. The content of the policy will vary from plan to plan, depending on the number, frequency and complexity of inquiries and complaints that are generally handled by the plan administrator. The content will also depend on whether inquiries and complaints will be handled in-house or by third-party service provider(s).

The plan administrator should decide on the policy's content based on what is most appropriate for the pension plan (e.g., different details or levels of tracking for inquiries versus complaints, etc.). In addition, the policy should be reviewed regularly to determine if additional information should be added to the policy. See FSCO's CP's Administrator's Management of Inquiries and Complaints from Plan Beneficiaries for information about the plan administrator's responsibilities when dealing with inquiries and complaints from plan beneficiaries.

When the plan administrator is developing the policy, the list of key items below should be considered.

Participants and their Responsibilities

Identify:

- All individuals who are responsible for handling inquiries and complaints from plan beneficiaries (e.g., names, titles, specific roles, etc.).
- The responsibilities of all individuals who are entrusted with this task (e.g., their fiduciary obligations, delegated responsibilities, confidentiality requirements, etc.).

Processes or Procedures

Develop:

- The process for logging and tracking inquiries and complaints that are received from plan beneficiaries. Include information about:
    - o the form in which they were received (e.g., letter, e-mail, telephone, in person, etc.);
    - o the category or type of inquiries or complaints (e.g., pension calculation, plan provisions, marriage breakdown, etc.); and
    - o any difference(s) in the tracking of inquiries versus complaints.

  (Note: This information is useful for identifying training requirements and areas of improvement, determining how to properly allocate resources, and measuring against performance targets.)

- The procedure for acknowledging receipt of inquiries or complaints based on the form in which they were received (e.g., by letter, e-mail, telephone, in person, etc.).

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- The procedure for responding to plan beneficiaries based on the form in which the inquiries or complaints were received (e.g., by letter, e-mail, telephone, in person, etc.).
- The procedure that sets out the information that should be included in letters to plan beneficiaries, such as:
    - the date when the inquiry or complaint was received;
    - the date when a response will be provided;
    - a summary of the issue;
    - the conclusion based on a review of the issue;
    - who to contact for questions; and
    - what options are available if plan beneficiaries disagree with the response.
- The procedure for handling confidential or sensitive information.
- The procedure for documenting verbal inquiries or complaints.
- The timelines for providing an acknowledgment and response to inquiries or complaints. Include information about any difference(s) in response times based on the form in which they were received, such as:
    - in writing (by letter, e-mail, fax, memo, etc.); or
    - verbally (by telephone, in person, etc.).
- The procedure for contacting plan beneficiaries' collective bargaining agent(s), if applicable.
- The follow-up process if a response cannot be provided to the plan beneficiary within the initial deadline (e.g., provide a reason for the delay and the anticipated response date, etc.).
- The internal approval process (e.g., required sign-offs before the response is sent to plan beneficiaries) (if applicable).
- The internal dispute resolution process (if applicable).
- The procedure for dealing with conflicts of interest.
- The procedure for dealing with plan beneficiaries who have mental or physical disabilities.
- The procedure for reporting to senior level staff and/or to appropriate governance oversight bodies (e.g., pension committee) concerning the volume and type of complaints, and the action(s) that was/were taken to address or resolve the complaints.

Communication Requirements

Determine:

- Information about the inquiries and complaints process that needs to be communicated to plan beneficiaries (e.g., contact information, instructions to plan beneficiaries, etc.) and how that information will be communicated to them (e.g., company website, pension statements, etc.).
- How often the plan administrator should communicate with plan beneficiaries (e.g., whenever there is a change in contact information or administrative processes, etc.).
- If the plan beneficiary's collective bargaining agent must be contacted (where applicable).

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Skills and Knowledge Requirements

Specify:

- Training and education requirements for those individuals who are responsible for responding to plan beneficiaries' inquiries and complaints.
- Requirements for continuing education and ongoing training.
- Performance targets and how those targets will be monitored (e.g., measuring response times, volume and frequency of complaints, etc.).

Educational and Instructional Information

Specify:

- Information about plan beneficiaries' rights and obligations under the pension plan (e.g., plan beneficiaries' rights to information, what information is needed from plan beneficiaries to process their pension entitlements, etc.).
- Information about where records relating to plan beneficiaries' inquiries or complaints will be kept and for how long.
- Information concerning the disclosure of conflicts of interest.
- Instructions for when an inquiry or complaint should be escalated to senior level staff and/or to any other governance oversight body (if applicable).
- Information about other guides or procedures that should be followed by those individuals who are responsible for managing inquiries and complaints.

Delegated Responsibilities (if applicable)

Specify:

- The delegated responsibilities of the third party service providers (service providers) and how they will be supervised by the plan administrator.
- Instructions to the service providers about which type of issues should be brought to the plan administrator's attention and when this should occur.
- Instructions for complying with the policy on managing plan beneficiaries' inquiries and complaints.
- The plan documents that must be provided to the service providers and when those documents should be provided to them (i.e., to ensure that the service providers have accurate and current information about the pension plan).

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Monitoring Requirements

Monitor:

- The processes and regular reporting requirements.
- The performance of individuals or service providers that have been delegated tasks (if applicable).
- Whether the service providers have met the terms of the contract (if applicable).
- How often the process will be reviewed to determine:
    - if those individuals who are responsible for this job are adhering to the policy;
    - whether the contact information is up-to-date; and
    - if any improvements to the process are necessary.

Track:

- The number of inquiries and complaints that were received and identify any significant complaints (e.g., by volume and/or topic).
- The resolution of complaints.
- The number of inquiries or complaints that were escalated to senior level staff and/or to any governance oversight body.
- The timelines for addressing inquiries or complaints, and if responses were provided in a timely manner.

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How to Provide Comments

FSCO welcomes comments regarding this consultation document. There are a number of options for submitting your comments.

1) You may send your comments by e-mail to: pensionconsultation@fsco.gov.on.ca
   Please include in the subject line of your e-mail "**inquiries and complaints**".

2) You may mail your comments to the following address:

   Attention: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street
   Box 85, 8th Floor
   Toronto ON   M2N 6L9

   Please include a subject line in your letter referencing "**inquiries and complaints**".

3) You may send your comments by fax to (416) 226-7787. Please include a subject line in your fax referencing "**inquiries and complaints**".

Submissions for "**inquiries and complaints**" are due by **February 11, 2011**.

Thank you for your interest and participation.

Please note that submissions will be made publicly available on FSCO's website (www.fsco.gov.on.ca) at the end of the consultation period. If you do not want your submission to be made public, please clearly indicate this in your submission.

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ONTARIO BAR ASSOCIATION
A Branch of the Canadian Bar Association

L'ASSOCIATION DU BARREAU DE L'ONTARIO
Une division de l'Association du Barreau canadien

February 11, 2011

Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 8th Floor
Toronto, Ontario
M2N 6L9

Attention: Pension Policy Unit

Dear Sirs/Mesdames:

Re: Administrator's Management of Inquiries and Complaints from Plan Beneficiaries

The Ontario Bar Association appreciates the opportunity to comment on the Financial Services Commission of Ontario's ("FSCO") December 2010 Consultation Memorandum on *Administrator's Management of Inquiries and Complaints from Plan Beneficiaries* (the "Consultation Paper")

The OBA

Established in 1907, the OBA is a branch of the Canadian Bar Association. It is the largest voluntary legal association in Ontario and represents 18,000 lawyers, justices, law professors, and law students. The OBA Pensions and Benefits Section has more than 300 members who serve as legal counsel to various stakeholders within the pension and benefits industry. These stakeholders include pension and benefit plan administrators, employers, plan members, pension and benefit consultants, investment managers, actuarial firms and other advisors. Our Members have, over the years, analyzed and provided assistance to the Ontario government on most legislative and policy initiatives in the pension field.

The OBA agrees that complaints from pension plan members should be addressed promptly and fairly and appreciates FSCO taking the time to provide some guidance in this area. We offer the following comments.

Clarity Regarding Duties of Administrators

As you recognize in your Consultation Paper, a one-size-fits-all policy for complaints and inquiries is not appropriate, given the broad variations in the size of pension plans, the sophistication of members and access to information and legal support. The only direction suitable for all plans is, simply, that member's complaints and enquiries should receive prompt and accurate responses and members should be advised of their ability to take their complaints further (to FSCO etc.) if they are not satisfied with the reply of their administrator. How this overall direction is best achieved will vary from plan to plan. It is, therefore, important that the suggestions made in the Consultation Paper and the reference to FSCO's *Guidelines for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries* be explicitly understood to be non-mandatory guidance rather than a prescriptive policy that creates any additional fiduciary obligations.

In this regard, FSCO does explicitly provide in the Consultation Paper that:

> This policy is not intended to create additional rights, obligations, or responsibilities for those involved in the administration of the pension plan and pension fund, or for the recipients of pension entitlements, beyond those required under the PBA and Regulation, or by the common law.

However, there may be some confusion given the explanatory note at the beginning of the document. The Note provides:

> Where this policy conflicts with the Financial Service Commission of Ontario Act…., Pension Benefits Act….or regulation 990, The FSCO Act, PBA or Regulation governs.

This could be seen to imply that where the Consultation Paper does not conflict with the legislation and regulation, but simply augments them, the guidelines outlined in the Consultation Paper govern. For greater clarity, the Note could provide that:

> This policy is not intended to create additional rights, obligations, duties or responsibilities for those involved in the administration of the pension plan and pension fund, or for the recipients of pension entitlements. Where this policy conflicts with or augments the Financial Service Commission of Ontario Act…., Pension Benefits Act….or regulation 990, The FSCO Act, PBA or Regulation governs.

Timing

Given that the suggestions outlined in the Consultation Paper are not, and should not be, prescriptive, the timing or "Effective Date" is not crucial. However, the approach outlined for communicating, managing and, particularly, tracking complaints and inquiries is likely more than most administrators currently have in place. As such, for those plans that do intend to adopt all or most of the guidelines set out, the Effective Date of the policy should not be immediate. There should be some period of time to allow administrators to implement any adjustments to their current processes, procedures and technology.

Additional Suggestions

The following additional guidance may be helpful:

i) procedures regarding complaints and information requests should be outlined in plain language. This information, including member booklets, should generally be updated whenever there is a significant change in the complaint and inquiries procedure or other procedures or policies relevant to members; and

ii) administrators should consider appointing a member-representative to whom members could go, at their option, either at first instance when there is a complaint or information required or after receiving an unsatisfactory answer.

Once again, we appreciate the opportunity to comment on your Consultation Paper concerning this important issue. Please do not hesitate to contact us if you have any questions or require further information or assistance.

Yours truly,

Lee Akazaki	Ari Kaplan
OBA President	OBA Pension Law Section Chair

PLAN FOR THE FUTURE

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February 16, 2011

Attention: Pension Policy Unit
Financial Services Commission of Ontario (FSCO)
5160 Yonge Street
Box 85, 8th Floor
TORONTO ON M2N 6L9

Re: Consultation Policy on Administrator's Management of Inquiries and Complaints from Plan Beneficiaries

Thank you for the opportunity to comment on this policy.

OMERS Primary Plan is:

- a jointly-sponsored pension plan with a long tradition of strong employer/member governance;
- a large multi-employer defined benefit plan with a highly diversified membership of more than 400,000 members from about 900 employers;
- a large pension fund investor pursuing a global investment mandate; and
- one of the top-performing pension funds in Canada.

We have reviewed both the FSCO consultation policy *Administrator's Management of Inquiries and Complaints from Plan Beneficiaries* and the *Consultation Guideline for Developing a Written Policy on the Managing Inquiries and Complaints from Plan Beneficiaries* (together the "FSCO policy"). OMERS believes that requiring administrators to have clearly defined responsibilities dealing with inquiries and complaints from beneficiaries will clarify for all parties the process to be undertaken when either an inquiry or a complaint exists.

Communicating with Plan Beneficiaries

OMERS has established separate procedures/criteria for handling member inquiries and complaints. Accurate and timely response is essential when responding to either an inquiry or complaint. However, inquiries and complaints are very different in nature – many inquiries are basic with short responses while complaints can be complex and time-consuming to address. FSCO should consider requiring that pension plans separate the way in which general and case file inquiries are handled from the more serious complaints of plan beneficiaries.

Written Policy

The FSCO policy recommends that the administrator develop and implement a written policy to deal with inquires and complaints from plan beneficiaries. OMERS does not maintain one overall document that deals with every aspect outlined in the FSCO policy; however, policies and procedures do exist throughout the organization (e.g. response time for inquiries and an extended internal complaints process). It should be clear that all such processes need not be in one document; such a consolidation would be onerous and unnecessary. For those plans that do not currently have such documents, requiring one comprehensive master document could cause delay - it may be easier for some plans to tackle issues separately.

Points of Contact

We strongly agree that plan beneficiaries be informed about their entitlements under the plan. However, the contact for beneficiaries should be assigned to positions rather than "individuals". As a large MEPP, OMERS has a dedicated call-centre that responds to inquiries as well as complaints raised by its beneficiaries. OMERS staff responded to more than 120,000 telephone requests alone in 2010. The contact information of our call centre is communicated broadly on all documentation and on the OMERS website. OMERS has a formal process to escalate cases where a concern is raised by beneficiaries to which dedicated staff are assigned. The FSCO policy appears to be drafted to address the management of inquiries and complaints of smaller organizations and single-employer pension plans, and should allow for differences that are inherent in larger plans.

The Role of Multi-Employer Pension Plans

The *Pension Benefits Act* is not particularly clear on all distinctions between multi-employer pension plans (MEPPs) and single employer pension plans. FSCO should, to the extent possible, address the practical realities of MEPP administration in each policy consultation.

The FSCO policy addresses third-party service providers and the relationship they have with a single employer (acting as plan administrator). However it does not address MEPP/jointly governed plan situations where there is a role for the employer in assisting with administration, particularly to relay information and address certain issues. OMERS recommends that this FSCO policy acknowledge the fact that practices will vary for different kinds of plans (as in the FSCO policy, *Management and Retention of Pension Plan Records by the Administrator*).

We once again thank you for this opportunity to comment. We would be happy to discuss further details with FSCO about our inquiries and complaints policies and procedures if that would assist your review.

Regards,

Cynthia Crysler
Vice President, Pension Policy & Research
Pension Services
(416) 369-2669

copy: Andrew Fung, OMERS
Jennifer Brown, OMERS

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Financial Statements Guidance Note
INDEX NO.:	FSGN-001
TITLE:	Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (date to be determined)
EFFECTIVE DATE:	Fiscal years beginning on or after January 1, 2012

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

PURPOSE

In 2010, the Canadian Institute of Chartered Accountants' Handbook (CICA Handbook) was restructured and updated. New accounting standards for pension plans are set out in Part IV of the CICA Handbook, as Section 4600 replaced Section 4100 (from the previous version of the CICA Handbook). The CICA Handbook applies to pension plan financial statements for fiscal years beginning on or after January 1, 2011.

The Financial Services Commission of Ontario (FSCO) is of the opinion that some of the disclosure requirements in the CICA Handbook may not be necessary for special purpose financial statements that are filed under the PBA and Regulation, and that the new accounting standards for pension plans should apply to both pension plans and pension funds.

The purpose of this Financial Statement Guidance Note is to specify FSCO's expectations for disclosure, in regards to:

1. **Statement of Changes in Pension Obligations** (refer to sections 4600.10(c) and 4600.28 in the CICA Handbook);
2. **Interest in a Master Trust** (refer to sections 4600.05(q)(i), 4600.05(r) and 4600.15 in the CICA Handbook);
3. **Capital Management (including SIP&P and Contributions)** (refer to sections 4600.37 and paragraphs 135-136 of IAS 1– Presentation of Financial Statements in Part I of the CICA Handbook)**;** and
4. **Financial Instruments: Disclosures** (refer to sections 4600.32 and IFRS 7 – Financial Instruments – Disclosure in Part I of the CICA Handbook).

All pension plan or pension fund financial statements that are prepared for filing with FSCO under section 76 of the Regulation, are expected to follow these disclosure requirements. By providing this disclosure, FSCO does not anticipate that the administrator of the pension plan (administrator) will need to develop a new set of data or statistics, as the administrator can rely on information that was already provided internally to key management personnel.

Public Consultation

BACKGROUND

Under the PBA and the Regulation, the administrator is required to file financial statements for the pension fund or plan as of the plan's fiscal year end date. Subject to the requirements of section 76 of the Regulation, the financial statements and the auditor's report (where required), must be prepared in accordance with the principles and standards that are set out in the CICA Handbook. FSCO has posted some questions and answers on its website to address the differences between the CICA Handbook and section 76 of the Regulation. In addition, when financial statements that need to be filed with FSCO are being prepared, the administrator should refer to FSCO Policy F100-102 – Requirement to File Pension Plan or Pension Fund Financial Statements for guidance.

FSCO'S DISCLOSURE EXPECTATIONS

1. Statement of Changes in Pension Obligations

Section 4600 of the CICA Handbook introduces the requirement that a pension plan's financial statements must present the pension obligations of a defined benefit plan (refer to section 4600.12 (g)) and the resulting surplus or deficit (refer to section 4600.12(h)) on the face of the statement of financial position. Furthermore, section 4600.10(c) also requires a statement of changes in pension obligations, as described in section 4600.28. Section 4100 from the previous version of the CICA Handbook, allowed a pension plan to present the pension obligation in the notes to the financial statements.

It should be noted that FSCO will accept pension plan or pension fund financial statements that are filed under section 76 of the Regulation, which do not disclose pension obligations, since the PBA specifies the requirements for determining and disclosing pension liabilities in actuarial valuation reports filed with FSCO.

When financial statements are prepared for regulatory filings (as pension fund financial statements), the statement of financial position (which excludes pension obligations), is generally renamed as the "statement of net assets available for benefits".

FSCO expects the following disclosure in order to satisfy the requirements of section 76 of the Regulation:

The pension plan or pension fund financial statements will disclose the following:

- *the basis of accounting in a note to the financial statements;*
- *the departure from the principles and standards set out in the CICA Handbook (where applicable)to meet the requirements of section 76 of the Regulation; and*
- *for pension fund financial statements, Canadian Auditing Standard 800 — the special purpose framework for financial statements — will be applicable and the auditor's report will:*
    - *state that the financial statements are prepared in accordance with the financial reporting provisions of section 76 of Regulation 909 of the PBA; and*
    - *include a paragraph on the basis of accounting and restrictions on its use.*

2. Interest in a Master Trust

Master trust holdings make up more than 50 per cent of the assets that are held by defined benefit plans which are regulated by FSCO. Section 4600.15 of the CICA Handbook no longer allows the use of proportional consolidation or equity accounting for a pension plan's participation in master trusts.

This means that pension plans — some of whose assets are primarily (and sometimes solely) invested in a master trust — could present only a single line item to report their investment assets as **an interest in a master trust** (as per section 4600.05 (q)(i)). Section 4600.14 stresses the importance of distinguishing investment assets and liabilities "by type, because that information is useful to users in understanding the risks associated with a pension plan's investments". FSCO requires more detailed information on the master trust holdings as they relate to the pension plan.

FSCO expects the following disclosure in order to satisfy the requirements of section 76 of the Regulation:

The pension plan or pension fund financial statements will disclose in a note to the statements:

- *sufficient information (quantitative and qualitative) to understand the risks associated with a plan's or fund's investment in master trusts, subject to the materiality requirement;*
- *information on the types of investments, fair value hierarchy (see section 4) and disclosure required under section 76(13) of Regulation 909 for the entire master trust, in addition to the single line presentation on the face of the statement, as required under Section 4600; and*
- *the plan's or fund's position in the master trust (e.g., number of units over total issued, or percent holding of the total).*

3. Capital Management (including SIP&P and Contributions)

Under the accounting standards that are set out in the CICA Handbook, pension plans administrators are required to disclose information regarding capital management, in accordance with the requirements in paragraphs 135-136 of IAS 1 – Presentation of Financial Statements. Pension plans administrators that decide to use the accounting standards for private enterprises from Part II of the CICA Handbook (instead of the IFRS in Part 1 of the CICA Handbook), are nevertheless required by section 4600.37 to provide capital disclosures, as indicated in paragraphs 135-136 of IAS 1 in Part 1 of the CICA Handbook.

Plan's objectives, policies and processes for managing capital

When these disclosures are provided, the administrator can rely on the information that is provided internally to key management personnel, which includes the pension plan's Statement of Investment Policies & Procedures (SIP&P) (as per section 78 of the Regulation). The administrator should draw a succinct and significant portrait on how it has achieved (or not achieved) the SIP&P's objectives in managing the plan's capital assets. There is no need for the plan administrator to develop a new set of data and statistics.

Most pension plans administrators define their capital as net assets available for benefits, or net funded position. In such cases, the statement of net assets available for benefits, or the statement of financial position (as applicable), could be used for the disclosure that is required under IAS 1, paragraph 135(b). Similarly, the statement of changes in net assets would be adequate for the portion of paragraph 135(c) that asks for details of changes in paragraph 135(b).

Contributions accrued and due are externally imposed capital requirements

Section 56(1) of the PBA requires that the administrator "who is responsible for receiving contributions under the pension plan shall ensure that all contributions are paid when due". FSCO considers required contributions as "externally imposed capital requirements", for the purpose of complying with paragraphs 135(a)(ii), 135(d) and 135(e).

FSCO expects the following disclosure in order to satisfy the requirements of sections 76 of the Regulation:

Capital *– the financial statements must include sufficient information for the regulator to be able to identify the pension plan administrator's objectives, policies and processes for managing capital. The disclosures should include:*

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- *a description of what the plan administrator manages as capital; and*
- *the dollar amount of the capital being managed, or a reference as to where it can be found.*

***SIP&P** – the following disclosures should be included with respect to the SIP&P:*

- *a statement that the plan administrator has adopted a SIP&P and the date when it was established;*
- *the date the SIP&P was last amended;*
- *if a SIP&P has not been established as required, a statement that the plan does not have one;*
- *if the SIP&P was amended during the period covered by the financial statements, the details of the change;*
- *a description of the following included in the SIP&P:*
  - *categories of investments and loans referred to in the SIP&P*
  - *asset mix targets*
  - *rate of return expectations*
  - *investment options offered to plan members of a defined contribution plan*
- *a measurement of the results achieved by the plan administrator during the period related to targets or benchmarks included in the SIP&P; and*
- *a statement that the pension plan's investments fell within the asset mix target ranges for a defined benefit plan, as of the end of the year.*

***Contributions** – the financial statements must include:*

- *a disclosure on whether or not all required contributions that were due were paid, as of the end of the period.*

4. Financial Instruments: Disclosures

Under the accounting standards, as set out in the CICA Handbook, pension plan administrators are required to provide disclosures (in regards to investments that are financial instruments) that are required by IFRS 7 – Financial Instruments: Disclosures. Pension plans that decide to use the accounting standards for private enterprises, from Part II of the CICA Handbook (instead of the IFRS in Part 1 of the CICA Handbook), are nevertheless required by section 4600.32 to provide financial instrument disclosures using IFRS 7, as indicated in Part 1 of the CICA Handbook.

When these disclosures are provided, the administrator can rely "on the information provided internally to key management personnel", to offer useful insight on how the pension plan's administrator views and manages financial instruments risk. There is no need for the development of a new set of data and statistics.

Pension plans administrators are required under section 4600.19 to measure all investment assets and liabilities at fair value[1]. Section 4600.32 of the CICA Handbook requires a pension plan administrator to also provide the disclosures that are required by IFRS 7 for its investments in financial instruments. It also requires a description of how fair values have been determined, in regards to investments that are not financial instruments.

When fair value is estimated by valuation techniques, the result is more subjective than those established from an observable market price. Accordingly, paragraph 27 of IFRS 7 requires financial instruments to be classified in a three-level measurement hierarchy, to help assess the extent of this subjectivity when making these measurements.

[1] While section 76 of the Regulation refers to "market value", the accounting standards have evolved toward the use of "fair value", which is primarily a market-based measurement. FSCO recognises the standards for fair value measurement as equivalent or superior to the legacy market value measurement. Similarly, section 76 of the Regulation also refers to "book value", which was in use when pension plans were required to account using historical prices only. FSCO also recognises the expression "historical cost" as the equivalent of the legacy book value.

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Paragraph 31 of IFRS 7 requires pension plans administrators to "disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed at the end of the reporting period." For each type of risk, some **qualitative disclosures** (i.e., exposures to the risk, how they arise, the pension plan administrator's objectives, policies and processes for managing the risk, and method used to measure it) and **quantitative disclosures** (as described in paragraphs 36 – 42 of IRFS 7) must be disclosed.

The various types of risks defined in Appendix A of IFRS 7 are:

- **Credit risk** – failure to discharge an obligation by a counter party to a financial instrument will cause a financial loss to the pension plan.
- **Liquidity risk** – the pension plan will encounter difficulty in meeting pension and/or other obligations that are settled by delivering cash or another financial asset held for managing liquidity risk.
- **Market risk** – the fair value or future cash flows of financial instruments will fluctuate because of changes in market prices. Paragraph 40 of IFRS 7 requires a pension plan to disclose **a sensitivity analysis for each type of market risk**, along with the methods and assumptions used in preparing it. Alternatively, paragraph 41 allows a plan administrator who uses dynamic analysis (e.g., a value-at-risk model that combines many market variables to manage financial instrument risks) to disclose these types of model findings, instead of those required by paragraph 40. The types of market risks, risk variables and risk factors are presented in the following table:

TYPE OF MARKET RISKS	RISK VARIABLES	RISK FACTORS
Currency risk – changes in foreign exchange rates	Foreign currencies exchange rates	Level of foreign currency hedging
Interest rate risk – changes in market interest rates	Interest rates	Duration of interest-bearing financial instruments
Other price risk – changes in market prices (other than those arising from currency risk or interest rate risk), whether those changes are caused by factors specific to the individual financial instruments or its issuer, or factors affecting all similar financial instruments traded in the market.	Equity markets benchmark price index	Sensitivity of equity financial instruments to equity index benchmark prices (also known as Beta)

The sensitivity analysis that is required under paragraph 40(a) shows the effect on the net assets available for benefits (or net financial position, as applicable) of reasonably possible changes in an externally available risk variable, assuming such changes had occurred at the end of the reporting period, and had been applied to the risk exposures in existence at that date.

FSCO expects the following disclosure in order to satisfy the requirements of section 76 of the Regulation:

The financial statements should contain sufficient information for the regulator to assess the level of subjectivity in fair value measurement, and to get insight on how the plan administrator views and manages financial instrument risks. More specifically, the disclosures should include:

- *for those investments that are financial instruments – a table presenting each type of investment assets and liabilities classified in the three-level measurement hierarchy of IFRS 7, paragraph 27;*
- *when a plan has in interest in a master trust – the fair value hierarchy table presents each type of investment assets and liabilities of the whole master trust, along with the plan's position (total dollar*

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amount or percentage) in the master trust;

- *for all investments that are not financial instruments – a description of how fair value have been determined;*
- *a description of the nature and extent of risks arising from financial instruments to which the plan is exposed at the end of the period, and how the administrator manages those risks;*
- *a credit ratings schedule of interest-bearing financial instruments (AAA, BBB etc.);*
- *a maturity analysis of interest-bearing financial instruments;*
- *a sensitivity analysis of the foreign currency denominated financial instruments, with regard to a possible change of 5 per cent in the foreign currency exchange rate (one analysis for each applicable foreign currency subject to the materiality requirement);*
- *a sensitivity analysis of interest-bearing financial instruments, with regard to a possible change of 1 per cent in the overall level of interest rates;*
- *a sensitivity analysis of equity financial instruments, with regard to a possible change of 10 per cent in the appropriate equity index benchmark (one analysis for each applicable category of equity investments permitted by the SIP&P and subject to the materiality requirement; and*
- *the methods and assumptions used in preparing these sensitivity analyses.*

Note: *only the first three bullets are required for defined contribution plans where members direct the investment decisions for the assets in their accounts.*

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APPENDIX

FSCO has prepared some examples of financial statement notes that should be referred to, when preparing financial statements which will be filed in respect of section 76 of the Regulation.

EXAMPLE 1: Statement of Change in Pension Obligations

The financial statements of the pension plan for employees of XYZ Corporation were prepared without the disclosure of pension obligations. Here is an example of how the auditor's report was qualified and how the basis of accounting is disclosed in the notes:

Example of an Independent Auditor's Report to the Administrator of the Fund of the Pension Plan for Employees of XYZ Corporation

We have audited the accompanying financial statements of the **fund of the pension plan for employees of XYZ Corporation** (the Plan) as of December 31, 20XY. They include the statements of net assets available for benefits as of December 31, 20XY and 20XX, the statements of changes in net assets available for benefits for the years then ended, and a summary of significant accounting policies and other explanatory information. The financial statements have been prepared by the administrator based on the financial reporting provisions of Regulation 909 and Section 76 of the Pension Benefits Act (Ontario).

The Administrator's Responsibility for the Financial Statements

The administrator of the plan (the administrator) is responsible for the preparation and fair presentation of these financial statements in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act (Ontario). This includes determining that the applicable financial reporting framework is acceptable for the preparation of the financial statements in these circumstances, and for such internal control as the administrator determines is necessary, to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with Canadian generally accepted auditing standards (GAAS). GAAS require that we comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making these risk assessments, the auditor considers internal control relevant to the plan's preparation and fair presentation of the financial statements. This is done in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the plan's internal control. An audit also includes evaluating the appropriateness of accounting policies used, the reasonableness of accounting estimates made by the administrator, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained in our audits is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the net assets available for benefits of the plan as of December 31, 20XY and 20XX, and the changes in net assets available for benefits for the years then ended in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act (Ontario).

Basis of Accounting and Restriction on Use

Without modifying our opinion, we draw attention to Note 2 to the financial statements, which describe the basis of accounting. The financial statements are prepared to assist the plan in meeting the requirements of the Pension Benefits Act (Ontario) and the Financial Services Commission of Ontario (FSCO). As a result, the financial statements may not be suitable for another purpose. Our report is intended solely for the administrator and FSCO. It should not be used by parties other than the administrator or FSCO.

Note 2 – Basis of Accounting

These financial statements have been prepared in accordance with the accounting policies set out below, to comply with the accounting guidance provided by FSCO for financial statements under Section 76 of Regulation 909 of the Pension Benefits Act (Ontario). The basis of accounting used in these financial statements materially differs from Canadian generally accepted accounting principles (GAAP). It excludes the pension obligations of the plan's benefits and related information (and as a result do not purport to show the adequacy of the plan's assets to meet its pension obligations), and includes disclosures beyond that required by the CICA Handbook.

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EXAMPLE 2: Investments in a Master Trust

The investment assets of the pension plan for employees of XYZ Corporation are made solely of units in the XYZ Master Trust. Here is an example of how investments are reported on the statement of net assets available for benefits and how the master trust details are presented in the notes:

The Fund of the Pension Plan for Employees of XYZ Corporation

STATEMENT OF NET ASSETS AVAILABLE FOR BENEFITS

As of December 31, 20XY

	20XY $	20XX $
Assets		
Investments in a master trust (note 3)	11,595,000	11,480,000
Employer contributions receivable (note 7)	75,000	60,000
	11,670,000	11,540,000
Liabilities		
Accrued expenses (note 8)	30,000	25,000
Net Assets Available for Benefits	**11,640,000**	**11,515,000**

Note 3 – Investments in a Master Trust

As of December 31, 20XY and 20XX, the assets of the plan were invested in the XYZ Corporation Master Trust Fund (the Master Trust Fund). The detail of the Master Trust Fund investments and the plan's proportionate share thereof are:

	20XY		20XX	
	Fair value $	Cost $	Fair value $	Cost $
Bond pooled funds	13,100,000	11,650,000	12,200,000	10,525,000
Canadian equity pooled funds	7,000,000	6,015,000	7,500,000	5,450,000
Foreign equity pooled funds	5,900,000	5,600,000	6,500,000	5,040,000
Other financial instruments	480,000	480,000	420,000	420,000
	26,480,000	23,745,000	26,620,000	21,435,000
Plan's share of Master Trust assets ($)	11,595,000	9,925,000	11,480,000	9,025,000
Plan's share of Master Trust assets (%)	43.8%		43.1%	

As of December 31, 20XY, the Master Trust Fund held the following investments where the fair value or cost exceeded 1% of the total fair value or total cost of the Master Trust Fund's assets.

	Fair value $	Cost $
ABC Canadian Bonds Universe Exchange Trade Fund	5,305,000	5,225,000
ABC Canadian Long Bonds Fund	7,795,000	6,425,000
DEF Canadian Equity Exchange Trade Fund	4,375,000	4,050,000
DEF Small Caps Alpha Fund	2,525,000	1,965,000
GHI U.S. Large Caps Equities Fund	2,995,000	2,575,000
GHI EAFE Equities Index Exchange Trade Fund	2,905,000	3,025,000

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EXAMPLE 3: Capital Management

This note is prepared with the information available to the administrator through its Statement of Investment Policies and Procedures (the SIP&P), investment managers' quarterly reports and performance measurement monitoring documentation. There is no need to repeat information that is already available elsewhere in the financial statements (e.g. details of contributions paid may be included in another note dealing with the Funding Policy prepared for compliance with section 4600.29(c)).

Note 4 – Capital Management

The capital of the plan is represented by the net assets available for benefits. The plan's objective when managing the capital is to safeguard its ability to continue as a going concern and to maintain adequate assets to support pension obligations.

The plan's administrator has adopted a Statement of Investment Policies and Procedures (the SIP&P) which states investment objectives, guidelines and benchmarks used in investing the capital of the plan, permitted categories of investments, asset-mix diversification and rate of return expectations. The SIP&P was last amended effective July 1st, 20XV.

The plan's absolute return expectation over a five-year horizon has been set in the SIP&P at 6% annualized rate of return, net of investment management fees. The plan's annualized five-year average rate of investment return (net of fees) as of December 31st, 20XY was 3.9% (5.2% as of December 31st, 20XX).

The SIP&P permits four broad categories of assets. A set of benchmarks has been identified to measure against each category's annual rate of investment return (net of fees). The total investments annual rate of return is measured against a composite index made up of the weighted average of each category's benchmark return using the target allocation of the SIP&P to weight the various categories. The plan's relative annual rate of investment return expectation is to equal or exceed the composite index on a net of fees basis. The plan's investment was allocated within the allowed asset categories range, as of the date of the financial statements. The following table presents the asset allocation and annual rate of investment return for each asset category, and total investments, along with appropriate benchmarks.

Asset categories *	Benchmark	Asset allocation (%)			Annual rate of investment return (%)			
		SIP&P Target**	As of December 31st		Benchmark		Actual (net of fees)	
			20XY	20XX	20XY	20XX	20XY	20XX
Cash & Equivalents	DEX 91 days T-Bills Index	2.0	1.8	1.6	1.0	0.5	0.4	0.4
Fixed-Income	DEX Mid Term Bond Index	48.0	49.5	45.8	10.9	7.8	11.8	6.7
Canadian Equities	S&P/TSX 60 Index	25.0	26.4	28.2	-9.1	13.2	-6.3	13.4
Foreign Equities	MSCI World Index (C$)	25.0	22.3	24.4	-3.2	5.9	-1.4	5.0
Total Investments	**Composite Index**	**100.0**	**100.0**	**100.0**	**2.2**	**8.7**	**3.5**	**7.8**

The plan invests in units of the Master Trust Fund, which itself invests in pooled funds managed by ABC Asset Management Ltd, DEF Canada Group of Funds and GHI Global Investors (the investment managers), in accordance with the SIP&P and investment mandates specific to each investment manager. The plan's investment positions expose it to a variety of financial risks which are discussed in Note 5 – Financial Instrument Risks. The allocation of assets among various asset categories is monitored by the plan administrator on a monthly basis. A comprehensive review is conducted quarterly, which includes measurement of returns, comparison of returns to appropriate benchmarks, ranking of returns to appropriate universes and risk analysis.

The employer is required under the PBA to pay contributions, based on actuarial valuations, necessary to ensure the benefits are funded on the plan's provisions. More details on members and employer contributions that were paid during the period can be found in Note 7 – Funding Policy. All contributions that were accrued and due, as defined in the PBA, were indeed paid into the fund during the period covered by the financial statements.

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* In the case of a defined contribution plan, this column heading would read as "Investment Options" and present the various options offered to plan members.
** Idem. There would be no such target for a defined contribution plan when options are elected by plan members.

EXAMPLE 4: Financial Instruments: Disclosures

This note is prepared with the information available to the plan administrator through internal documentation, investment managers' quarterly reports and performance monitoring documentation.

Note 5 – Financial Instruments Risks

The plan's investments in financial instruments are susceptible to the following risks:

1. Fair Value Measurement Risk

The following is a breakdown of the master trust investments and the plan's proportionate share of it using the fair value hierarchy set forth in paragraph 27 of IFRS 7 – Financial Instruments: Disclosures. The hierarchy assesses the subjectivity of inputs used in the fair value measurement in a three-level classification:

- Level 1 – fair value based on market prices quoted in active markets;
- Level 2 – fair value based on observable market data; and
- Level 3 – fair value based on pricing models for which some key market data are unobservable.

	As of December 31st, 20XY			
	Level 1 $	**Level 2 $**	**Level 3 $**	**Total $**
Bond pooled funds and ETF	5,305,000	7,795,000	-	13,100,000
Canadian equity pooled funds and ETF	4,475,000	2,525,000	-	7,000,000
Foreign equity pooled funds	-	5,900,000	-	5,900,000
Other financial instruments	-	480,000	-	480,000
	9,780,000	16,700,000	-	26,480,000
Plan's share of master trust assets ($)	4,280,000	7,315,000	-	11,595,000

	As of December 31st, 20XX			
	Level 1 $	**Level 2 $**	**Level 3 $**	**Total $**
Cash	-	195,000	-	195,000
Bond pooled funds and ETF	4,650,000	7,550,000	-	12,200,000
Canadian equity pooled funds and ETF	4,750,000	2,750,000	-	7,500,000
Foreign equity pooled funds	-	6,500,000	-	6,500,000
Interest and dividends receivable	-	225,000	-	225,000
	9,400,000	17,220,000	-	26,620,000
Plan's share of master trust assets ($)	4,055,000	7,425,000	-	11,480,000

2. Credit Risk

The plan is subject to indirect exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when they are due. The SIP&P restrictions prohibit directly or indirectly investing more than 5% of assets in any one entity, or two or more associated or affiliated entities. Furthermore, the SIP&P restricts investing more than 5% of assets in fixed-income instruments with a credit rating below BBB.

The following are the master trust investments in interest-bearing financial instruments, the exposure to credit risk and the plan's proportionate share of it.

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Credit Ratings	AAA $	AA $	A $	BBB $	BB $	Total $
As of December 31st, 20XY						
master trust	1,310,000	5,500,000	4,210,000	1,830,000	250,000	13,100,000
plan's share ($)	570,000	2,410,000	1.845,000	800,000	110,000	5,735,000
As of December 31st, 20XX						
master trust	1,100,000	5,240,000	4,025,000	1,595,000	240,000	12,200,000
plan's share ($)	470,000	2,260,000	1,735,000	690,000	105,000	5,260,000

3. Liquidity Risk

Liquidity risk is the risk that the plan may be unable to meet pension payment obligations in a timely manner and at a reasonable cost. Management of liquidity seeks to ensure that even under adverse conditions, the plan has access to immediate cash that is necessary to cover benefits payable, withdrawals and other liabilities. The SIP&P requires the plan's investments to be highly liquid, so they can be converted into cash on short notice. The plan's exposure to liquidity risk is considered negligible.

The following is a maturity analysis of the master trust investments that are held for managing liquidity risk and the plan's proportionate share of it.

Maturity	< 1 year $	1 – 5 yrs $	5 – 10 yrs $	10 – 20 yrs $	> 20 yrs $	Total $
As of December 31st, 20XY						
master trust	655,000	1,965,000	3,930,000	4,585,000	1,965,000	13,100,000
plan's share ($)	290,000	860,000	1.720,000	2,005,000	860,000	5,735,000
As of December 31st, 20XX						
master Trust	610,000	1,830,000	3,660,000	4,270,000	1,830,000	12,200,000
plan's share ($)	260,000	790,000	1,580,000	1,840,000	790,000	5,260,000

4. Market Risk: Currency

The master trust holds financial instruments denominated in currencies other the Canadian dollar — the measurement currency. The plan is therefore exposed to currency risk as the value of these financial instruments will fluctuate due to changes in foreign exchange rates. The SIP&P requires the plan's investments denominated in foreign currencies to be hedged back to the Canadian dollar to a minimum of 50%.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits, following reasonably possible changes in foreign currency exchange rates, for each currency to which the plan has a significant exposure.

Currency risk	Currency	Change in exchange rates	Change in Net Assets Available for Benefits as of December 31st 20XY $	December 31st 20XX $
United States dollar	US $ / C$	+ / - 5%	- / + 38,000	- / + 43,100
Euro	€ / C$	+ / - 5%	- / + 13,400	- / + 12,500
Japanese Yen	¥ / $C	+ / - 5%	- / + 8,300	- / + 9,800
Great Britain Pound	£ / C$	+ / - 5%	- / + 4,900	- / + 4,600
Total			- / + 64,600	- / + 70,000

5. Market Risk: Interest Rate Risk

The master trust holds interest-bearing financial instruments. The plan is therefore exposed to interest rate risk, as the value of interest-bearing financial instruments will fluctuate with changes in interest rates. The plan administrator views interest rate risk on interest-bearing financial instruments as a hedge that offset the larger interest rate risk on pension benefit liabilities. In order for this offset to significantly reduce the overall level (on assets and pension benefit liabilities) of the plan's interest rate risk, the SIP&P requires that at least 50% of holdings in interest-bearing financial instruments be invested in long maturities.

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The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits following a reasonably possible change in interest rates for all maturities (a parallel shift in the yield curve).

Interest rate risk		**Change in Net Assets Available for Benefits as of**	
	Change in interest rates	**December 31st 201XY $**	**December 31st 20XX $**
Interest-bearing financial instruments	+ / - 1%	- / + 757,000	- / + 641,700

6. Market Risk: Equity Prices Risk

The master trust holds equity financial instruments. The plan is therefore exposed to equity price risk as the value of equity financial instruments will fluctuate due to changes in equity prices. In order to limit the level of equity price risk, the SIP&P limit the sensitivity of the plan's investments in equities with regard to specific stock market benchmarks (also known as Beta or "ß") to a maximum of 1.00.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits, following reasonably possible changes in equity prices for each stock market benchmark to which the plan has a significant exposure.

Equity prices risk			**Change in Net Assets Available for Benefits as of**	
	Stock market benchmark	**Change in prices index**	**December 31st 20XY $**	**December 31st 20XX $**
Canadian equities	S&P/TSX 60 Index	+ / - 10%	+ / - 291,200	+ / - 313,700
Foreign equities	MSCI World Index (C$)	+ / - 10%	+ / - 235,100	+ / - 257,900
Total			+ / - 526,300	+ / - 571,600

7. Market Risk: Methods and Assumptions Used in Preparing the Sensitivity Analyses

The various sensitivity analyses are based on similar disclosures presented in the audited financial statements of the various fund holdings of the master trust. When the master trust invests in more than one fund with similar financial instruments risk, the impact on the plan's net assets available for benefits is calculated separately for each of these funds, and then added together. When funds with similar financial instruments risk use a different level of reasonably possible change to assess the impact on their net assets value, this impact is prorated in order to use a consistent level of reasonable possible change in presenting the aggregate impact on the plan's net assets available for benefits.

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October 25, 2012

BY E-MAIL

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Financial Services Commission of Ontario
Attn: Pension Policy Unit
5160 Yonge Street, Box 85
Toronto, Ontario
M2N 6L9

RE: PROPOSED FINANCIAL STATEMENTS GUIDANCE NOTE FSGN-001

Dear Sir/Madame

INTRODUCTION

Aon Hewitt is pleased to respond to the invitation to provide feedback in response to the Financial Services Commission of Ontario's (FSCO) draft Financial Statements Guidance Note #1 (the "FSGN") effective January 1, 2012 that was posted recently for public consultation in relation to changes set out in Part IV of the Canadian Institute of Chartered Accountants (CICA) Handbook (section 4600) and their impact on the required disclosures for pension fund financial statements under section 76 of Regulation 909 made under the *Pension Benefits Act* (PBA).

Aon Hewitt is the global leader in human resources solutions. With more than 29,000 professionals in 90 countries, Aon Hewitt partners with organizations to solve their most complex pension, benefits, talent and related financial challenges, and to improve business performance.

Our submission has been made from the perspective of practicing pension consultants having backgrounds in both the actuarial and pension accounting fields. We have drawn upon our experience working with many pension plan sponsors and their auditors within the CICA framework, as well as under US GAAP and IAS frameworks. Our comments also reflect our experience in helping Canadian and multi-national clients navigate the complexities of each of these reporting environments, including disclosure requirements for pension fund financial statements.

The views expressed in this submission are those of Aon Hewitt (we are not writing on behalf of, or to express the views of, any client of Aon Hewitt).

HIGHLIGHTS

While we agree with certain aspects of the FSGN, we feel that some of the reporting requirements suggested in the FSGN (particularly those under the Financial Instruments: Disclosure section) cannot be provided by the plan's auditor or other already prepared information. This will result in additional work that external consultants will need to perform. The result will be to add to an ever-increasing set of regulatory requirements that Canadian defined benefit (DB) plan sponsors have been coping with over the last several years. The impact of this trend has been very noticeable, especially with smaller pension plans, where small plan sponsors have become discouraged from maintaining DB Plans.

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Even for larger plans that can deal with the additional complexity and costs, the ultimate result of the expense of additional reporting will be to reduce the amount of assets in the plan. This will be clearly detrimental for Multi-Employer Pension Plan members, where plan reporting costs are paid directly out of the plan funds and employer contributions are fixed by collective bargaining and do not increase otherwise (which means member benefits may be reduced when there is a shortage of assets in the plan).

SUBMISSIONS

Following are our comments on the proposed FSGN. We have organized our comments using the corresponding headings from the proposed FSGN.

Statement of Changes in Pension Obligations

We strongly agree with FSCO's decision to not require pension obligations to be disclosed in the pension fund financial statements filed under section 76 of Regulation 909. We agree with FSCO’s view that the PBA already specifies the requirements for the determination and disclosure of pension liabilities in other prescribed filings with FSCO.

Interest in a Master Trust

With respect to FSCO’s proposal for more comprehensive disclosure of investments in a master trust and the plan's proportional share in these investments, we would suggest that FSCO consider providing more details regarding what is expected by "sufficient information" and provide guidance on the determination of “materiality”. Ultimately, while this information may add value to the plan's financial statements, that value should be considered in the context of how onerous the new requirements are and how much additional expense and effort may be involved in meeting them. Without this information, we are not able to comment further.

Furthermore, we strongly believe that although CICA 4600.15 no longer allows the use of proportional consolidation, we believe that is the best method for reporting a plan share in a master trust in this special purpose report. There are two many fundamental differences between a master trust and a pooled fund to treat them in a like manner.

Capital Management

There are several points outlined in the box in this section of the FSGN related to more detail on the plan's capital management, and we have commented on each point in turn below.

Specifically, with respect to the following items, we feel they are reasonable and should be added into the new disclosure requirement:

- The dollar amount of the capital being managed, or a reference as to where it can be found.
- A description of what the plan administrator manages as capital (however, we would suggest that the term "description" may be a bit vague – a more detailed scope of the exact information required would be helpful to plan administrators).
- A statement that the plan administrator has adopted a SIP&P and the date when it was established.
- If a SIP&P has not been established as required, a statement that the plan does not have one.
- A statement that the pension plan's investments fell within the asset mix target ranges for a defined benefit plan, as of the end of the year.
- If the SIP&P was amended during the period covered by the financial statements, the details of the change.
- A disclosure on whether or not all required contributions that were due were paid, as of the end of the period.

With respect to the following items, given that SIP&Ps will be required to be filed with FSCO, this information will already be found in the SIP&P document itself:

- The date the SIP&P was last amended.
- Categories of investments and loans referred to in the SIP&P.
- Asset mix targets and rate of return expectations.
- Investment options offered to plan members of a defined contribution plan.

Lastly, with respect to disclosure of:

- a measurement of the results achieved by the plan administrator during the period related to targets or benchmarks in the SIP&P;

we have two significant concerns:

1. While we do encourage all plan sponsors to engage in performance monitoring, some smaller pension plans do not have the resources to set up and maintain a process for sophisticated performance monitoring. The comment in the FSGN that "there is no need for the plan administrator to develop a new set of data and statistics" does not apply to smaller plans. While all of these plans do engage in some form of basic performance monitoring, the requirements in this section of the FSGN would in effect mandate more sophisticated performance monitoring for all plans, which could place a significant additional burden on smaller plan sponsors and require the use of external consultants. If such requirements are to be implemented, our suggestion would be to set up an asset size threshold under which plans can be excluded from these new disclosures.

2. Given that benchmarks are set by the plans themselves, a comparison of performance versus the benchmark may mislead users of the additional disclosures with respect to fund performance. For example, it is possible for two plans with identical investments to show very different measures of performance against their benchmark.

We would also recommend that the disclosure requirements refer to **"gross"** performance reporting (as is standard in the investments industry) with fee disclosures, instead of **"net"** performance reporting (as outlined in Example 3, note 4 of the FSGN).

Financial Instruments: Disclosures

We have concerns that certain information required in this section is above the level that company management would obtain even if they were hiring external investment consultants. Specifically, information typically provided to key management personnel is (in our experience) not as sophisticated as outlined in the appendices, for example:

- One of the risk disclosures suggested requires an analysis of equity investment Beta (market risk).
- The level of detail suggested in the appendix example for credit risk/liquidity risk/currency risk would be extremely hard to gather, especially for funds that invest primarily in pooled funds.
- For funds that invest directly, the information may be obtainable, but would require a substantial amount of effort and expense.
- Without that data, estimating the impact of certain changes in conditions (such as a 1% change in interest rates, or a 5% change in the foreign currency exchange rate) would likely be inaccurate and could mislead readers of the statements.
- To our understanding, the object of the risk detail section is to "disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed at the end of the reporting period". With this in mind, the suggested method of detailing interest rate risk (if there is sufficient information to determine it) could be misleading. For example, a plan that moves to a higher proportion of fixed income investments will show a higher exposure to interest rate risk, even though in most cases this is a risk reduction tactic. Similarly, a measurement of interest rate risk on assets (outside of the context of any asset-liability matching process the plan sponsor has undertaken) may overstate the plan's exposure to interest rates.

To summarize, we feel most of the items in this section would require costly analysis and without further information, would not add much value for the end user of the disclosures. Our suggestion for this section would be to limit these disclosure requirements.

OTHER CONSIDERATIONS

With respect to the timing of the disclosures, many plans use pooled funds rather than segregated funds. Pooled funds do not report at all fiscal year ends and these new requirements would therefore likely require pooled fund managers to provide monthly reporting with respect to the new required statistics; this is impractical as currently most managers are accustomed to reporting quarterly. We suggest that plans be permitted to report based on the most recent pooled fund reporting date rather than a plan's specific year-end date.

Other general measures FSCO could take to mitigate the additional burden on plan sponsors would be to consider:

- A threshold where comprehensive disclosures are required for larger or riskier plans only.
- Comprehensive disclosures on a triennial basis (instead of annually), with less comprehensive requirements in the interim.

We thank you again for the opportunity to provide comments on the proposed FSGN. We would be pleased to meet with FSCO to discuss any of our comments or contribute in any other way.

Sincerely,

Jerry Loterman

Jerry N. Loterman, Associate Partner, F.C.I.A., F.S.A.

On behalf of Aon Hewitt

From: Kevin Rorwick
Sent: Monday, October 01, 2012 10:38:44 AM (UTC-05:00) Eastern Time (US & Canada)
To: Pension Consultation
Subject: Financial Statements Guidance Note - Comments from CAAT Pension Plan

Response to FSCO public consultation on FSGC-001
Submission by CAAT Pension Plan

Financial Statements Guidance Note – Comments from CAAT Pension Plan

The Colleges of Applied Arts and Technology Pension Plan (CAAT Pension Plan) is pleased to comment on the draft Financial Statements Guidance Note #1 – Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76.

The CAAT Pension Plan is a multi-employer, jointly sponsored, defined benefit pension plan serving the 33,000 active and retired members of Ontario's college system and has $5.6 billion in net assets available for benefits as at December 31, 2011.

We are supportive of the desire to provide additional guidance to preparers of pension plan financial statements, particularly in cases where those statements are not prepared in full accordance with GAAP, and where investment is in a master trust. The following comments are provided on the Guidance Note:

1. **Statement of Changes in Pension Obligations**

   As the CAAT Pension Plan currently prepares its financial statements in full accordance with Section 4600 of the *CICA Handbook*, these provisions would not apply to us. We are supportive of the draft guidance and would note that they appear to be what would be required disclosure under the CICA Handbook in cases where full GAAP is not followed.

2. **Interest in a Master Trust**

   As the CAAT Pension Plan is not invested in a master trust, these provisions would not apply to us. We are supportive of the draft guidance as in our opinion they; a) reflect reasonable disclosures that should be included in audited financial statements and b) reflect disclosures that would have been made using the prior method of proportionate consolidation.

3. **Capital Management**

   The CAAT Pension Plan uses accounting standards for private enterprises from Part II of the *CICA Handbook*, and provides capital disclosures in accordance with paragraphs 135-136 of IAS 1 in its financial statements.
   In our opinion, a number of the draft disclosures with respect to the SIP&P go beyond what is required to meet the objectives of the *CICA Handbook*. In particular, the descriptions of items in the SIP&P regarding categories of investments and loans, asset mix targets, and rate of return expectations in our opinion leads to a narrative description that does not add value to general purpose financial statements where FSCO is one of many users. In addition, providing measurements of results related to targets or benchmarks requires those performance measures to be audited, adding to audit costs. Based on publicly available pension plan statements we have reviewed, few provide performance-based information in the financial statements

themselves. Many (including CAAT Pension Plan) include this information elsewhere in their annual report. Where it is desirable for FSCO to obtain such information, we recommend that it be provided outside the financial statements, in a form such as the Investment Information Summary. Providing this information through another channel would allow FSCO to obtain the information it desires, while mitigating audit costs to the plans it regulates.

With respect to the disclosure of whether all required contributions that were *due were paid* as at the end of the period, we recommend that this be changed to whether any required contributions were *past due* as at the end of the period. This distinction, while seemingly subtle, allows the reader to better understand contribution receivable balances on the Statement of Financial Position or Statement of Net Assets Available for Benefits. The CAAT Pension Plan, as well as many other plans, shows contribution receivable balances as they are not due until after the date of the financial statements (in the case of CAAT Pension Plan's case, they are due at the beginning of the following month). To say that such balances were paid were due, and yet have a receivable balance, may confuse the reader.

4. Financial Instrument Disclosures

The financial statements of the CAAT Pension Plan provide disclosures as required under IFRS 7. In our opinion, the provisions of IFRS 7 are sufficient for disclosure of various risks, and that the draft guidance may be overly prescriptive. For example, while many pension plan financial statements (including the CAAT Pension Plan) currently provide a credit ratings schedule of interest-bearing financial instruments, such measures are becoming less relevant as indicators of credit spreads become more prevalent. Similarly, while a maturity analysis of interest-bearing financial instruments may be presented in some pension plan financial statements, duration has become a more important measure.

In prescribing such disclosures, the question arises as to how FSCO will use the information gained. Differences in presentation methods (such as using different buckets for a maturity analysis) will negate comparability between pension plans. Again the suggestion would be that if such information is of value to FSCO, that it be collected outside of the financial statements, where a prescribed format (such as preset maturity buckets) can be utilized.

Comments on the Appendix

The Appendix to the draft Guidance Note provides examples of the types of disclosures required under the remainder of the Guidance Note. We are of the opinion that the introduction to the Appendix should be softened to indicate that they are illustrative examples that "may" be referred to or that there is no requirement that they be followed exactly as shown. As drafted, the Appendix "should be referred to", and thus are considered prescriptive disclosures. This appears not to be the objective of FSCO. For instance, the example Note 4 – Capital Management has disclosures in addition to what is described in the Guidance Note (e.g., the annual rates of return are shown both gross and net of fees, for which fees was not mentioned in the Guidance Note). As for another example, the financial statement of the CAAT Pension Plan presents currency market risk in the format of an exposure table, reconciling to total investments, which shows currency exposure by primary currency both prior and after hedging. In our opinion such a table provides information in a better format than the Appendix, while still providing all the disclosure required in the Guidance Note and GAAP.

Conclusion

Overall, our comments can be summarized as follows:

a) The additional cost that would be required to audit information beyond what GAAP requires by the Guidance Note is not justified. We recommend such information, if of demonstrable value to FSCO, be collected outside of the financial statements.

b) The Appendix, while providing valuable illustrative guidance, is worded as prescriptive. It should be made clear that preparers of pension plan financial statements have flexibility in preparing disclosures.

The CAAT Pension Plan appreciates having had the opportunity to comment on the draft Guidance Notes. We hope that these comments are useful to you.

Sincerely,
CAAT Pension Plan
Kevin Rorwick, Chief Financial Officer

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HOOPP
Healthcare of Ontario
Pension Plan

November 2, 2012

Financial Services Commission of Ontario
5160 Yonge Street
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Toronto, ON M2N 6L9

Attention: Pension Policy Unit

Dear Sirs/Mesdames:

Re: Public Consultation: Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909, s. 76 / Financial Statements Guidance Note (FSGN #1)

We are pleased to have the opportunity to comment on the "*Financial Statements Guidance Note*" (the Guidance Note) published on the Financial Services Commission of Ontario (FSCO) website.

In the public consultation draft posted on FSCO's website, the Guidance Note specifies FSCO's expectations for disclosure with respect to the following:

1. Statement of Changes in Pension Obligations (refer to sections 4600.10(c) and 4600.28 in the CICA Handbook);

2. Interest in a Master Trust (refer to sections 4600.05(q)(i), 4600.05(r) and 4600.15 in the CICA Handbook);

3. Capital Management (including SIP&P and Contributions) (refer to sections 4600.37 and paragraphs 135-136 of IAS 1– Presentation of Financial Statements in Part I of the CICA Handbook); and

4. Financial Instruments: Disclosures (refer to sections 4600.32 and IFRS 7 – Financial Instruments – Disclosure in Part I of the CICA Handbook).

While we have specific concerns with respect to some of the proposed disclosure expectations under these various headings, following are the general concerns we wish to communicate with respect to the Guidance Note and the consultation process itself:

a) The effective date for implementing these disclosure changes is stated to be the fiscal year beginning January 1, 2012 – i.e. the current year. By announcing changes of this nature which are intended to take effect within only months after the consultation process is scheduled to end, FSCO is imposing an onerous compliance requirement. As a result of receiving relatively late notice of the proposed changes, HOOPP will have even less opportunity to respond to new requirements.

b) By requiring financial disclosures to be included in the financial statements which are beyond GAAP standards, FSCO is also imposing significant new costs as auditors are required to do more work than they currently do in auditing pension plans and pension funds. FSCO appears to be implementing a more rules-based approach with disclosure being more prescriptive. The result could be a conflict with GAAP financial statements and possibly create a need for two sets of financial statements.

c) We are concerned that some of the proposed changes, if implemented, would impose a requirement for disclosure of investment details beyond those in HOOPP's current SIP&P that would enable other capital market participants to access information about the investment positions and strategies being pursued by the pension plans and pension funds. This level of disclosure could put investments and investment strategies by pension plans and pension funds at risk.

d) Greater clarity is required in a number of respects so that pension plans and pension funds can form greater assurance that they are in compliance, particularly as they may be required to make disclosures beyond GAAP requirements. The proposed requirements as they are currently written are difficult to follow without the examples. As a result, we suggest that the examples be formally incorporated throughout the document.

Following are our specific comments in relation to the various proposed disclosure expectations:

Statement of Changes in Pension Obligations:

HOOPP is supportive of FSCO's proposals on the disclosure requirements under this heading since they are already required under GAAP. While the third listed disclosure requirement relates only to pension funds, we would ask that FSCO clearly confirm in its final Guidance Note the difference between a pension fund and a pension plan. HOOPP's understanding is that it would be treated for all purposes as a pension plan and not a pension fund and therefore that the third listed disclosure requirement would not apply to it.

Interest in a Master Trust:

HOOPP does not invest under a master trust structure, so these proposed changes do not apply to it.

Capital Management (including SIP&P and Contributions):

HOOPP supports some of the proposed capital management disclosure requirements under this heading because they are already matters of HOOPP disclosure in its financial statements. Specifically, HOOPP discloses our definition of capital (which is different from the FSCO definition) and would therefore meet this requirement.

The proposed disclosure elements relating to plans' SIP&Ps pose the greatest concern for HOOPP; specifically, those which require information about asset mix targets and rate of return expectations. HOOPP is developing its liability-driven investment (LDI) model which involves a movement away from traditional asset mix measures (e.g. targets, benchmarks, etc.) and a movement towards the applied use of risk limits and scenario and stress-testing in setting its investment limits and risk-adjusted return expectations. HOOPP would be willing to provide further information to FSCO, if required, however HOOPP does not wish to make public disclosure of this information becase it is not otherwise required, it will increase HOOPP's audit costs and would potentially disclose proprietary and sensitive information.

We request that FSCO rewrite its Guidance Note to allow greater flexibility for pension plans like HOOPP to fulfill their disclosure obligations under an LDI model.

Another concern for HOOPP arises from FSCO's stated requirement that financial statements must include "a disclosure on whether or not all required contributions that were due were paid, as of the end of the period." HOOPP collects contributions on a monthly basis by mid-month of the following month.
As a multiemployer pension plan (a MEPP), HOOPP gathers employment data from employers in the course of an annual member data collection process that necessarily involves the completion of a reconciliation of member contributions by November of the year following the year in which the data is generated. As a result of this reconciliation, adjustments to contributions may occur. This one-year time lag is not unique to HOOPP. A number of HOOPP's peer pension plans that are MEPPs operate on a similar basis. The reconciliation adjustments are relatively minor in amount.

The only statement HOOPP could reasonably make in relation to a disclosure regarding required contributions would be one which reports on a trailing one-year basis; or, possibly, one which involves an appropriate materiality qualification.

Financial Instruments: Disclosures:

While most of the disclosure requirements for financial instruments align with those required under GAAP, HOOPP has concerns with respect to the requirements involving sensitivity analyses:

a) For foreign currency exposures, there are two concerns: (i) HOOPP uses 1% for its sensitivity analysis while FSCO is proposing 5%; and (ii) HOOPP applies its sensitivity analysis against the total foreign currency exposure while FSCO proposes that it be applied against each individual currency; and

b) For equity exposures, again there are two concerns: (i) HOOPP applies a 1% sensitivity analysis while FSCO is proposing 10%; and (ii) HOOPP applies the sensitivity analysis against the total fair value of equities held (including Canadian and non-Canadian equities, real estate and private equity) while FSCO appears to be proposing that the 10% analysis be applied against each appropriate index benchmark. Further, HOOPP questions whether it is reasonable to apply sensitivity analysis to benchmarks and would request further clarification.

While the GAAP requirements do not specify the percentage to be used for the sensitivity analysis, according to a number of the financial statements that HOOPP surveyed, it appears to be common practice to use a 1% analysis.

HOOPP would have significant challenges in providing disclosure on the bases which FSCO is proposing, both because of the additional audit work and related fees that would be involved as well as the confusion that would be created for the readers of HOOPP financial statements where two sets of sensitivity analyses would be presented.

In addition, while HOOPP currently provides a credit rating breakdown for all physical securities holdings, credit rating information is not collected for derivatives exposures.

Lastly, HOOPP manages and reports on liquidity risk in our audited financial statements in accordance with GAAP which is different than the approach proposed by FSCO. Again, FSCO appears to be going beyond GAAP and taking a more prescriptive approach. In the example provided, it is unclear how the disclosure would measure liquidity risk.

We request that FSCO conform its proposed requirements to GAAP or, in the alternative, accept that any disclosure in addition to GAAP be included in each pension plan's Investment Information Summary due on June 30th instead of its audited annual financial statements.

Once again, we are very pleased to have had an opportunity to participate in the review of the consultation draft of the Guidance Note and to communicate our comments to you. We trust you will give careful consideration to our comments and we would be pleased to meet to review and discuss them with you.

Yours truly,
HEALTHCARE OF ONTARIO PENSION PLAN

B Thomson

Barbara Thomson
Senior Vice President, Finance and Chief Financial Officer

Cc: Hirsh Tadman, Senior Pension Policy Analyst
David Miller, General Counsel & SVP , Governance
Belinda Blades, AVP, Controller

From: Igor N Nakhshon
Sent: Thursday, October 25, 2012 3:23:42 PM (UTC-05:00) Eastern Time (US & Canada)
To: Pension Consultation
Cc: Krista Ballis
Subject: Financial Statements Guidance Note # 1 - ? Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76

Dear Sir / Madam,

Please accept the following comments on FSCO's draft "Financial Statements Guidance Note # 1 - ? Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76" on behalf of IBM Canada Limited.
IBM Canada Limited is a sponsor, administrator and preparer of financial statements of several defined benefit and defined contribution pension funds.

Capital management

Due to substantially different degrees of administrator's involvement in managing the assets of defined benefit and defined contribution funds, it would be beneficial for the guidance to clarify if provisions related to capital management disclosures apply to defined contribution funds and / or defined contribution sections of combined funds.

In particular, clarification of the points below would help financial statement preparers:

1. Since administrator's involvement with the assets of defined contribution funds is limited to administrative functions, do financial statement preparers have an option to exclude the assets of defined contribution plans from the scope capital management per paragraphs 135 and 136 of IAS 1 which allow the preparers to define the scope of capital under management based on information provided internally to key management personnel?
2. If assets of defined contribution funds are within the scope of capital management guidance, are contributions to the fund considered required contributions and "externally imposed capital requirements"? Would this apply to both employer and employee contributions?

Financial instruments: Disclosures

Liquidity risk - maturity analysis of interest-bearing financial instruments

IFRS 7 maturity analysis requirement is limited to financial liabilities only. Some financial statement preparers voluntarily supplement this with maturity analysis of financial assets to enable the users to assess entity's ability to settle its contractual obligations as they come due.
The requirement to present maturity analysis of interest-bearing financial assets provides little value to financial statement users and may be misleading.
When plan administrator elects not to disclose pension obligations and their maturity analysis pursuant to section 76 of Regulation 909, maturity analysis of financial assets does not reflect true liquidity risk of the plan. In absence of maturity analysis of plan obligations, readers of financial statements will not be able to assess the degree to which maturities of financial assets are matched with maturities of the liabilities.

In a typical situation, interest-bearing financial assets are liquid and it is not management's intention or practice to hold them to maturity.
Maturity analysis of such assets does not portray accurate picture of the timing when the assets will be realized.
Maturity analysis of financial assets may create an impression of liquidity risk where such a risk is not present and will contravene management's assessment of negligible liquidity risk of the plan.
Maturities of liquid interest-bearing financial assets are the source of interest rate risk (rather than liquidity risk) and are reflected indirectly in interest rate sensitivity analysis which is based on duration of interest-bearing financial assets.

It is our view that the requirement of maturity analysis should be limited to financial assets which management is committed to hold to maturity or has no choice other than holding to maturity (illiquid assets) since only these assets are a source of liquidity risk.

Thank you,

Igor Nakhshon, CPA, CGA

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From: James.Koo
Sent: September-06-12 2:27 PM
To: Pension Consultation
Subject: Fw: Financial Statement Guidance Note

I wanted to provide some quick comments for consideration.

These are my personal views.

Most Ontario registered plans prepare asset only statements for purposes of satisfying Reg 76. The fundamental problem is that the accounting standards are written for general purpose pension plan financial statements. Only a small number of mega funds prepare annual reports or general purpose financial statements that are broadly released. The vast majority of plans prepare only pension fund statements that are only filed with a regulator.

What is the purpose of an asset only statement? My understanding has always been, that it is the actuarial valuation report which presents information on the funded status of the plan. The purpose of the asset only statement, I believe is to provide independent external audit confirmation that the asset values are reasonable and that contributions have been made. Yet accounting standards that are focussed on general purpose financial statements, keep adding more and more disclosure requirements that are of limited value or not readily applicable for pension fund statements. These requirements add cost and management time to preparation of asset only statements. I think the accounting standards have focussed too much on general purpose pension plan statements, and ignore the realities that many plans are not huge in size and only issue pension fund statements that are filed with regulators. The accounting standards keep making simple asset only statement more complex, furthering discouraging companies from providing pension plans. Ideally, I'd like to see FSCO indicated that many disclosures are not necessary for asset only pension fund statements.

Some comments on specific disclosure requirements:

1) Capital Management: All the examples I've seen have some "nice motherhood-and-apple-pie" type statement about capital management., that really say nothing at all. I do not see the value particularly in an asset only statement. An asset only statement has no "capital" as plan obligations are not presented. Every example I've read, actual says nothing at all.

2) Financial Instrument Disclosures: many of the sensitivity disclosures sound good and prudent, but in reality offer no value. What is the purpose of these disclosures in an asset-only statement? Examples:

i) What is the purpose of interest rate risk in an asset only statement. The should audited asset statement confirm the value of the assets and contributions; it is should not be the place to discuss and disclosure all manners of risks to funding. Interest rate risk disclosure may serve a purpose in general purpose statements that include obligations, but has no value in an asset only statement. Would it be more useful to have interest rate risk discussed in actuarial valuation reports? Should this should not be a required disclosure in an asset only statement.

ii) Currency risk. In my view, this is another example of disclosure gone too far. The way everyone does this is to look at the currency in which a security is denominated. But the currency in which a stock is denominated has very little to do with real currency risk. Eg which has more currency risk: Suncor (listed in Canada, but selling a commodity priced in US Dollars), or Exxon (listed in US) -- I would suggest Suncor has more currency risk (revenue priced in USD, costs in CAD) for a Canadian investor than Exxon. Most large cap companies are global in nature, and currency risk has very little to do with the country in which a company is headquartered or listed. How should a pension fund disclosure currency risk for an investment in say Nestle? I think disclosure of a simplistic view of currency risk serves no purpose whatsoever, and should not be required. Since I'm involved in risk for my company, I know how much work it is to do disclosures properly. Currency risk disclosure does belong in corporate financial statements. So the accounting standards simply makes the same requirement on pension plan financial statements. I believe it serves no purpose and is a waste of time and effort in pension fund financial statements (and even pension plan statements). To do the risk analysis properly would require looking at the underlying currency risk of each investment, not just looking at the currency in which a stock is listed. Even plan that invested 100% in Canada have currency risk. Currency risk is complex. A simple answer (based on currency stock is denominated in) serves no purpose, and may be worse than no disclosure (as it is completely misleading disclosure).

iii) equity price risk. This is so simple... what is the value? Just to say that it was disclosed? Obviously if a plan as 50% in equities, then if equities drop by 10%, fund value will decline by 5% in total. Does this simple arithmetic really need to be disclosed, in an pension fund statement that is only filed with regulators?

iv) Liquidity... again sounds prudent, but what will be done with this information? If it is not going to be used, why ask for it?

As someone involved in the plan sponsor side in preparing audited asset statements, I have found the increasing disclosure requirements that seem to be aimed at general purpose financial statements to be quite frustrating to deal with. In my view, many of the new added disclosures provide very little value, particularly for an asset only statement. These disclosure may have a place in a general purpose financial statement that is broadly released, but I question the purpose of these disclosures in an asset only financial statement.

I don't know how much feedback you will get, as this is a specialized area, and often senior management at corporate plan sponsors do not see the details of what is involved in preparing audited pension statements. But I do sense a growing sense of frustration with the disclosures that keep getting added to accounting standards that were not intended to apply to pension fund statements. Consulting actuaries also often are not aware of all the issues and complexities that come up in the preparation of pension fund statements, as the discussions are often between the auditor and the plan sponsor. Even at audit firms, generally there are not many who specialize in pension fund statements.

With respect, I don't think the accounting standard setters have not considered the requirements for pension fund statements. They have simply come up with a standard for pension plan statements that mirror what is required in general purpose financial statements of corporations. It makes no sense to severely complicate the preparation of pension fund statements by forcing disclosures that should not apply to a pension fund statement.
Pension fund statements are NOT general purpose financial statements. A special purpose asset only statement that is filed with regulators should not be subject to the same level of disclosure requirements as general purpose financial statements that are widely distributed.

Ideally, I'd like to see a regulator indicate what specific disclosures are required for pension fund statements, rather than simply allow standards were never intended to apply to pension fund statements to take over and make the process much more complex without adding any value.

Again, these are my personal opinions, Thank you for your consideration.

James Koo

PLAN FOR THE FUTURE

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Patrick Crowley
Executive Vice President &
Chief Financial Officer

October 19, 2012

The Financial Services Commission of Ontario (FSCO)
Pension Policy Unit
5160 Yonge Street, Box 85
Toronto, ON M2N 6L9

Sent by email: pensionconsulation@fsco.gov.on.ca

Dear Sir(s)/Madam

Financial Statements Guidance Note (FSGN-001)

OMERS Administration Corporation ("OMERS" or "we") would like to thank FSCO for providing this opportunity to comment on the proposed disclosure requirements outlined in FSGN-001. Our comments are as follows:

1. Statement of Changes in Pension Obligations

As per our discussion with Mr. Hirsh Tadman, Senior Pension Policy Analyst, we understand that the requirement in the third bullet relating to the use of Canadian Auditing Standard 800 for the audit opinion is directed to pension funds and not towards pension plans. As such, this is not applicable to pension plans like OMERS, whose financial statement disclosures are made in accordance with Canadian generally accepted accounting principles and the audit report prepared in accordance with Canadian generally accepted auditing standards. In order for this to be clear to all readers, we recommend inclusion of language that clearly articulates the differentiation between a pension plan and a pension fund.

2. Interest in a Master Trust

We have no comments on the proposed disclosure requirements for an interest in a master trust.

3. Capital Management (including SIP&P and Contributions)

a) Capital Management

We have no comments on the proposed disclosure requirements.

b) SIP&P

This section talks to the disclosure of several SIP&P details. In OMERS case, while our financial statements clearly state that we have adopted a SIP&P, we do not disclose the management details in the financial statements; rather we make our SIP&P publicly available through our website. We feel that this is a good disclosure, and we recommend that this be a requirement for pension plans and pension funds of a certain size. Alternatively, since the items recommended to be disclosed (including categories of investments, asset mix targets, rates of return expectations, results related to benchmarks, and a statement that investments fell within the asset mix) are of a management nature, we feel that they would be better disclosed in the MD&A section of the annual report.

c) Contributions

OMERS is a multi employer pension plan, with 947 employers and 263,000 active members at December 31, 2011. We have a robust reconciliation process which reconciles contributions by each employer on a member by member basis. While we have analytical and other processes in place to ensure that our financial statements are not materially misstated, the detailed process is not substantially complete until after the publication of our financial statements and annual report. On this basis, we recommend that the disclosure requirement be altered to describe processes that a plan has in place to ensure that all required contributions are received.

For communication with FSCO, the Annual Information Form filed in September of the following year could include a statement that all required contributions of the prior year have been received.

4. Financial Instruments

We believe that the requested "sensitivity analysis of equity financial instruments, with regard to a possible change of 10 per cent in the appropriate equity index benchmark" would be more suitable if the sensitivity was based on a possible percentage change in the value of year end equity holdings. This is also consistent with the requirements of IFRS 7, Financial Instruments: Disclosure. We have no other comments with the disclosures required for financial instruments.

We would like to point out that, depending on the amount of time it takes FSCO to issue this guidance note in final form after the public consultation ends on October 25, 2012, the implementation timeline for some plans may not be feasible for fiscal year 2012 reporting.

Should you need to discuss the above, or seek any clarification with respect to our response, please do not hesitate to contact David Estabrooks, Senior Vice President, Finance at 416 369 2697 or Akeel Ahmad, Director, Corporate Financial Reporting at 416 369 2395. Once again, we appreciate the opportunity to provide comments.

Sincerely,

PCrowley

Patrick Crowley
Executive Vice President & CFO

OPTrust

OPSEU Pension Trust
Fiducie du régime de retraite du SEFPO

October 25, 2012

Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9
email: pensionconsultation@fsco.gov.on.ca

Attention: Pension Policy Unit

RE: Financial Statements Guidance Note

Dear Sir/Madam,

This letter is the response from The Trustees of the OPSEU Pension Plan Trust Fund (OPTrust) to the Financial Services Commission of Ontario (FSCO) paper, "Financial Statements Guidance Note # 1 - – Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76".

OPTrust is responsible for the administration and management of the OPSEU Pension Plan – a contributory defined benefit pension plan that provides pension benefits for employees of the Province of Ontario in bargaining units represented by the Ontario Public Service Employees Union.

OPTrust agrees with the principle that any new disclosures should not require the administrator to develop new data and statistics. Disclosures should use information currently provided internally to key management personnel in making business and operation decisions.

We have noted below some key areas for FSCO's consideration.

Capital Management

The disclosure in the Capital note is intended to evaluate a pension plan's objectives, policies and processes for managing capital. As you note, most pension plans define capital as net assets available for benefits or net funded position.

For OPTrust, we define capital as the net funded position. We manage the various components of capital, which include investments, contributions, liabilities, etc. through a variety of means – which include our Funding Policy, Asset Mix Policy and Statement of Investment Policies & Procedures (SIP&P).

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To draw specific attention and disclosure to the SIP&P in this particular note seems inappropriate. Bringing various components of capital into the disclosure requirements would expand the note to the point where management is discussing on-going operations. In our view, that discussion is more appropriate in the MD&A, where the majority of the suggested disclosures are currently provided.

Similarly, the requirement to disclose in the Capital note whether or not all required contributions that were due were paid, seems somewhat arbitrary. While we recognize that the Administrator is responsible for collecting contributions when due, and that contributions affect the capital position, it seems somewhat odd to have what appears to be a regulatory compliance matter noted in the notes to the financial statements. This type of representation can be addressed in other separate filings /submissions that are made to FSCO (refer below to "Other Filing Sources with FSCO").

Financial Instruments - Disclosures

We are concerned that some of the disclosure requirements suggested by FSCO, particularly in the risk management disclosures, will create the need to develop new data and statistics which we feel may not be relevant for the purpose for which the risk disclosure is intended. For sensitivity analysis disclosures, FSCO prescribes specific percentage sensitivity to be analyzed and disclosed (i.e. 5% for foreign currency risk, 1% for interest rate risk and 10% for equity risk).

Having prescribed rates for the sensitivities may provide a basis of comparison amongst the various pension plans for the specified risks being disclosed; however, there is always the danger that the underlying methodologies may differ resulting in inconsistencies with the comparison.

While the CICA Handbook requires the same type of quantitative disclosures, it recommends the disclosure to be based on information provided internally to key management personnel based on what percentages management believes are relevant to monitor and assess the risks associated with the investment portfolio. Though we agree that this disclosure is important and relevant to the users of the financial statements, we recommend latitude in terms of the sensitivity analysis and that disclosures be based on what the Administrator feels is appropriate and relevant, as opposed to what appears to be a prescriptive basis for disclosure.

Other Filing Sources with FSCO

There appears to be overlap with other information that is already being provided to FSCO in other annual filings/submissions. The Investment Information Summary (IIS) and the Annual Information Return (AIR) are two examples where some of the disclosure requirements being asked are already available to FSCO. The ISS contains specific representations regarding the Statement of Investment Policies & Procedures (SIP&P), as well as other investment related information. The AIR contains more detailed information pertaining to the contributions, benefit payments, assets and demographic information of the pension plan.

Whereas information that is filed with FSCO has a more limited scope of accessibility (i.e. plan members may request the filed information from FSCO) , information disclosed in the financial statements is typically public, as these form the audited financial statements for the pension plan. Where information is required to be disclosed in the notes to the financial statements and thus in a public forum, there may be certain information which we would otherwise prefer to remain limited to only those privy to that information. Depending on the nature and extent of the information disclosed, it could provide a competitive advantage to certain readers of the financial statements.

Since the proposed disclosures form part of the financial statements, they will be required to be externally audited. If this is the rationale why FSCO is requiring these disclosures, – i.e. prefer to have certain information that is submitted to FSCO subject to an external audit – then we question whether there may be a more efficient or cost-effective way to address that objective.

Implementation Timeline

Lastly, we also have concerns over the effective date of the proposed changes along with the timing of this proposal and comment period. Since the FSCO disclosure requirements impose that these be included as notes to the financial statements as opposed to disclosed in the Management Discussion & Analysis (MD&A) where a significant portion of this information is already noted, this has implications with respect to the scope of the year-end external audit and the fees associated with the audit.

If FSCO's disclosure proposal is to proceed with an effective date for fiscal years beginning on or after January 1, 2012, we will need to incorporate the new disclosure requirements in our year ended December 31, 2012 financial statements which we are currently in the process of preparing. With the increased resources required to obtain data and draft the proposed changes, along with the change in scope and fees of the annual audit, there does not appear to be adequate time to ensure new requirements are properly prepared. We recommend FSCO allow for a later effective date of the proposed changes to ensure all parties are adequately equipped and prepared.

Should you wish to discuss the contents of this comment letter or require further elaboration on any items presented herein, please do not hesitate to contact Tracy Hatanaka-Lejnieks at 416-681-6152.

Yours truly,

Damian McNamee
Senior Vice President, Finance

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The Financial Services Commission of Ontario (FSCO)
Pension Policy Unit
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Email: pensionconsultation@fsco.gov.on.ca

October 25, 2012

Dear Sir / Madam:

Financial Statements Guidance Note (FSGN-001)
Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s.76

The Ontario Teachers' Pension Plan (Teachers') is pleased to provide the following comments on the first draft of FSCO's Financial Statements Guidance Note (FSGN-001), which clarifies the Commission's expectations relating to financial statement disclosure requirements.

Our first comment relates to the implementation timing. We note that it is extremely unlikely that there will be sufficient time to both finalize FSGN-001 and provide sufficient lead time for pension plans to adopt the guidance in time for fiscal year 2012 reporting.

Our specific comments about the four sections in FSGN-001 are as follows:

1. **Statement of Changes in Pension Obligations**
   We have no comments relating to this section.

2. **Interest in Master Trust**
   We have no comments relating to this section.

3. **Capital Management (including SIP&P and Contributions)**
   The Guidance Note proposes disclosure of certain SIP&P details within the financial statements. We recommend that FSCO consider permitting pension plans to provide such details in either the financial statements, the Management's Discussion & Analysis section within the annual report, the Investment Information Summary filed with FSCO, or on the pension plans' websites. We have posted our SIP&P on Teachers' website, www.otpp.com, and include some of the required details within the financial statements.

4. **Financial Instruments**
   We found the discussion on the "sensitivity analysis of equity financial instruments" open to interpretation and therefore have some clarifying questions.
   - Do equity financial instruments include both publicly and non-publicly traded securities, or just publicly traded securities?
   - If derivatives are used to manage the investment risk of the equity portfolios, should the impact of derivatives be included?
   - If a pension plan has provided VAR or similar analysis, is it still required to provide the specific sensitivity analysis for equity securities?

We look forward to receiving additional information about these specific issues.

We are also available to provide any assistance that may be helpful. Please contact Calum McNeil, Vice President, Financial & Management Reporting, at 416-730-2920, or me at 416-730-7813 if you would like to discuss our response.

Yours truly,

David McGraw
Senior Vice President and Chief Financial Officer

October 25, 2012

Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Attention: Pension Policy Unit

Re: Proposed Financial Statements Guidance Note 001

We appreciate the opportunity to comment on proposed Financial Statements Guidance Note 001 (FSGN-001). We broadly support the proposals to clarify the disclosures expected by the Financial Services Commission of Ontario (FSCO) in the financial statements filed by pension plans that are registered with FSCO.

In our review of this guidance, we noted that significant effort may be required by both the management of the pension plan and the auditors in order to meet the disclosure requirements outlined by FSCO. For many pension plans, these disclosures are significantly different from those that have historically been presented in their financial statements. The successful implementation of this guidance may require management to gather and analyze information that is not presently available. Additionally, there may be situations where the quality and consistency of information received is inconsistent or require significant management analysis. This may take significant time and effort by both management and the auditors to resolve. FSCO may wish to consider requiring the guidance be effective for years beginning on or after January 1, 2013 instead of 2012 so that management and the auditors have the opportunity to effectively and efficiently identify and resolve any such issues.

As noted above, compliance with this guidance may result in significant effort on behalf of the management of the pension and the auditors. This will result in both internal costs and the audit fees increasing, which in many cases would be costs borne by the pension plan.

We also believe it is important, however, that the scope of the guidance be very carefully considered. Some of the proposed disclosure requirements could have an impact on how certain pension plans govern themselves as opposed to only requiring additional disclosures. The proposed guidance affects pension plans of many sizes and governance structures. A "one size fits all" approach may have unintended consequences.

The following are the areas where we believe the proposals should be clarified. We have also provided to you some of our thoughts for consideration.

Statement of Pension Obligations

In example 1 of the appendix, a sample auditor's report is shown. The following are two areas on which we request clarification:

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"PwC" refers to PricewaterhouseCoopers LLP, an Ontario limited liability partnership, which is a member firm of PricewaterhouseCoopers International Limited, each member firm of which is a separate legal entity.

Name of the Entity
The name of the entity in the example report is "Fund of the Pension Plan for Employees of XYZ Company". The auditor's report for a pension plan that prepares its financial statements on a fund basis is prepared in accordance with CAS 800 – special considerations - audits of financial statements prepared in accordance with special purpose frameworks (CAS 800). CAS 800 contains specific guidance on how an auditor's report should be presented and clearly shows that the auditor's report and the financial statements should be using the legal name of the entity. In the example provided, the words "Fund of" has been inserted in front of the legal name of the pension plan. This would appear to be contrary to the Guidance within CAS 800. In addition, please note the term "pension fund" was a defined term in Part V of the Handbook of the Canadian Institute of Chartered Accountants (CICA Handbook) but it is no longer included in Part IV of the CICA Handbook.

Basis of Accounting
The example auditor's report states that the "financial statements have been prepared by the administrator based on the financial reporting provisions of Regulation 909 and Section 76 of the Pension Benefits Act (Ontario)". Section 76(1) states that "the administrator shall file financial statements for the fund or plan as at the plan's year end" and therefore implies that financial statements prepared on a fund basis would be acceptable for filing with FSCO. However, Section 76(6) clarifies that "the financial statements should be prepared in accordance with generally accepted accounting principles" and Section 76(8) then clarifies that "the financial statements and the auditor's report shall be prepared in accordance with the principles and standards set out in the Handbook of the Canadian Institute of Chartered Accountants" (CICA Handbook). Thus, compliance with Section 76 of Regulation 909 would require the preparation of financial statements in accordance with the CICA Handbook in addition to the regulatory disclosure requirements outlined in Section 76 of Regulation 909.

The section of the CICA Handbook that is applicable to pension plans is Part IV - Pension Plans (Section 4600). Section 4600 requires the preparation of financial statements on a plan basis of accounting (including the recognition and disclosure of pension obligations) and does not contemplate or permit the preparation of financial statements on a fund basis of accounting. As such, the literal reading of the financial reporting provisions of Section 76 of Regulation 909 is that financial statements are to be prepared on a plan basis of accounting and accordingly include pension obligations (i.e. in accordance with Section 4600). Therefore, it would not be appropriate to state that the financial statements are prepared in accordance with Section 76 of Regulation 909 when the financial statements do not meet all the requirements of Section 4600. In prior years, FSCO issued FSCO Policy F100-102 – Requirement to File Pension Plan or Pension Fund Financial Statements to provide administrators guidance on preparing financial statements for filing with FSCO. One of the key elements of this guidance was an explicit statement that FSCO would accept financial statements prepared on a fund basis of accounting. Given that FSCO issued such guidance is evidence that the requirements of Section 76 have not historically been viewed as explicitly allowing for financial statements to be prepared on a fund basis of accounting.

A potential solution would be to modify the example opinion to state that the financial statements have been prepared in accordance with the basis of accounting disclosed in note 2 to the financial statements.

The example of the basis of accounting note states that the financial statements have been prepared in accordance with the accounting policies noted below. It would be difficult to include disclosures on all accounting policies a fund would need to comply with. The basis of accounting note would usually refer to an existing accounting framework and include the policies that allow for a choice. In this case it might be more appropriate to refer to the basis of accounting as being Part IV of the CICA Handbook and to disclose the differences. It would still be appropriate to state that this is materially different from Part IV of the CICA Handbook. The note also states "to comply with guidance provided by FSCO"; it might be more appropriate to provide more detail when referring to the guidance.

Ideally, if the basis of accounting was explicitly included in a specific guidance it would be possible for the preparer of the financial statements to refer to the specific guidance in the financial statements and for the auditor to refer to the same guidance in the auditor's report. This would be consistent with the approach that has been followed by the Régie du rentes du Québec.

Capital Management

Statement of Investment Policies and Procedures (SIP&P) Information

This guidance has clearly stated that FSCO expects the disclosure of the certain information from the SIP&P and actual returns on investments within the capital management note. Certain pension plans are very similar in nature to public companies and publish their financial statements publicly. The information contained within the SIP&P is treated by these pension plans as confidential and competitive in nature. These pension plans may not wish this information to be publicly available. Should the pension plan refuse to disclose this information in the financial statements, the auditor would need to consider whether a modification to the auditor's report would be required. A potential solution could be a requirement to provide this information to FSCO in an annual filing that would not be publicly available.

Financial Instruments: Disclosures

Disclosures Related to Pooled Funds

While not explicitly stated in the guidance, example 4 of the appendix illustrates that FSCO is expecting pension plans to provide financial instrument risk disclosures related to the underlying investments held within pooled funds. Historically, the prevailing view has been that the financial instrument risk analysis be performed at the pooled fund level as opposed to looking through to the underlying investments. While many larger pension plans may manage their financial instrument risk in this nature, many smaller pension plans do not. FSGN-001 states that "there is no need for the development of a new set of data and statistics" which presumes that all pension plans are managing the financial instrument risk by looking through the pooled funds to the underlying assets.

Many smaller pension plans do not have the staff and resources available, or the in-house expertise in investment management, to manage the financial instrument risks in the manner contemplated by this guidance. These smaller pension plans usually hire an investment manager, who does have the resources and expertise, to manage the financial instrument risk on their behalf. From a governance perspective, these pension plans focus their review of the performance of the investment managers, and the pooled funds that they are invested in, at a macro level. The analysis is usually performed at the pooled fund or asset classification level. They typically do not look through pooled funds to the underlying investments.

Section 4600 refers to IFRS 7 with respect to disclosures related to financial instrument risk. IFRS 7.32 states "the disclosures required by paragraphs 33–42 focus on the risks that arise from financial instruments and how they have been managed". The guidance contemplates requiring pension plans to analyze and disclose the financial instrument risk in a manner that may be inconsistent with how it is monitored and managed internally. We do not believe this was the intent of this guidance.

As a result, certain pension plans will likely need to modify how they are monitoring and managing financial instrument risk strictly to meet the requirements of this guidance. This will not necessarily be a simple task. The level of effort and work will be driven by the number of pooled funds that they are invested in the availability of audited financial statements for each pooled fund and the consistency and quality of the information provided within those financial statements. Additionally, if this analysis is done merely to meet FSCO disclosure guidance, the disclosure may imply that the pension plan manages its risk in this manner. We believe that this type of analysis should only be included in the financial statements if the pension plan actively manages its financial instrument risk in this manner. A requirement of this nature would impose unnecessary costs, internal and external, on pension plans that do not presently manage financial instrument risk in the manner contemplated while providing minimal benefits.

Another area to consider is the impact of non-conterminous year ends. There are many situations where the year-end for the pension plan and the pooled funds are different. This would result in the information required to comply with this guidance either not being available as at the pension plan's year end or being unaudited. This will pose significant challenges to both the plan's management and to the auditors. The auditor would need to perform additional audit procedures over the investments of the pooled funds, which would be costly for the pension plan. In some cases, the auditor may not be able to perform this work, resulting in the auditor's report including a modification with respect to this matter.

Definition of Levels in Fair Value Hierarchy
In example 4 of the appendix the concept of the fair value hierarchy is introduced. The definitions that are used do not appear to match those included in IFRS7. In particular, the definition of Level 1 and Level 2 appears very similar and may be difficult for the users of the financial statements to differentiate between. We recommend that the definitions be amended to reflect the contents of IFRS7.

Defined Contribution Pension Plans
The guidance related to the FSCO's expectations related to financial instrument risks has noted that "only the first three bullets are required for defined contribution plans where members direct the investment decisions for the assets in their accounts." The three items noted are:

- for those investments that are financial instruments – a table presenting each type of investment assets and liabilities classified in the three-level measurement hierarchy of IFRS 7, paragraph 27;
- when a plan has in interest in a master trust – the fair value hierarchy table presents each type of investment assets and liabilities of the whole master trust, along with the plan's position (total dollar amount or percentage) in the master trust;

- for all investments that are not financial instruments – a description of how fair value have been determined;

The next requirement, which appears to not be required for defined contribution pension plans, is " a description of the nature and extent of risks arising from financial instruments to which the plan is exposed at the end of the period, and how the administrator manages those risks". This implies that FSCO does not require disclosures related to financial instrument risk in the financial statements of a defined contribution pension plan. The guidance note should clarify that this is the intent of the guidance.

Should you have any questions on our comments please do not hesitate to contact Michael Walke, Chief Accountant (416) 815-5011, Sean Cable, Partner, National Accounting Consulting Services at (416) 814-5831 or Grahame Keir, Senior Manager, Pension Group at (416) 687-8910.

Yours very truly,

PricewaterhouseCoopers LLP

Michael Walke
Partner
National Accounting Consulting Services

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November 6, 2012

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Sir/Madam:

Re: Towers Watson Submission on the Proposed Financial Statements Guidance Note FSGN-001, Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76

This letter has been prepared in response to the public request by the Financial Services Commission of Ontario (FSCO) for pension stakeholders' comments on the Proposed Financial Statements Guidance Note FSGN-001 (Guidance Note). Towers Watson welcomes the opportunity to provide comments on the proposed Guidance Note that addresses FSCO's expectations for pension plan disclosure with respect to:

1. Statement of Changes in Pension Obligations;
2. Interest in a Master Trust;
3. Capital Management (including Statement of Investment Policies and Procedures (SIP&P) and contributions); and
4. Financial Instruments.

We hope that our comments will be helpful in finalizing this policy guideline.

As professional advisors to pension plan sponsors and administrators across Canada, we recognize the important role that private pension plans play for Ontario citizens' retirement aspirations and for Ontario as a whole. However, we also believe that Canada's private pension system must be pragmatic in order to remain sustainable. We respectfully submit the following comments for your consideration.

"Purpose" Section of the Guidance Note

While we recognize that much of the necessary disclosure is brought on by the accounting standards, we note that for smaller pension funds, the level of detail required is onerous and the cost and effort to prepare these details can be material. In many cases, these costs are borne by the plan and may thereby threaten the continued sustainability of the plan.

Although FSCO anticipates that the "…administrator can rely on information that was already provided internally to key management personnel…" we note that Canadian private enterprises may not prepare pension disclosure notes in the same level of detail as public entities. Also, where the company's fiscal year and the plan year do not align, additional effort and expense would be required to prepare such information at two different dates.

For plans with non-calendar year-end, the availability of some information on the plan's investments at the plan's year end may be limited due to custodian's and investment managers' calendar year reporting framework. This may cause difficulty, particularly for small plans invested in insurance company segregated funds.

FSCO's Disclosure Expectations

1. *Statement of Changes in Pension Obligations* (p. 2)

We support FSCO's continuing view that special purpose financial statements which do not include disclosure of the plan's actuarial liabilities (obligations) would comply with the *Pension Benefits Act* Section 76 requirements. Indeed, we are of the view that disclosure of such liabilities would cause unnecessary confusion when compared to the liabilities disclosed in the plan's valuation reports filed with FSCO.

2. Interest in a Master Trust (pp. 2-3)

Much like investment in unitized pooled funds, plan sponsors establish master trusts for efficiency of investment. It should be sufficient to file separate financial statements of the master trust which contains all necessary disclosures, along with the financial statements of the pension plan. Similarly, it should be acceptable for plan administrators to meet at least some of the proposed disclosure requirements by filing the financial statements of pooled fund investments, where applicable.

3. Capital Management (including SIP&P and Contributions) (pp. 3-4)

In the third paragraph of the Capital Management section, FSCO suggests that "…administrators define their capital as net assets available for benefits, or net funded position". We suggest this be clarified to read "…administrators define their capital **either** as net assets available for benefits, or net funded position" *[emphasis added]*, as these are two different measures.

We note that some of the requirements in the disclosure section may present some practical and logistical challenges for plan sponsors:

- We suggest that certain disclosures should be subject to a materiality test. For example, only material amendments to the SIP&P during the period should require disclosure of details.

- We suggest that plan sponsors be given some flexibility in the reporting period for measuring "the results achieved by the plan administrator …relative to targets or benchmarks included in the SIP&P". For example, for many plan sponsors, performance measurement is primarily reviewed over periods longer than 12 months. Also, where the plan year is not the calendar year, investment performance may only be measured over a calendar quarter basis.

- It is impractical to require that asset mix "fell within the asset mix target ranges" as of the end of the year, as stipulated in the SIP&P. Many SIP&P's include an asset mix target range, and require the plan administrator to take steps to bring the investments within the range as soon as practicable. Thus, it is possible and acceptable, in accordance with the SIP&P, that the asset mix fell outside of the target ranges as of the plan's year end date, and was subsequently rebalanced back within the ranges. We suggest that it should be sufficient to disclose whether or not the investments complied with the terms of the SIP&P.

4. Financial Instruments: Disclosures (pp. 4-6)

While we generally agree that that the three level measurement hierarchy for disclosure of fund investments provides useful information to readers of pension financial statements, we observe that the classification between levels has been inconsistent in the past and this inconsistency of interpretation dilutes the value of this information. We agree with the limitation of scope of these requirements for DC plans. We also appreciate that FSCO has included examples for these disclosures.

However, we observe that there are practical challenges in measuring exposure to risks for pension funds which invest in multiple pooled funds. For example, the requirement to prepare a credit ratings schedule and maturity analysis for interest-bearing financial instruments could prove to be an onerous exercise, especially where bonds are held within multiple pooled funds.

5. Appendix, Example 1 (pp. 7-12)

In the Basis of Accounting and Restriction on Use section of the example disclosures (page 7), it is stated that *"the financial statements may not be suitable for another purpose…(are) intended solely for the administrator and FSCO…(and) should not be used by parties other than the administrator or FSCO."* Firstly, we observe that it is somewhat unnecessary to suggest that the administrator may use the financial statements since it is the administrator that prepares them. Secondly, we are concerned that actuaries, who often would like to use the information provided in the financial statements to support the actuarial valuation process, are precluded from doing so by inclusion of the above-noted sample language in the disclosures.

* * * * *

Towers Watson would be pleased to provide further information on the issues discussed in this submission. Thank you for your consideration.

Sincerely,

Ken Choi

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Karen Figueiredo

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Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson employs close to 14,000 associates on a worldwide basis, with over 350 being engaged in providing services to Canadian pension plans.

cc: Hirsh Tadman, Senior Pension Policy Analyst, FSCO

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November 25, 2014

Financial Services Commission of Ontario

Via Email to pensionconsultation@fsco.gov.on.ca

Re: FSCO Guidance Note "Prudent Investment Practices for Derivatives"

Dear Sirs and Madams,

OMERS Administration Corporation ("OAC") appreciates the opportunity to provide comments on FSCO's Guidance Note "Prudent Investment Practices for Derivatives" ("Guidance Note").

Under the Ontario Municipal Employees Retirement System ("OMERS") Act, OAC is the administrator of the OMERS pension plan, one of Canada's largest multi-employer defined benefit pension plans, and trustee of the OMERS pension funds. As of December 31, 2013, OMERS had more than C$65 billion in net assets and serves 982 participating employers and over 440,000 employees and former employees of municipalities, school boards, libraries, police, and fire departments, children's aid societies, and other local agencies across Ontario. OAC manages a diversified global portfolio of stocks, bonds, derivatives, real estate, infrastructure and private equity investments.

We support FSCO in its efforts of undertaking this initiative and generally agree with the practices outlined in the Guidance Note, including the idea that derivatives need to be monitored and managed in a thoughtful, prudent and comprehensive manner.

Our comments pertain to three components of the Guidance Note, which are outlined in further detail below, including: (i) the level of detail to be included for derivative investments in an administrator's Statement of Investment Policies and Procedures ("SIP&P"); (ii) the risk limit measures for derivatives and counterparty exposure; and (iii) the calculation methodology for quantitative derivative exposure limits.

1. The level of detail regarding derivative investments to be included in an administrator's SIP&P

OMERS is of the view that the SIP&P is a foundational document, that establishes the broad, overarching objectives, policies and procedures for the investment management of the pension fund. We believe that the SIP&P should specify the categories of permitted derivative instruments (e.g. credit, forwards, futures, options, swaps) and asset classes (equities, fixed income, currencies, commodities, etc.) to be invested in by the administrator and address the requirement that the administrator fully consider associated risks (identification, measurement, management and monitoring). However, given the broad range and complexity of derivative instruments, we propose that further details regarding permitted derivative investments, including instrument types, strategies, exposure limits and trading authority could be specified in the administrator's internal policies, guidelines and procedural documents.

2. Considerations be given to the guidance note risk limit measures for plan administrators with respect to derivatives and counterparties

OMERS supports that plan administrators should define and measure the level of risk to be taken across the fund including the use of derivatives and exposure to counterparties. Consideration should be given as to whether an across the board 10% limit for a counterparty to derivative and repo transactions is the most appropriate limit for managing counterparty risk. Pension plans should be required to perform credit assessments in order to define credit limits against each or associated counterparty, taking into consideration creditworthiness, collateral arrangements and ongoing monitoring factors and industry supported risk standards such as Basel.

3. Considerations be given to broaden the guidance note on quantitative derivative exposure limits to include various industry measures

We support the establishment of risk limits across the pension plan assets. Our comments would be to broaden the language as it relates to the quantitative derivative limits that can be applied. OMERS is of the view that pension plan administrators in varying degrees of asset size and strategies, including derivative usage, apply various risk based measures within their policy limits. Pension plans may choose to utilize quantitative measures of risk and exposure to monitor and measure the risk of their portfolios, including derivative instruments. Plans may use industry standard methodologies such as value at risk ("VaR"), potential future exposure ("PFE") and sensitivity and stress test measurements or other types of measures. The evolution of the derivative markets and risk practices over the past number of years such as the Basel standards and quantitative risk models and systems that have become available

OMERS

provide market participants with various measures to employ for managing risks across plan assets, including derivatives. Pension plan administrators may choose to utilize the various industry measures that ensure that they can manage the risks considering their investment strategies. Limits can be established based upon the various components of risk to be monitored including market, credit and liquidity risk.

We thank you for your consideration of our views.

Regards,

OMERS Administration Corporation

JTsouvalis

Jenny Tsouvalis
SVP, Enterprise Head, Investment Reporting, Operations and Applications

cc: Jonathan Simmons, Chief Financial Officer, OMERS
Blair Cowper-Smith, Chief Corporate Affairs Officer, OMERS

Pension Investment
Association of Canada
Association canadienne des
gestionnaires de caisses de retraite

November 24, 2014

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Toronto ON M2N 6L9

Via E-mail: pensionconsultation@fsco.gov.on.ca

Re: Prudent Investment Practices for Derivatives

The Pension Investment Association of Canada ("PIAC") has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over $1 trillion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

We are pleased to have this opportunity to respond to your request for comments in respect of the Investment Guidance Notes: Prudent Investment Practices for Derivatives (the "**Guidance Notes**").

General Observations

As most of our members are users of derivatives in some capacity, PIAC welcomes reasonable guidance with respect to prudent investment practices related to derivatives. We appreciate the breadth and variety of the derivative themselves and the objectives associated with each of these instruments. Indeed, it may be imprudent for our members not to consider derivatives in managing their pension plans (e.g. LDI) while other strategies (e.g. leveraged strategies) can significantly increase risks to the plans. Although PIAC welcomes reasonable guidance with respect to prudent investment practices related to derivatives, we have some concerns with the present form of the Guidance Notes and offer our comments below.

Quantitative Limits

Consistent with many of our submissions on proposed regulations, legislation and industry guidelines, PIAC has presented the belief that general quantitative limits are not necessary and should not be relied upon to demonstrate the prudent person approach. In the Guideline Notes, FSCO has presented a 10% limit on the exposure or mark-to-market position of all contracts with a single counterparty or associated counterparties as a per cent of the fair value of the fund's investment assets (net of investment liabilities). This limit is repeated in the sections highlighting FSCO's expectations for risk mitigation (page 7) and risk monitoring (page 9) with the noteworthy addition of the following phrase: "…or such other limit as may be prudent in the circumstances".

PIAC would argue that this prudency should be the key criteria. In this case, it is the creditworthiness that should be key in determining a fund's allocation to a counterparty, with a lower percentage perhaps being prudent for lower-rated counterparties in certain types of derivatives (with the opposite true as well). Furthermore, the definition of the counterparty concentration limit percentage is broad and perhaps unclear referring to 'exposures or mark-to-market' and to the 'fund'. This creates confusion rather than clarity and possibly dilutes the effectiveness of the suggested quantitative limit. We note that individual plans are better suited to determine the appropriate transaction level with counterparties, and would urge FSCO to remove the 10% counterparty concentration limit from the Guidance Notes.

Harmonization
PIAC would suggest FSCO tackle directly the risk created within a derivatives transaction, rather than rely upon a 10% counterparty concentration limit. The risk created when the value of the underlying asset begins to fluctuate can be offset or eliminated by the mandatory exchange of collateral. As such, PIAC would suggest FSCO consider harmonizing their guidelines with those more broadly in the industry e.g. the BCBS/IOSCO principles related to margin for uncleared swaps.

SIPP and Documentation of Limits
PIAC does not disagree that limits, risk management practices and procedures for derivatives need to be in place to understand, measure, monitor and appropriately mitigate the risks associated with derivatives, or any investment within the pension fund. Requesting that these limits be placed in the SIPP will provide transparency on the types of derivatives and the extent they are used. However, the SIPP is meant to provide key policies and procedures setting out the strategies employed for the pension plan. It is broad due to its public nature. For many plans, given the complexity of strategies and derivative instruments, the policies and procedures should be presented, understood, and agreed to in much more granularity than what would be realistic to provide in a SIPP. For example, even simply describing the categories of derivatives can become cumbersome and the method of calculating the limits complex. It could be suggested by the Guidance Note that the approved limits, practices and procedures be documented in a technical and detailed manner outside of the SIPP, as appropriate for any plan.

Credit Assessments
PIAC would like to highlight that it agrees with the practice of pension plans conducting a comprehensive credit assessment in relation to each of its counterparties. However, the requirement to have this completed by an independent person should be a determination

may by the pension plan, based upon numerous characteristics, for example, the number of dedicated employees hired to perform such credit assessments.

Indirect Investment in Derivatives
PIAC would recommend that the Guidance Notes offer more tailored guidance with respect to indirect investment in derivatives. This would provide greater guidance to all market participants, including those market participants who access the derivatives market solely by indirect means. In addition, in section 7.0 the fourth bullet could be broadened to suggest that the administrator should understand the control environment and the review of procedures conducted by the pooled fund investment manager.

We thank you for the opportunity to share our thoughts with you, and would welcome an opportunity to meet with FSCO and discuss our comments and suggestions.

Yours truly,

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Chair

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Re: Prudent Investment Practices for Derivatives[1]

Ontario Teachers' Pension Plan ("**OTPP**") is the largest single-profession pension plan in Canada, with $140.8 billion in assets.[2] It was created by its two sponsors, the Ontario government and the Ontario Teachers' Federation, and is an independent organization. In carrying out its mandate, OTPP administers the pension benefits of 180,000 current elementary and secondary school teachers in addition to 127,000 pensioners.[3] OTPP operates in a highly regulated environment and is governed by the Teachers' Pension Act[4] and complies with the Pension Benefits Act[5] and the Income Tax Act.[6] More than 1,000 employees of OTPP help to invest the fund's assets, administer the pension plan, pay out benefits, and report and advise on the plan's funding status and regulatory environment.[7]

We are writing to you in response to the request of the Financial Services Commission of Ontario ("**FSCO**") for comments in respect of the Investment Guidance Notes: Prudent Investment Practices for Derivatives (the "**Guidance Notes**"). We appreciate the opportunity provided by FSCO to submit comments on the Guidance Notes.

As a user of derivatives, OTPP welcomes sensible guidance with respect to prudent investment practices related to derivatives.

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1 Financial Services Commission of Ontario, Prudent Investment Practices for Derivatives, Index No. IGN-002. Available at http://www.fsco.gov.on.ca/en/pensions/fsco_consultations/Documents/IGN002.pdf.

2 Asset value current as of December 31, 2013. Ontario Teachers' Pension Plan Board, Annual Report, "Today for Tomorrow 2013 Annual Report" online: <http://www.otpp.com/documents/10179/712513/-/4fc371f9-5c3f-41c0-a625-a45120201113e/Annual+Report.pdf> at 1.

3 *Ibid* at 7.

4 *Teachers' Pension Act*, RSO 1990, c T.1.

5 *Pension Benefits Act*, RSO 1990, c P.8.

6 *Income Tax Act*, RSC 1985, c 1 (5th Supp).

7 *Supra* note 2 at 7.

General Observations

Many if not most of the suggestions, expectations and recommendations contained in the Guidance Notes are general risk management practices and policies that are not uniquely appropriate for derivatives, and in fact, could apply equally to a broad range of investment strategies and choices. To the extent FSCO believes that a general risk management policy is required to assist administrators in the articulation and implementation of the Prudent Person Rule, much of what is contained in the Guidance Notes would be appropriate for such a general stand-alone risk management policy. To the extent FSCO believes that a stand-alone derivatives policy is required, we believe that such a policy should address only those issues that are specific to derivatives products.

Given the sophistication and complexity of many types of derivatives, we recognize that there are some unique considerations that are appropriate in developing and implementing a strategy involving derivatives. However, as derivatives are a means of transferring risk from one entity to another, we view derivatives as part of a prudent investment strategy to deal with a variety of risks, and would go so far as to suggest that it may be imprudent for an administrator to outright dismiss the use of derivatives without careful consideration. We therefore suggest that the regulatory and policy approach to derivatives reflect the view that an informed and prudent investor may and, depending on the circumstances, should consider the use of derivatives as an appropriate part of a diversified investment portfolio.

The Guidance Notes differentiates between cleared and non-cleared OTC derivatives transactions but also references exchange and non-exchange traded derivatives. We believe a clear hierarchy of considerations and recommendations should differentiate between cleared and non-cleared, standard and non-standard and exchange traded and non-exchanged traded derivatives, and suggest these concepts should be more clearly delineated in the Guidance Notes. Also, the concepts of standard and cleared derivatives appear to be used inter-changeably. We can foresee that some derivatives products may not be cleared (and remain bilateral obligations of the parties) but will still be regarded as straightforward, standard and of limited risk as opposed to some specific tailored or bespoke derivatives that may present unique risks. We would suggest that, depending on the model for clearing that is ultimately introduced for the regulation of OTC derivatives, the proposed 10% concentration limit relating to counterparty risk should not apply to such cleared transactions at all.

We note that there is some inconsistency in the Guidance Notes as to what is intended by standard and non-standard OTC derivatives. An OTC derivative by its terms is not traded on an exchange. As exchange traded derivatives were not the focus of the G20 commitments, and are more akin to public market securities than OTC derivatives, we suggest that a derivative-specific policy need not address exchange traded derivatives.

We would note that whereas a pension plan like OTPP has the size and sophistication to directly use derivatives, we would assume that most pension plans utilize derivatives by engaging asset managers or indirectly gaining derivative product exposure through indirect investments. We feel a proper allocation of responsibility, monitoring and engagement should be described in the Guidance Notes to distinguish between direct derivative use and the management of a strategy that may include derivatives through the engagement of an investment manager or the indirect exposure to derivatives through an investment product.

Information to be Disclosed in a SIP&P

We agree with the requirement for administrators to authorize the use of derivative transactions in broad terms in the plan's SIP&P. However, we question the suggestion that a detailed discussion of the types and concentrations of derivatives be included in a SIP&P and would instead suggest that such discussion is better suited for other non-public risk management practices documentation. In the interests of transparency, OTPP currently treats its SIP&P as a public document, and once the requirement to file SIP&Ps goes into force, a SIP&P will effectively be a public document. However, we note that it could be prejudicial to OTPP's investment strategy (and thus ultimately OTPP's beneficiaries), and indeed the investment strategy of any pension plan that uses derivatives, to make details regarding the types of derivatives used, derivatives positions, and strategies publically available.

Risk Management: 10% Counterparty Exposure

It is not clear to us whether the articulation of the 10% limit in the Guidance Notes is intended to reflect FSCO's interpretation of 10% concentration limit set out in Section 9 of the FIR. Certainly the test articulated in such section is different than the concentration limit outlined in the Guidance Notes. In any event, we agree that the Prudent Person Rule would lead an administrator to manage counterparty risk, but question the usefulness of a hard limit based upon 10% of the fair value of the fund's investment assets (net of investment liabilities) and the regulator's ability to mandate such a limit.

At its core, a counterparty concentration rule is attempting to deal with counterparty risk (the risk that a counterparty fails and ensuring all of a party's transactions are not with such failing entity); however, the vast majority of the risk in any derivative stems from the potential change in price of the underlying reference not the probability of default of the counterparty. One of the challenges in using the 10% limit (or indeed any hard limit) proposed in the Guidance Notes is that it considers the risk of counterparty failure from all types of derivatives to be equal when it is not. For example, the potential loss should a counterparty fail when the underlying exposure of a derivative relates to equities is generally much larger than for a derivative that relates to interest rates due to the relatively greater volatility associated with equity. This risk can be managed through the mandated exchange of collateral, and is the approach adopted by the BCBS/IOSCO principles and subsequently incorporated into margin for uncleared swaps rules created and/or proposed by the U.S. Prudential Regulators, the U.S. Commodity Futures Trading Commission, the European Union, and currently being contemplated by the Canadian Securities Administrators. Therefore, rather than implementing its own set of rules and guidance to address counterparty risk, we suggest that FSCO rely upon other regulatory rules to ensure counterparty risk has been properly addressed. Failing such reliance, we would urge FSCO to harmonize its requirements in relation to counterparty risk with such other regulatory obligations.

In any event, if FSCO ultimately pursues a fair value concentration limit approach to addressing counterparty risk, OTPP suggests that any limit be measured using *potential future exposure* to a counterparty. Potential future exposure represents the potential amount an investor could be required to pay based on its current derivatives positions. One advantage of using the potential future exposure approach is that it accounts for the relative riskiness of different types of derivatives. Additionally, the potential future exposure to each counterparty should be reduced by any exchange of collateral which reduces counterparty risk.

Alternatively, if FSCO retains the concept of "fair value of the fund's investment assets (net of investment liabilities)", we note the following list of products would be inappropriately caught by the fair value approach articulated in the Guidance Notes.

> **Collateralized Transactions.** As noted above, transaction that through documentation require a party to collateralize its obligations should be excluded from any fair value concentration limit, as the collateralization of transactions dramatically reduces or virtually eliminates counterparty risk. As a general observation, we believe that a greater emphasis on collateralization as one of the best risk mitigation tools should be emphasized in the next iteration of the Guidance Notes.
>
> **Cleared Derivatives Transactions**. We would agree with the Guidance Notes that Cleared derivatives transactions should be not be included in a fair value concentration limit.
>
> **Repo Transactions**. Repurchase transactions are typically fully collateralized. The term and tenor is often shorter than the average derivatives transaction. Most importantly, participants tend to be less concerned or affected by changes in mark to market exposure and volatility in these types of transactions. By virtue of the characteristics of repo transactions, we do not feel that a concentration limit should be applied to repo transactions generally.
>
> **FX Transactions and certain other Short Term hedging Transactions**. Foreign exchange transactions are typically traded under derivatives contracts. Certain short term hedging transactions, such as foreign exchange or spot transactions, have been determined by certain regulators to be outside the scope or definition of a "derivative transaction". While these transactions are quite standard in nature, they will not meet the definition of a standard OTC derivative

in the Guidance Notes and therefore would be included in the 10% calculation. As these transactions are typically performed to manage the risk of foreign exchange fluctuations and can be short term in duration, they should be excluded from any fair value concentration limit.

We also would note that pension plans may determine and publish their asset values at different times and frequencies each year. The Guidance Notes should not necessitate or imply changes in the timing and frequency of such asset valuation.

<u>**Additional Comments**</u>

In addition to the general comments included above, we would like to address the following specific sections of the Guidance Notes.

Section 5.1 Pricing and Value Measurement of Derivatives. We question the following statement within the Guidance Notes: "The plan administrator should use independent value measurements methodology for non-standard OTC derivatives and should not rely upon counterparties as the exclusive source of derivatives values." We agree that independent inputs, and not valuations, should be obtained by independent sources. However, pension plans should be able to incorporate these independent inputs into their own models to determine pricing and value measurements. We believe that sophisticated pension plans have internal expertise and resources to assist in the assessment of derivatives and there is no need to engage third parties to assist in most cases.

Section 5.5 Limits on Variable Compensation. We appreciate that compensation should not encourage inappropriate or excessive risk taking but the compensation of traders and other personnel reflects a range of factors. It is not clear to OTPP that the methodology for compensation for personnel of a pension plan or its agents is appropriate in the context of the Guidance Notes.

Section 6.1 Market Risk Leverage. The Guidance Notes propose that "limits should be established for the sensitivity of a fund's portfolio to both expected and unexpected changes in discrete risk factors such as interest rates, foreign exchange rates, equity and commodity prices". Pension plans utilizing derivatives need to understand risk within their entire portfolio, i.e. when derivative transactions are combined with the cash holdings of a pension plan, and not just related to a subset such as derivatives. A framework to monitor and limit risks is needed which should incorporate the sensitivities described in the Guidance Notes.

Section 6.5 Operations and Systems Risks. With respect to FSCO's expectation that "Counterparties who suffer a credit rating downgrade by an independent credit rating agency are automatically review", we note that certain regulators are moving away from reliance on external rating agencies in favour of other creditworthiness characteristics. We suggest that FSCO consider the use of such other characteristics as a prudent measure of a counterparty's creditworthiness.

Conclusion

We appreciate the opportunity to comment on the Guidance Notes and hope such comments assist FSCO to create robust investment practices for pension plans that transact in derivatives transactions. Please do not hesitate to contact us should you have any questions or wish to discuss in further detail.

Yours very truly,

Gregory O'Donohue
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November 24, 2014

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Re: Towers Watson Submission on FSCO Investment Guidance Note: Prudent Investment Practices for Derivatives

Towers Watson welcomes the opportunity to provide comments on the Financial Services Commission of Ontario's draft Investment Guidance Note IGN-002: "Prudent Investment Practices for Derivatives".

Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson employs about 14,000 associates worldwide, with approximately 350 engaged in providing services to Canadian pension plans.

Our comments are as follows:

1.0 Purpose

In our experience, the use of derivatives in pension plans and the risk associated with the strategy depends on a number of factors, which include:

1) Whether the investment is done on a leveraged basis, which could expose the plan or fund to losses in excess of the original investment, or a non-leveraged basis.
2) The purpose of the derivative exposure. Typically, derivatives may be used to manage a specific risk (e.g., interest rate risk or currency risk), to create a notional exposure, or for investment speculation.
3) Whether it is done directly in a separate segregated account or mandate, or indirectly through a pooled fund.

It should be clear that the use of derivatives, particularly for risk management purposes, can be effective and entirely appropriate for a plan. It may also be appropriate to indicate that leveraged investment in derivatives, particularly on a segregated basis, poses greater risk to the pension plan than unleveraged use. Where used in the context of the ongoing management of a pooled fund investment without leverage, the maximum loss is typically limited to the initial investment, so derivatives pose less risk.

We believe that it would be beneficial to draw these distinctions.

4.0 Documentation

In general the risk management measures suggested in this section are fair and appropriate.

FSCO's expectations regarding Documentation

The section describing the FSCO's expectations regarding documentation states that the "proportion of the fair value of the portfolio that may be invested in derivatives or put at risk through derivatives is clearly set out in the SIP&P."

Our concern here is that the document is too prescriptive. Whilst we are supportive of ensuring that derivative programs have limitations, expressing limits in terms of the fair value invested or put at risk may not always be appropriate or reflect the risk of the derivative program. An example would be use of interest rate swaps to hedge 100% of the interest rate sensitivity of the liabilities. In this case, hedging less than 100% of the plan's interest rate sensitivity in fact increases the plan's exposure to falling yields. A simplistic limit set on percentage of the fair value of assets at risk may be misleading.

An alternative route may be to recommend that overall objective of the derivative program is described in the SIP&P and limits to a derivative program clearly linked back to the objectives of the program.

5.0 Risk Mitigation

The risk mitigation measures stated in section 5.0 in general are applicable and appropriate. In our view, it would be useful to add a section on mitigating counterparty risk. Managing counterparty credit risk is essential to a derivatives program. Although most contracts are daily collateralised, counterparty default remains present. Importantly, a default could well be triggered by a scenario of the sort the derivatives are designed to hedge (this was evidenced in the 2008 credit crisis).

Counterparty risk can be mitigated through counterparty diversification, and setting credit rating trigger limits in the derivative documentation.

Further specific comments on each subsection are set out below.

5.1 Pricing and Value Measurement of Derivatives

The guidance note distinguishes between standard OTC derivatives and non-standard OTC derivatives and recommends that independent value measurement is made for non-standard OTC derivatives.

We do not see the merit in making a distinction between standard OTC derivatives and non-standard OTC derivatives. Independent value measurement should be made for all non-exchange quoted derivatives. In practice, the source of the independent valuation would likely be an investment manager or custodian.

5.4 Limits on Derivative Activities

Please see our comments on the FSCO's expectations regarding Documentation in 4.0 above.

FSCO's expectations regarding Risk Mitigation

Limitations on exposure to particular counterparties are a prudent measure and an essential risk management tool. However, specifying a hard limit in the note is too prescriptive and may not be appropriate in all cases. In our view, the objectives of the guidance note would be better served by asking administrators to consider appropriate limits to counterparties given the objectives of the derivative program.

6.0 Risk monitoring

FSCO's expectations regarding Risk Monitoring

Our comments on specifying risk exposures to counterparties also apply to this section.

****

We greatly appreciate the opportunity to comment on the draft Guidance Note. We would welcome the opportunity to address any questions you may have regarding our comments.

Sincerely,

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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), the Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, the PBA or Regulation govern.

Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. All pension policies and guidance notes can be accessed from the **Pensions** *section of the website through the* **Pension Policies** *link.*

This guidance note sets out FSCO's expectations of an administrator of a defined benefit pension plan (administrator) with respect to the investment of pension plan funds in buy-in annuities which constitute an investment held in an unallocated fund of a person authorized to carry on a life insurance business in Canada (Canadian life insurance companies) in respect of all or part of the pension entitlements associated with a specific group of members, former members or retired members (covered members).

Administrators may also invest pension plan funds in buy-in annuities issued by persons who are not Canadian life insurance companies (foreign insurance companies), however, such investments are subject to different treatment under the PBA and Regulation, and administrators should exercise additional due diligence when entering into such transactions (see Section 7.0 Foreign Insurance Companies below).

1.0 Structure of the Investment

Buy-in annuities are similar to traditional or "buy-out" annuities; however, instead of issuing individual certificates to covered members and paying pensions to them individually, the insurer makes periodic payments to the pension plan fund equal to the aggregate pension amount covered by the policy.

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The buy-in annuity is an investment of the pension fund and covered members have no greater claim to such payments than to any other specific assets of the pension fund.

The responsibility for administering benefits remains with the administrator.

It is not necessary that a buy-in annuity cover every member of the plan, every member of a certain class of plan members or the entire benefit of every covered member. For example, a buy-in annuity might exclude certain groups of retired members, active members as a class, or the indexing component of the pension benefit.

If assets of the plan fund are invested in a buy-in annuity, the administrator nonetheless remains responsible for ensuring that all benefits covered by the buy-in annuity are paid from the plan fund, regardless of whether the insurer makes the required annuity payments.

2.0 Prudent Investing and Due Diligence

An administrator may only invest plan funds in a buy-in annuity issued by a Canadian life insurance company if the investment is permitted under the terms of the pension plan, the statement of investment policies and procedures and all applicable statutory requirements (including the prudent person rule in section 22 of the PBA and the Federal Investment Regulations, as defined in section 66(1) of the Regulation).

The purchase of a buy-in annuity is considered an investment of the pension plan. All decisions made with respect to buy-in annuities must be made by the administrator in accordance with its standard of care and its fiduciary obligation to invest the plan fund's assets in the best interests of the plan's beneficiaries.

2.1 Application of Section 43 of PBA

Buy-in annuities are not subject to section 43 of the PBA and administrators do not require the approval of the Superintendent of Financial Services to purchase buy-in annuities; however, if the buy-in annuity were converted to a buy-out annuity, in full or in part, while the plan was ongoing, section 43 of the PBA would apply and the conversion would have to comply with the PBA and Regulation, including the requirement to obtain the approval of the Superintendent of Financial Services, where applicable.

2.2 Pricing and Transaction Costs

The administrator should conduct appropriate due diligence when negotiating the pricing of buy-in annuities and should not rely solely on the pricing provided by a particular insurer. One method for determining fair pricing is to hold a competitive bidding process with multiple insurers submitting prices; however, at minimum, appropriate due diligence will include soliciting quotes from different insurers.

Administrators should consider the pricing of buy-in annuities compared to other similar investment options. Given the specialized nature of these products, it would be appropriate in most cases to retain independent expert advice.

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It is the responsibility of the administrator to consider the costs involved with any investments in buy-in annuities and to ensure that those costs are incurred prudently and in the best interests of the plan members. Such costs may include legal, actuarial, and consulting fees.

2.3 Counterparty Risk and Coverage

The administrator should consider the security of the investment including the counterparty risk (i.e., the risk that the insurer will not fulfil the terms of the buy-in annuity contract). The administrator should consider whether it is reasonable and appropriate in the circumstances to diversify the investment by entering into separate buy-in annuity contracts with multiple insurers.

The administrator should determine the extent of coverage available to the plan (e.g. through Assuris) in respect of the buy-in annuity in the event that the insurer becomes insolvent, and consider whether the coverage provides adequate protection for the plan fund. The administrator should consider what terms may need to be included in the buy-in annuity contract relating to any future change in coverage that may occur.

2.4 Contract Terms

It is the responsibility of the administrator to ensure that the terms of any buy-in annuity contract are clear and permit the administrator in all circumstances to administer benefits in accordance with the plan terms and fully comply with all applicable statutory requirements, as they may change from time to time. In particular, administrators should consider contractual terms related to portability options, early retirement provisions, pre-retirement death benefits, optional forms of payment, and pension division or lump sum transfer on breakdown of a spousal relationship. The administrator should also carefully consider the ability to modify or terminate the buy-in annuity contract.

An investment in a buy-in annuity must not result in members being treated inequitably on wind up of the pension plan. In other words, the terms of the buy-in annuity contract must not purport to provide covered members with greater benefit security than other beneficiaries of the plan. It is the responsibility of the administrator to ensure that the terms of the buy-in annuity contract permit liquidation, or partial liquidation, at the option of the administrator, in the event that the plan is wound up and there is a funding shortfall.

3.0 Plan Wind Up

The buy-in annuity contract should clearly specify the administrator's rights on a plan wind up to terminate the contract and the method to be used to determine the settlement value on termination, as well as any other options available to the administrator in respect of the buy-in annuity on wind up of the plan.

If a plan is wound up and there is no funding shortfall, the buy-in annuity may convert to buy-out annuities, in accordance with the approved wind up report, and the insurer may issue individual certificates to covered members and begin paying pensions to retired members directly. Members and former members may receive deferred annuities.[1]

[1] Any conversion to individual buy-out annuities is subject to a member's exercise of portability rights under section 73.

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If a plan is wound up and the benefits payable to covered members are subject to a reduction in accordance with the approved wind up report, the buy-in annuity may convert to buy-out annuities paying reduced amounts to the individual covered members.[2] The difference between the full value of the buy-in annuity and the aggregate value of the reduced buy-out annuities would be made available to the plan as a refund to the plan or a credit towards the purchase of additional buy-out annuities, in accordance with the approved wind up report.

4.0 Actuarial Funding Valuation Reports

An acceptable method of valuing a buy-in annuity to be included in the assets of an actuarial funding valuation report would be to set the asset value equal to the value of the pension benefits covered by the buy-in annuity (if the buy-in annuity provides an exact hedge to the covered pension benefits), calculated on both a going concern and solvency basis. This could result in the asset value of the buy-in annuity being different under the going concern and solvency valuations.

If the buy-in annuity does not exactly hedge the covered pension benefits, then the asset value of the buy-in annuity should be adjusted to reflect any differences. For example, in the event of a plan wind up, if the contract provides for a value to the plan that is different from the value calculated on a wind up basis (e.g. fees or expenses applied, portability options not provided, etc.), then it would not be appropriate to set the asset value of the buy-in annuity equal to the liabilities of the related pension benefits. The buy-in annuity could expose the plan to an additional funding shortfall due to the difference between the contracted value of the buy-in annuity and the liabilities of the covered pension benefits. In this situation, FSCO would expect the actuary to calculate this shortfall in each actuarial valuation funding report and determine its effect on the required funding for the plan. This may result in additional funding requirements for the sponsor in respect of the liabilities covered by the buy-in annuity.

If the going concern or solvency valuation uses an asset smoothing method, the value of the buy-in annuity should be excluded from the asset smoothing calculation. For clarity, the value of the buy-in annuity should be included in the determination of the going concern assets and liabilities and of the solvency assets and liabilities of the plan.

5.0 Financial Statements

For the purpose of filing financial statements for the pension fund or plan, measurement and disclosure of the buy-in annuity should comply with section 76 of the Regulation, generally accepted accounting principles and the disclosure expectations set out in FSCO Guidance Note FSGN-100 (Disclosure Expectations for Financial Statements Filed Pursuant to Regulation 909 s. 76).

The valuation techniques used in the fair value measurement of a buy-in annuity must comply with generally accepted accounting principles. Since the payments from a buy-in annuity are directly linked to the payments in respect of the covered pension benefits, FSCO would accept a value that is equal to the actuarial present value of the covered pension benefits, adjusted to the

[2] See footnote 1.

public consultation

extent that it does not provide for an exact hedge. The valuation techniques and inputs used to develop fair value measurement should be fully disclosed in the financial statements.

6.0 Pension Benefits Guarantee Fund

Because a buy-in annuity contract is an investment of the plan fund and does not affect the liabilities of the plan, every covered member of a buy-in annuity must be included in the calculation of the plan's Pension Benefits Guarantee Fund assessment base for those plans to which section 37 of the Regulation applies.

7.0 Foreign Insurance Companies

Should the administrator decide to invest in a buy-in annuity issued by a foreign insurance company, in addition to the guidance on prudent investing and due diligence (above), FSCO would expect the administrator to consider additional factors related to the risk of the investment. Some of these factors include:

- a consideration of the regulatory regime to which the foreign insurance company is subject;
- any applicable capital or solvency requirements;
- any coverage or guarantee fund available in the case of insurer insolvency;
- the legal ability of the foreign insurance company to enter into the contract;
- the enforceability of the contract in the foreign jurisdiction (and the cost and difficulty of enforcement); and,
- the exchange rate risk if the payments under the policy will be made in a currency other than Canadian dollars.

Investments in buy-in annuities issued by foreign insurance companies do not fall within the exceptions contained in Schedule III of the Federal Investments Regulations.[3] In particular, section 9 of Schedule III, the "10% rule," would apply to a buy-in annuity issued by a foreign insurance company.[4]

public consultation

[3] The FIR are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the "Pension Benefits Standards Regulations, 1985" made under the Pension Benefits Standards Act, 1985 (Canada) as they may be amended from time to time.

[4] The 10% rule would also apply to buy-in annuities issued by persons authorized to carry on life insurance business in Canada if the annuities were not investments in unallocated general funds of such persons.

November 7, 2014

By email - pensionconsultation@fsco.gov.on.ca

Ms. Lynda Ellis
Senior Manager, Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
POB 85
Toronto, ON M2N 6L9

Dear Ms. Ellis:

Investment Guidance Note-001: Buy-In Annuities for Defined Benefit Plans

I am writing with respect to the captioned proposals to provide input from Canada's life and health insurance companies, in their role as service providers to the majority of pension plans in Canada. Detailed comments regarding these proposals are contained in the attached document.

As always, our members would be pleased to respond to any questions you or your colleagues may have with respect to the industry's comments. Please feel free to contact me by telephone at 416-359-2021 or by email at rsanderson@clhia.ca if I can facilitate such discussions.

Yours truly,

(Original signed by)

Ron Sanderson
Director, Policyholder Taxation and Pensions

Attachment.

Attachment to November 7, 2014 letter to Ms. Lynda Ellis from the Canadian Life and Health Insurance Association re FSCO's draft Investment Guidance Note (IGN)-001 re Buy-In Annuities for Defined Benefit (Pension) Plans, released for comment on October 7, 2014

Scope of IGN-001

Section 1.0 of the draft IGN indicates that "Buy-in annuities are similar to traditional or 'buy-out' annuities". It is unclear from this statement if traditional and buy-out annuities are considered to be synonymous, or whether FSCO considers these to be three distinct structures.

We would propose characterizations similar to the following:

- A traditional annuity is a deferred or immediate annuity contract provided by a life insurance company where the contract is held by an administrator on behalf of a pension plan, and the annuity will make payments directly to a former pension plan member in full or partial satisfaction of the income benefit promised to that former member under the pension plan. It is presumed that the pension plan is not being wound-up;

- A buy-out annuity is a deferred or immediate annuity contract provided by a life insurance company where the contract is initially held by an administrator on behalf of a pension plan, but all income rights under all or a portion of the contract are absolutely assigned to a former pension plan member and the annuity will make payments directly to that former member in full or partial satisfaction of the income benefit promised to that former member under the pension plan. It is presumed that the pension plan is not being wound-up. Depending on the applicable pension legislation, the former member's income rights may be restricted if the pension plan is wound-up and the pension plan is less than fully funded at that time, in which case the annuity may be commutable, or income payments may be diverted, in whole or in part, to more equitably balance any reduction in income benefits among all former members of the pension plan; and

- A buy-in annuity is a deferred or immediate annuity contract provided by a life insurance company where the contract is held by an administrator of behalf of a pension plan, and the annuity will make payments to the administrator on behalf of the pension plan, and those payments may be retained and reinvested, or used to pay income benefits to former pension plan members who may or may not have been identified as measuring lives under the annuity contract. It is presumed that the pension plan is not being wound-up.

Given the potential uncertainty of the meaning of the terms "traditional or 'buy-out' annuities" as used in the IGN, we recommend that clear definitions or descriptions of these terms be included in section 1.0 of the IGN.

Complementary IGNs

To the extent that this IGN is not intended to address either traditional or buy-out annuities, it may be appropriate for FSCO to develop parallel IGNs that address these types of arrangements. The

CLHIA believes that simultaneous release of the draft IGN and any such related guidance for traditional and buy-out annuities would be appropriate and recommends deferral of release of the final version of the current IGN until such parallel materials have been drafted and public consultation completed.

Assuming such parallel guidance is provided, the CLHIA believes that all such documents should clearly note:

- Whether the annuity remains an asset of the pension plan;

- Whether benefits in respect of any (former) pension plan members in respect of whom annuities have been purchased are to be included in any actuarial valuations with respect to the pension plan.

- Whether section 43 of Ontario's *Pension Benefits Act* applies to the annuity, such that the Superintendent's approval is required prior to the purchase of the annuity;

- Whether "top-up" funding may be required upon purchase of an annuity in order to maintain the funding status of the pension plan; and

- The impact of subsequent wind-up when the pension plan is insufficiently funded, both in terms of any reduction or diversion of benefits payable to particular (former) pension plan members, and in terms of any amounts payable by the insurer to the pension plan.

Subsequent Changes in Annuities and any Resultant Coverage Guarantees

Section 2.3 notes that "The administrator should consider what terms may need to be included in the buy-in annuity contract relating to any future change in coverage that may occur."

This appears to relate to possible indexed benefits or reductions on death of a married (former) pension plan member under the annuity that might reduce or increase the relative benefit of any Assuris coverage, any future increases in Assuris limits and potential changes to the coverage available under the Pension Benefits Guarantee Fund (PBGF). It may be appropriate to detail the changes contemplated by section 2.3 in that section.

While it is expected that all annuity contracts will address changes in benefit amounts under the terms of those annuities, it is unclear how any annuity contract might reasonably address hypothetical changes in third-party coverage. Moreover, it is unclear how an administrator of a pension plan might ensure an annuity contract adequately addresses such hypothetical issues, particularly given the long-term nature of such contracts and the comparatively shorter interval between possible changes to pension legislation and regulation or guarantee regimes, be they public (as in the case of the PBGF) or privately-financed (as in the case of Assuris protection).

Settlement Value on Wind-up

Section 3.0 notes that "The buy-in annuity contract should clearly specify the administrator's rights on a plan wind up to terminate the contract and the method to be used to determine the settlement value…"

The industry would be interested in further guidance if the regulator has particular expectations regarding the method to be used to determine the settlement value, particularly if these expectations are not fully reflected in section 4.0.

Valuation Reports

Paragraph 2 of Section 4.0 contemplates wind-up values payable to the pension plan with respect to an annuity contract that differ from the actuarial value of the liabilities under the annuity contract. While the IGN contemplates fees or expenses and portability options, it is not clear whether any value payable to the pension plan could exclude a commuted value with respect to purely survival contingent benefits that could otherwise be payable under the annuity if it remained in effect.

It is also unclear how this might apply to non-retired pension plan members who may or may not be eligible for early retirement.

Similarly, it is unclear whether there is an intent to tie the actual wind-up values as determined by the specific life insurance company at a particular time to the quarterly "proxy rate" published by the Canadian Institute of Actuaries, which reflects a subset of sampled commutation rates that may or may not include input from the specific life insurance company, and may not reflect market conditions at the particular time. Since the proxy rate may reflect different demographic, mortality, expense and interest assumptions, required use of proxy rate-based calculations would increase the cost of annuities, creating inappropriate biases and disincentives to risk transfer to insurers who, the industry believes, are better able to manage such risks. Therefore, the industry would not support any attempt to tie the insurer's actual wind-up values to those that would be calculated using the CIA's proxy rate.

Clarification of this expectation would be appreciated.

Financial Statements

The second paragraph of section 5.0 notes that "valuation techniques and inputs used to develop fair value measurement should be fully disclosed in the financial statements."

The industry's understanding is that financial statements are generally produced on a going concern basis, and that this approach would therefore be taken in valuing annuities held by a pension plan, unless and until the viability of the insurance company were questioned. Similarly, to the extent that an annuity does not fully hedge the relevant portion of a pension plan's liabilities, going concern valuation methods would apply to the plan unless and until the viability of the plan's sponsor justified a solvency methodology.

Confirmation or clarification of this expectation would be appreciated.

Foreign Insurance Companies and the 10% Rule

Footnote 4 to section 7.0 notes that the 10% rules would apply to buy-in annuities that were not investments in unallocated general funds of life insurance companies. This appears to be a reference to investments in insurers' segregated funds, as there is no other investment option permitted under Canada's *Insurance Companies Act*. Clarification of this terminology may be reasonable.

Tour de la Bourse – Place Victoria
800, rue du Square-Victoria, bureau 4000
C.P. 211, Montréal QC H4Z 0A4

November 7, 2014

Ms. Lynda Ellis
Financial Services Commission of Ontario
PO Box 85
5160 Yonge St., 8th Floor
Toronto, ON M2N 6L9

RE: FSCO Investment Guidance Note No. 1 (IGN-001): Buy-In Annuities for Defined Benefit Plans

Dear Lynda:

Please find below our comments regarding the Investment Guidance Note No. 1 (IGN-001): Buy-In Annuities for Defined Benefit Plans.

2.2 Pricing and Transaction Cost

As the first paragraph is written, it appears that the Financial Services Commission of Ontario would be satisfied that an administrator exercised due diligence if, at a minimum, quotes have been solicited from different insurers.

We suggest that this section should be expanded to include other due-diligence measures to be executed by administrators, such as assessing the overall financial health of insurance companies before a selection is made. Obtaining competitive pricing of the buy-in annuities represents only one aspect of the administrator's responsibilities to the plan when making such an investment.

We suggest clarification be provided as to whether all the fees associated with the purchase of buy-in annuities should be payable by the trust (for example, the analysis leading to the transaction, the actual premium on the purchase and any reversion or conversion fees).

3.0 Plan Wind Up

The language in the second paragraph suggests that, in the case of a plan wind up, the buy-in annuities may be converted to buy-out annuities with the same insurer, subject to the approved wind up report.

We suggest that administrators should be encouraged to conduct due diligence at the plan wind up stage and, among other things, reassess the financial health of the current insurer as well as other companies to determine the best insurer from which annuities are to be purchased. The normal procedures for purchasing annuities upon a wind up of the plan should be observed at which point it will be determined whether a conversion will be beneficial to the members.

We also suggest that reference to the plan obtaining "credit towards the purchase of additional buy-out annuities" should be clarified as being within the context where appropriate due diligence has been conducted and the current insurer is being considered for the purchase of buy-out annuities.

Please feel free to contact the undersigned for further clarification.

Yours truly,

Benoît Labrosse, FSA, CERA, EA
Partner – Asset and Risk Management
514.673.7652

From: Heather Wolfe
Sent: November-07-14 5:34 PM
To: Pension Consultation
Subject: Investment Guidance Note: Buy-in Annuities for Defined Benefit Plans Comments from Sun Life

Dear Sirs,

Thank you for providing the opportunity to comment on your draft guidance on buy-in annuities.

We are pleased to see this guidance being developed and offer our full support in your efforts. This guidance will provide needed clarity to pension plan sponsors and will encourage the use of buy-in annuities as a powerful pension risk management tool, to the benefit of plan sponsors and plan members.

We offer the following comments on the draft guidance for your consideration, presented in the order the relevant sections appear in the draft:

In the introduction, you note that "Administrators may also invest pension plan funds in buy-in annuities issued by persons who are not Canadian life insurance companies (foreign insurance companies)." Our understanding is that foreign insurance companies are not permitted to transact directly with Canadian pension plans, unless they hold a Canadian insurance license. Since Section 7.0 includes consideration of "the regulatory regime to which the foreign insurance company is subject", we suggest removing the reference to foreign insurance companies in the introduction to ensure that administrators do not mistakenly believe they can transact directly with foreign insurance companies. An alternative would be to include a clarifying sentence in the introduction.

In Section 2.3 you mention Assuris as a means to manage counterparty risk. We note that there are many other protections for administrators to consider before Assuris coverage would be triggered. We suggest providing additional information to assist administrators in determining what other factors may be appropriate to consider. Wording as follows may be appropriate:

"Counterparty strength can be assessed, for example, through a review and understanding of:

- credit ratings for the counterparty;
- the regulatory regime in which the counterparty operates, including whether the counterparty is subject to rigorous regulatory oversight, including strong capital adequacy requirements; and
- the prudential and risk management requirements of the counterparty."

In Section 4.0, there is a requirement for the administrator to make an allowance for any additional expenses that would be incurred in the event of a plan wind-up. We suggest adding some details in this section to help plan administrators understand the situations where this could arise, namely conversion to annuity buy-out and wind-ups where the plan is underfunded and the plan sponsor is insolvent. Given the lower likelihood of this second situation, we also suggest allowing plan administrators to work with their advisors to assess a probability for this, which can be applied to the provision for additional expenses. You note that an annuity credit is an alternative to a refund. This option protects plan administrators from additional expenses arising on wind-up. If FSCO would allow administrators to assume annuity credit would be used with no additional expenses, we suggest stating this in the guidance.

We would welcome the opportunity to discuss our comments with you if that would be helpful.

Sincerely,
Heather

Heather Wolfe, FIA, FCIA, FSA | Managing Director, Client Relationships, Defined Benefit Solutions | Sun Life Financial
225 King Street West, Toronto, ON M5V 3C5 Life's brighter under the sun

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November 7, 2014

Pension Policy Unit
Financial Services Commission of Ontario
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Toronto ON M2N 6L9
pensionconsultation@fsco.gov.on.ca

Re: Towers Watson Submission on Draft FSCO Investment Guidance Note: Buy-In Annuities for Defined Benefit Plans (IGN-001)

Towers Watson welcomes the opportunity to provide comments on the Financial Services Commission of Ontario's draft Investment Guidance Note IGN-001: "Buy-In Annuities for Defined Benefit Plans".

Towers Watson is a leading global professional services company that helps organizations improve performance through effective people, risk and financial management. Towers Watson employs about 14,000 associates worldwide, with approximately 350 engaged in providing services to Canadian pension plans.

Our comments are as follows:

2.0 Prudent Investing and Due Diligence

The Guidance Note states that an administrator can only invest in a buy-in annuity if permitted by the plan and the plan's statement of investment policies and procedures (SIP&P). We assume this means that plan documents need not expressly allow buy-in annuities but that buy-in annuity purchases are allowed unless it is specifically prohibited in the plan or the SIP&P. We think that the Guidance Note should clearly state this.

A buy-in annuity is a lower risk plan investment so it would also be helpful if the Guidance Note clarified that this lower risk can be taken into account when determining a plan's overall target asset mix and risk tolerance.

2.2 Pricing and Transaction Costs

While we generally support the requirement that administrators should seek quotes from multiple insurers when choosing an insurer to issue the buy-in annuity, it would be reasonable to consider an exception if the buy-in annuity premium is immaterial to a plan's overall investments. An example of this would be a buy-in annuity for a small portion of a plan's benefits placed with an insurer when the plan already has a significant buy-in annuity arrangement in place with the same insurer. In a case such as this, the cost of a full due diligence process to seek current market pricing might exceed the potential cost savings relative to the buy-in annuity premium.

As well, the Guidance Note focusses on price when determining with which insurer to place the buy-in annuity. There may, however, be other important factors to consider besides price and this should be stated in the Guidance Note. Examples of other potentially relevant factors include the financial strength of an insurer, the desire to mitigate counterparty risk and Assuris coverage provided to individual annuitants upon conversion to buy-out annuities.

4.0 Actuarial Funding Valuation Reports

The Guidance Note states the following:

> *"An acceptable method of valuing a buy-in annuity to be included in the assets of an actuarial funding valuation report would be to set the asset value equal to the value of the pension benefits covered by the buy-in annuity (if the buy-in annuity provides an exact hedge to the covered pension benefits), calculated on both a going concern and solvency basis. This could result in the asset value of the buy-in annuity being different under the going concern and solvency valuations."*

Presumably, the above quote from the Guidance Note implies that the going concern discount rate would be based on a blend of the implied yield on the price of the buy-in annuity and the long-term expected investment return on the remaining pension plan assets. The buy-in annuity asset value would then be set equal to the pension benefits covered by the buy-in annuity using the "blended" discount rate.

Our view is that the valuation method should not be overly prescriptive and that as long as the valuation of a buy-in annuity assets and liabilities is done in accordance with acceptable actuarial practice, actuaries should have some options (such as those described below) in how to do so.

- If a "blended" discount rate as described above is used, the implied yield on the buy-in annuity could be based on group annuity pricing conditions on the actuarial valuation date, as opposed to the yield implied in the original purchase price of the annuity. A buy-in annuity can be viewed as a type of fixed income investment and reflecting yields prevailing on the actuarial valuation date is consistent with the approach commonly used by actuaries to estimate the long-term expected return on other fixed income investments for purposes of establishing the going concern discount rate (as opposed to using the applicable yield when a fixed income investment was purchased). Also, using the yields prevailing on the valuation date enhances consistency between the treatment of the buy-in annuity in the going concern and solvency valuations.

- An actuary should have the option of valuing the buy-in annuity asset using the implied yield on the price of the buy-in annuity, even when a blended discount rate is used to value the plan liabilities. The reason why an actuary should have this option is demonstrated in the illustrations summarized in the Attachment to this submission. For purposes of the illustrations, we have assumed that a buy-in annuity is purchased for the plan's retirees. The plan's bond portfolio is used to pay the annuity premium and the amount of the premium is exactly equal to the value of the bond portfolio at the time of the purchase (i.e., $500,000). Approach I in the Attachment is based on valuing the buy-in annuity asset using a blended discount rate, consistent with the approach suggested by the Guidance Note. Under Approach I, the going concern funded position of the plan deteriorates by $86,777 due to valuing the buy-in annuity asset using a blended discount rate, even though all that has occurred by purchasing the buy-in annuity is that one type of fixed income instrument (conventional bonds) valued at $500,000 has been exchanged for another type of fixed income instrument (a buy-in annuity) valued at $500,000. This apparent discrepancy is avoided by valuing the buy-in annuity asset using the implied yield on the price of the buy-in annuity, as illustrated in the Attachment under Approach II.

- Where the buy-in annuity provides an exact hedge to the covered pension benefits, an actuary should also have the option of valuing both the buy-in annuity going concern asset and liabilities using the implied yield on the price of the buy-in annuity. The going concern discount rate used to value the pension benefits not covered by the buy-in annuity would then be based on the long-term expected investment return on the remaining plan assets. This approach, illustrated in the Attachment under Approach III, likely best reflects the risk management strategy of the plan sponsor (i.e., the immunization of the benefits covered by the buy-in annuity) and enhances consistency of the treatment of the buy-in annuity in the going concern and solvency valuations.

It would also be useful to explicitly state that the buy-in annuity assets and liabilities are included in the transfer ratio and, if applicable, the calculation of the maximum letter of credit face value.

6.0 Pension Benefits Guarantee Fund

Though implied, this section should explicitly state that only Ontario members need to be included in the PBGF assessment base.

7.0 Foreign Insurance Companies

Since footnote 4 is not about foreign insurance companies, it should be moved to another section (for example, section 1.0 or 2.0). It could also be moved to the body of the Guidance Note to give it greater prominence.

* * *

We greatly appreciate the opportunity to comment on the draft Guidance Note. We would welcome the opportunity to address any questions you may have regarding our comments.

Sincerely,

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Attachment:

Treatment of Buy-In Annuity in Going Concern Funding Valuations
Illustrations for Buy-In Covering Plan Retirees - Buy-In Purchased with Available Bonds

Plan Characteristics	
- Expected long-term return on equity portfolio:	8.0%
- Expected long-term return on bond portfolio:	4.0%
- Yield implicit in buy-in annuity price:	4.0%
- Duration of active going concern liabilities:	20.0
- Duration of retiree going concern liabilities:	10.0
- Duration of normal actuarial cost:	20.0

Approach I: Value Buy-In Asset Using Blended Going Concern Discount Rate

	Prior to Buy-In Transaction		Effect of Buy-In	After Buy-In Transaction	
	Balance Sheet	**Discount Rate**	**Balance Sheet**	**Balance Sheet**	**Discount Rate**
Plan Assets					
- equities	$ 500,000		$ -	$ 500,000	
- bonds	500,000		(500,000)	-	
- buy-in annuity	-		413,223	413,223	
- total plan assets	**1,000,000**		(86,777)	**913,223**	
Going Concern Liabilities					
- actives	(586,777)	6.0%	-	(586,777)	6.0%
- retirees	(413,223)	6.0%	-	(413,223)	6.0%
- total liabilities	**(1,000,000)**		-	**(1,000,000)**	
Surplus / (deficit)	**$ -**		$ (86,777)	**$ (86,777)**	
Normal actuarial cost	**$ 200,000**	6.0%	$ -	**$ 200,000**	6.0%

Notes:

1. It is assumed that no asset smoothing is used for purposes of the valuation.
2. Where a blended discount rate is used, the rate is determined as the weighted average of the long-term expected returns on the equity and bond portfolios and the implicit yield on the buy-in annuity. For simplification purposes, other adjustments to the discount rate due to factors such as expenses, diversification and rebalancing, and a margin for adverse deviations have been ignored.

Treatment of Buy-In Annuity in Going Concern Funding Valuations
Illustrations for Buy-In Covering Plan Retirees - Buy-In Purchased with Available Bonds

Approach II: Value Buy-In Asset Using Yield Implicit in Annuity Pricing					
	Prior to Buy-In Transaction		Effect of Buy-In	After Buy-In Transaction	
	Balance Sheet	Discount Rate	Balance Sheet	Balance Sheet	Discount Rate
Plan Assets					
- equities	$ 500,000		$ -	$ 500,000	
- bonds	500,000		(500,000)	-	
- buy-in annuity	-		500,000	500,000	
- total plan assets	**1,000,000**		-	**1,000,000**	
Going Concern Liabilities					
- actives	(586,777)	6.0%	-	(586,777)	6.0%
- retirees	(413,223)	6.0%	-	(413,223)	6.0%
- total liabilities	**(1,000,000)**		-	**(1,000,000)**	
Surplus / (deficit)	**$ -**		$ -	**$ -**	
Normal actuarial cost	**$ 200,000**	6.0%	$ -	**$ 200,000**	6.0%

Approach III: Carve-Out Valuation of Buy-In from Remaining Plan Assets and Liabilities					
	Prior to Buy-In Transaction		Effect of Buy-In	After Buy-In Transaction	
	Balance Sheet	Discount Rate	Balance Sheet	Balance Sheet	Discount Rate
Plan Assets					
- equities	$ 500,000		$ -	$ 500,000	
- bonds	500,000		(500,000)	-	
- buy-in annuity	-		500,000	500,000	
- total plan assets	**1,000,000**		-	**1,000,000**	
Going Concern Liabilities					
- actives	(586,777)	6.0%	179,293	(407,484)	8.0%
- retirees	(413,223)	6.0%	(86,777)	(500,000)	4.0%
- total liabilities	**(1,000,000)**		92,516	**(907,484)**	
Surplus / (deficit)	**$ -**		$ 92,516	**$ 92,516**	
Normal actuarial cost	**$ 200,000**	6.0%	$ (61,111)	**$ 138,889**	8.0%

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Administrator
INDEX NO.:	Consultation Policy Released December 2009
TITLE:	CP - Management and Retention of Pension Plan Records by the Administrator - PBA s. 22
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (date to be determined)
EFFECTIVE DATE:	To be determined

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Pension plans, by their very nature, have long term time horizons. It is therefore imperative that the records related to a pension plan and the pension fund of the pension plan be managed and retained for a long period of time.

The purpose of this policy is to discuss the long term commitments and responsibilities of the administrator of a pension plan (administrator) in the management of pension plan records and to provide guidance for prudent records management and retention practices. The obligations of other pension stakeholders (such as employers, agents of administrators, plan members) with respect to records issues will be addressed under separate policies.

Responsibilities of the Administrator

Section 22 of the PBA imposes a duty on the administrator to exercise the care, diligence and skill in the administration and investment of a pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. Section 22 also requires the administrator, in the administration of the pension plan and in the administration and investment of the pension fund, to use all relevant knowledge and skill that the administrator possesses, or by reason of the administrator's profession, business or calling, ought to possess. Compliance with the standard of care contained in section 22 of the PBA cannot realistically be achieved unless the administrator implements and maintains appropriate record keeping practices. Therefore, FSCO would expect the administrator to establish a written records management and retention policy that is both formal and comprehensive. Such a policy should set out appropriate practices that address, for instance, how the plan records are to be managed, how long the records are to be retained and the individuals who are responsible for the records.

public consultation

Neither the PBA nor the Regulation specifies a retention period for plan records. However, the administrator will generally be responsible for the records as long as there is the potential for claims related to pension entitlements by members, former members, any other persons who have an entitlement under the plan and their estates (plan beneficiaries).

The rest of this policy discusses in detail the rationale for appropriate records management and retention practices and provides guidance on how such practices can be implemented. This policy is not intended to prevent administrators from establishing more extensive records management and retention practices if that would be appropriate for their particular plans.

Importance of Appropriate Records Management and Retention Practices

Current and historic plan records are often required for purposes of determining a member's pension entitlement and for regulatory filing and reporting. For instance:

- As the primary source of information about the pension plan, the administrator is responsible for answering or obtaining answers to plan-related questions from plan beneficiaries and any other parties with respect to their interests in the pension plan. Members rely on the information provided by the administrator when making decisions about their entitlements.

- It is essential for the administrator to maintain accurate and complete plan records to ensure that correct payments are made to those who are entitled to the payments.

- In situations where an individual's entitlement to a stated amount of pension benefit is challenged, the administrator may be required to provide historical information in order to verify the benefit calculations. This could include any information relevant to the benefit calculation (for example, an individual's period(s) of employment service, plan membership and/or union membership, employment earnings, pension plan contributions, plan provisions or any other documents that applied during the individual's period of plan membership).

- In situations where a former member of the plan claims that he or she had not received his or her pension entitlement, the administrator may be required to provide proof of payment.

- Certain applications that must be filed with the Superintendent of Financial Services (Superintendent) require the filing of plan documents from the inception of the pension plan. These documents may be required in support of the applicant's assertion that the application satisfies the requirements of the PBA and Regulation.

- Accurate and complete records are a necessary source of information for regulatory filings (for example, actuarial valuation reports, annual information returns, financial statements, etc.).

- The administrator may be responsible for reproducing excerpts from old plan documents in disclosure notices that are required to be distributed to plan beneficiaries.

Inadequate records management and retention practices may result in incomplete, inaccurate and therefore unreliable plan records causing additional costs (in both time and money) for the plan sponsor and plan beneficiaries. In addition, recreating records from other sources is difficult, time consuming and sometimes impossible. If information that is required to be filed in support of an application or to meet compliance requirements is missing, the Superintendent may not be able to approve or consent to the application.

Appropriate records management and retention practices are therefore essential for meeting the administrator's standard of care and other obligations to the plan beneficiaries, for protecting the integrity and accuracy of the information used in

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the administration of the pension plan and pension fund and should contribute towards operating efficiencies. They may also reduce exposure to and in litigation that deals with various plan-related matters.

Management of Plan Records

Plan records may be maintained by the administrator, by an external service provider or a combination of both. Plan records are any documents related to the pension plan, regardless of physical format, that have been either created or received by or for the administrator during the operation of the pension plan. These records may include, but are not limited to: documents that create and support the pension plan and pension fund; documents that pertain to the operation of the pension plan and pension fund; documents that pertain to the investment of the pension fund; and documents that pertain to individual plan members.

Plan records must be maintained in order for the administrator to fulfil various obligations with respect to the pension plan and pension fund. It is therefore recommended that the administrator develop a written records management and retention policy that will encourage consistent standards and contribute towards efficient management and control of the records. Such a policy should be formal and comprehensive and would be expected to address, as a minimum, the following items:

- the types of documents that must be retained and their retention period;
- where the documents will be stored;
- the form in which the documents will be stored;
- how the documents can be accessed;
- treatment of private and confidential documents;
- the details of any delegations related to management of the documents;
- the individuals who are responsible for managing the documents;
- the individuals who may access the documents;
- training requirements for those who are responsible for the documents;
- contractual agreements with service providers;
- whether there will be an audit of record keeping processes;
- the process for maintaining a back up of the records;
- the process for monitoring the documents;
- the process for notifying members of their obligations to retain their individual plan records; and
- the process for disposing of the documents at the end of their retention period.

The administrator should monitor how well the plan records are being managed and the accuracy of those records. The administrator must be satisfied that those who are responsible for the plan records are complying with the policy.

Where the administrator communicates electronically with the plan beneficiaries, the administrator must be able to reproduce or generate the information provided to them and any responses. Please refer to policy A300-805 (Electronic Communications Between Plan Administrators and Plan Beneficiaries) and the Canadian Association of Pension Supervisory Authorities Guideline No.2, Electronic Communication in the Pension Industry for additional information.

The administrator may delegate responsibility for the management of the plan records to employees or external service providers (for example, the custodian of the pension fund, a consulting firm, a company specializing in third-party administration, etc.). However, the administrator is ultimately responsible for those records and remains accountable for any plan-related issues that may arise in relation to those records.

public consultation

Where the plan records are maintained by an external service provider, a copy of the records management and retention policy should be provided to the service provider. The agreement or contract between the administrator and the service provider should address the items in the records management and retention policy, as well as the treatment of the records during the contract period and when that contract is terminated. Upon termination of the contract, the external service provider must be able to return the records to the administrator in a usable format. Since the administrator is ultimately responsible for the plan records, it is important for the administrator to always have access to those records.

There may, however, be circumstances where the responsibilities of the administrator may be transferred to a different party as noted below:

(a) Sale of the Business of the Employer

In the event that the employer's business is sold, the administrator of the vendor's plan may remain responsible for the plan records with respect to benefits that have accrued up to the date of the sale unless this administrator can demonstrate that the responsibility has been transferred to the administrator of the purchaser's plan. The purchase and sale agreement should clearly identify the entity (or entities) that will be responsible for the administration of both accrued and future pension entitlements and the plan records related to those entitlements. Specifically, where the purchaser assumes responsibility for the accrued benefits under the vendor's plan, the purchase and sale agreement should stipulate that the vendor must provide the purchaser with general plan records from the inception of the plan to the date of sale, along with records that pertain to current and former members of the vendor's plan. The administrator of the purchaser's plan must have access to those records in order to satisfy, for example, section 45(1)3 of the Regulation which requires the administrator to provide the provisions of any previous plan to those who are entitled to view the plan documents.

(b) Insurance Company as Administrator

Section 8(1)(d) of the PBA specifies that for an insurance company to be the named administrator of a pension plan, all pension benefits must be guaranteed by the insurance company. In situations where an insurance company is the administrator, the insurance company would be responsible for the plan records.

(c) Insolvency of a Plan Sponsor

In the event that the plan sponsor becomes insolvent, the entity that is acting as the administrator would be responsible for the plan records.

Insolvency can cover a broad range of activities from creditor protection under the Companies' Creditors Arrangement Act to bankruptcy. If the employer is the administrator and has not been relieved of the administrative functions, this administrator remains responsible for the management and retention of the records. If a new administrator is appointed by the Superintendent, the new administrator must take over this responsibility.

Retention of Plan Records

Below are general guidelines for the development of practices concerning the retention of plan records:

(a) General Plan Records

General plan records should be retained by the administrator for the life of the pension plan. Some of these plan documents are listed under section 45 of the Regulation.

In the event of a full wind up of a pension plan, the pension fund of the pension plan will continue to be subject to the PBA and Regulation until such time as all assets of the pension fund have been disbursed in accordance with section 76 of the PBA. However, the pension plan may also remain subject to the PBA and Regulation where the plan obligations to those who are affected by the wind up have not been satisfied by the administrator due to errors in the wind up report

public consultation

(such as missed members or incorrect calculations). The administrator may therefore remain responsible for the plan records long after the wind up date of the plan.

In order to be discharged of further obligations with respect to the pension plan, the administrator must be able to demonstrate that the payments from the pension fund have been made in accordance with the plan terms and the requirements of the PBA and Regulation.

(b) Individual Plan Records

Records pertaining to individual plan members should be retained as long as these individuals or their beneficiaries have a potential entitlement under the pension plan.

Where it is optional for an employee to join the plan, the administrator should retain a copy of an election form or notice signed by the employee concerning his or her decision to join or not join the plan. The administrator should also retain a copy of the employee's plan enrolment form as evidence of the employee's plan entry date (which is particularly important where the employee joins the plan some time after he or she first becomes eligible to join).

Once plan members have transferred their entitlements out of the pension plan, it is important for the administrator to at least retain a summary of their plan records. As a minimum, FSCO would expect that the summary for the terminated members would include:

- the plan membership entry date;
- the termination date;
- the vested status as of the termination date;
- evidence of the disclosure made to the member;
- any options elected by the member; and
- the payment amount and date it was made, including any evidence that substantiates the payment information (such as bank statements, receipts showing the transferred amount and destination, etc.).

It is also not uncommon for former members of the plan to come forward at the time of their retirement (which may be long after their termination) to make claims for payment of their pension entitlements. After the death of a former member, such a claim may be made by the former member's beneficiaries or estate. Therefore, it is important for the administrator to have sufficient documentation to be able to verify the payment status of former members' entitlements in order to avoid duplication of payment.

The administrator should consider communicating with the members on an ongoing basis, to remind them of their obligations to notify the administrator whenever there is a change in their spousal relationship, beneficiary designation or mailing address. Such reminders can be built into the members' annual statements of benefits and termination statements.

By educating the members of their obligations regarding their entitlements under the plan, the administrator may be able to avoid the time and cost of dealing with issues such as unlocatable former members and conflicting spousal or beneficiary information after a member's death.

In order to have an effective communication process between the administrator and the plan beneficiaries, it is important for individuals to be able to easily update their personal and plan-related information. The company's website, for instance, may be used as one of the resources to serve this purpose.

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(c) Other Legislation Applicable to Retention of Records under a Pension Plan

Other legislation that may be applicable to retention of records by a pension plan may also specify retention periods for employee records. They include, but are not limited to, the Income Tax Act (Canada), the Employment Standards Act, 2000, the Workplace Safety and Insurance Act, 1997 and the Freedom of Information and Protection of Privacy Act. Some legislation may permit or require the destruction of records after a specified period of time. However, even though other legislation may not require the retention of plan records it does not mean it overrules the obligations of the administrator under the PBA and Regulation. For the reasons outlined above, it is important for the records related to the plan to be kept to ensure that they will always be available to the administrator. The administrator may be asked at any time to verify whether or not the pension benefits were paid out to the plan beneficiaries in accordance with the plan terms and the requirements of the PBA and Regulation.

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FREQUENTLY ASKED QUESTIONS

Plan Administrator

My employee has retired and is receiving a pension from the plan. How long do I have to keep this individual's plan records?

Plan records pertaining to an individual plan member should be retained as long as the member and his or her beneficiaries or estate have an entitlement under the pension plan. Upon the death of the plan member and his or her entitled beneficiaries, the administrator should retain a summary of the member's plan records which should include, as a minimum, the following information:

- the plan membership entry date;
- the retirement date;
- the amount of the pension entitlement; and
- the payment commencement date to the member and to his or her beneficiary or estate (if applicable).

My employee terminated his or her employment and his or her pension entitlement was transferred out of the plan. Do I still have to maintain the plan records for this individual?

All plan records pertaining to this individual do not necessarily have to be kept. However, it is important for the administrator to retain at least a summary of the individual's plan records that will provide confirmation of his or her payment status. The individual's records should include, as a minimum, the following information:

- the plan membership entry date;
- the termination date;
- the vested status as of the termination date;
- evidence of the disclosure made to the member at termination;
- any options that were elected by the member; and
- the payment amount and date it was made, including any evidence that substantiates the payment information (such as bank statements, receipts showing the transferred amount and destination, etc.).

An individual has come forward claiming that he or she was a former employee of the company over 30 years ago and is certain that he or she has an unpaid entitlement under the company's pension plan. What is the administrator's obligation to this individual?

Where the administrator is unable to verify the individual's membership under the company's pension plan, the individual has to provide the administrator with evidence of his or her employment and/or membership in the plan. The type of evidence that is required may vary depending on whether the plan provides mandatory or optional membership. For instance, if the terms of the plan required all employees to join the plan from their date of hire, the individual may only be required to provide proof that he or she was a former employee of the company. However, if the terms of the plan gave employees the option of joining the plan, the individual may need to provide proof of membership in the plan.

Once the individual's employment and/or membership in the plan has been established, the onus is on the administrator to verify whether or not this individual has been paid his or her entitlement under the plan. The administrator must be able to provide evidence in support of the conclusion.

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If plan records are missing, what are some of the resources available to plan administrators?

The administrator may request a plan viewing at FSCO's premises to view current and historic plan documents that are in FSCO's possession. Please note, however, that FSCO does not maintain personal data about individual plan members and the details of their benefits and entitlements.

If annuities have been purchased for employees or their beneficiaries, the OmbudService for Life & Health Insurance (OLHI) may be able to direct the administrator (or the owner of the annuity) to the insurance company that holds the purchased annuity (contact OLHI toll-free at 1-800-268-8099 or visit OLHI's website at www.olhi.ca).

A company has closed down its business and has wound up its plan. When do the administrator's responsibilities end with respect to the plan records?

Where a pension plan is terminated, the pension fund of the pension plan will continue to be subject to the PBA and Regulation until such time as all pension entitlements owed to the plan beneficiaries have been paid in full and no assets remain in the pension fund. In order to be discharged of further obligations with respect to the pension plan, the administrator must be able to demonstrate that the payments from the pension fund have been made in accordance with the plan terms and the requirements of the PBA and Regulation. This means that the administrator may remain responsible for the plan records long after the wind up date of the plan. Therefore, it is important for the administrator to make arrangements with an external service provider (for example, the custodian of the pension fund, a consulting firm, a company specializing in third-party administration, etc.) to ensure that members will continue to have a contact person for the settlement of their pension entitlements.

An individual who has a certificate showing that he or she is a deferred vested member of a pension plan has come forward several years after the plan was wound up. This individual is claiming that he or she did not receive his or her entitlement under the plan. What is the administrator's obligation to this individual?

The administrator must be able to confirm whether or not this individual was included in the wind up and confirm if payment has been made to this individual. If payment has not been made, the administrator must take appropriate steps to ensure that this individual receives his or her entitlement under the plan. The termination of the plan does not relieve the administrator of the obligations in respect of members who did not receive their entitlements.

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Plan Member

I was an employee of company ABC over 30 years ago and was a member of the company's pension plan. When I left the company, I am certain that I did not receive my pension entitlement. What should I do?

You should first check your personal records and find any documents that indicate you were a member of the pension plan or an employee of the company (for example, plan enrolment or plan termination forms, annual statements of pension benefits, T4 statements, Record of Employment statements, etc.). Once you have this information, you should contact the human resources department of the company and ask to speak with the individual who is responsible for the administration of the pension plan. You may need to write to the individual and provide him or her with proof of your membership in the plan and/or proof that you were a former employee of the company.

If you are not satisfied with the company's response, you may write to FSCO for a review of your case at:

Pension Plans Branch
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 4th Floor
Toronto ON M2N 6L9

Please include any correspondence between you and the administrator of the pension plan, along with written authorization allowing FSCO staff to contact the administrator on your behalf and forward to the administrator copies of any correspondence you have provided to FSCO.

I am a deferred vested member of company ABC. I recently found out that the pension plan was wound up and the company closed its operations. I did not receive my pension entitlement. What should I do?

You may write to FSCO for assistance at:

Pension Plans Branch
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 4th Floor
Toronto ON M2N 6L9

Please note that FSCO does not maintain personal data about individual plan members and the details of their benefits and entitlements under any pension plans. Therefore, you will need to provide FSCO with copies of any relevant documents that indicate you were a member of the pension plan, along with written authorization that allows FSCO staff to contact your former employer or any other person on your behalf, and forward to that person copies of any correspondence you have provided to FSCO. FSCO will assist you in determining who to contact for the payment of your pension entitlement.

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How to Provide Comments

FSCO welcomes comments regarding this consultation document. There are a number of options for submitting your comments.

1) You may send your comments by e-mail to: pensionconsultation@fsco.gov.on.ca
 Please include in the subject line of your e-mail "**records retention**".

2) You may mail your comments to the following address:

   Attention: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street
   Box 85, 8th Floor
   Toronto ON   M2N 6L9

   Please include a subject line in your letter referencing "**records retention**".

3) You may send your comments by fax to (416) 226-7787. Please include a subject line in your fax referencing "**records retention**".

Submissions for "**records retention**" are due by **February 26, 2010**.

Thank you for your interest and participation.

Please note that submissions will be made publicly available on FSCO's website (www.fsco.gov.on.ca) at the end of the consultation period. If you do not want your submission to be made public, please clearly indicate this in your submission.

February 15, 2010

Mr. Bob Christie
Chief Executive Officer and Superintendent
Financial Services,
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto, ON M2N 6L9

Dear Mr Christie:

Consultation Policy on the Management and Retention of Pension Plan Records by the Administrator

The ACPM, through its Ontario Regional Council, is pleased to provide comments on FSCO's recently published Consultation Policy on the Management and Retention of Pension Plan Records by the Administrator.

Established in 1976, the ACPM advocates for an effective and sustainable Canadian retirement income system. Our members are drawn from all aspects of this industry from one side of this country to the other. They represent over 300 pension plans consisting of more than 3 million plan members, with assets under management in excess of $300 billion.

The ACPM promotes its vision for the development of a world-leading retirement income system in Canada by championing the following Guiding Principles:

- Clarity in legislation, regulations and retirement income arrangements;
- Balanced consideration of other stakeholders' interests; and
- Excellence in governance and administration

The ACPM regularly advocates and participates in public dialogue on pension issues.

We are very much in favour of and commend FSCO for establishing a formal policy on Pension Plan records retention. We support clarity in this area and trust that a final policy can be developed that balances the need for suitable record retention and the costs associated in achieving and maintaining the desired objectives. Up to this point there has been very little guidance on the safe retention period for documents falling outside of those already covered by CRA for financial matters.

We provide the following comments with respect to the Policy:

- We expect that FSCO, when auditing a plan, will see this policy as laying out minimum standards. For example a Plan should have, at the very least, a document list, and a retention schedule and evidence of adherence to same.

- In addition to the items listed to be covered under a written records management policy, we believe FSCO should also include the requirement for a comprehensive updated list of all documents, by type, held by the fund. This living list would describe each category of document and its purpose and location.

We look forward to discussing these issues further with you and your policy advisors in the coming months.

Sincerely,

Bryan D. Hocking
Chief Executive Officer

cc:

Charlene Moriarty, Chair, ACPM Ontario Regional Council
Scott Perkin, President, ACPM

Multi-Sector Non Profit Benefit Plan Administrators

105 Commerce Valley Drive West, Suite 310, Markham, Ontario L3T 7W3 Telephone: 905-889-6200 • Fax: 905-889-7313

Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 8th floor
Toronto, ON M2N 6L9

Dear Sirs;

Re: Consultation regarding Management and Retention of Pension Plan Records by the Administrator

I am the General Manager of MS (Multi-Sector) Non-Profit Benefit Plan Administrators ("Administration Corporation"), the not-for-profit corporation which administers the Nursing Homes and Related Industries Pension Plan ("NHRIPP") and the Multi-Sector Pension Plan ("MSPP").

The NHRIPP is a defined benefit, multi-employer pension plan with 373 contributing employers, 38,000 active members, 4,70 retirees and assets of approximately $690 million. The NHRIPP's membership is comprised of unionized and non-unionized employees in the nursing and retirement home industry. It is now the standard pension plan for the nursing and retirement home industry in Ontario.

The MSPP is also defined benefit, multi-employer pension plan. It has 103 contributing employers, about 8,000 active members, approximately 100 retirees and assets in excess of $41 million. Unlike most multi-employer pension plans, the MSPP does not restrict its membership to employees of any particular industry. Rather, participation in the MSPP is available to unionized employees in all industries, except the nursing and retirement home industry.

As the administrator of pensions plans with a combined membership in more than 50,000 active members and retirees, the Administration Corporation was pleased to learn that the Financial Services Commission of Ontario ("FSCO") is considering adopting a policy to provide guidance to plan administrators regarding the management and retention of pension plan documents.

However, in our view, the contents of FSCO's proposed document management and retention policy fall far short of what is required to provide meaningful assistance to pension plan administrators. The proposed policy only provides a list of factors which, in theory, should be considered during the development of a management and retention policy for plan documents. Most of those considerations are already very familiar to professional plan administrators. The proposed policy provides virtually no guidance as to what a document management and retention such policy should actually contain.

Rather than a mere list of considerations, the Administration Corporation submits that FSCO should implement a document management and retention policy which contains specific requirements for administrators to satisfy to demonstrate that they have fulfilled their fiduciary obligations to plan members and beneficiaries.

For example, we submit that any document management and retention policy must, at the very least, include the number of years the various types of documents must be retained and the formats which are acceptable for such retention.

Without such guidance from FSCO, plan administrators will undoubtedly continue the current widespread practice of keeping all plan documents indefinitely, which in turn requires the plans themselves to absorb the considerable costs of storing what in the case of the Administration Corporation are millions of documents, for all time. We submit that the costs of such indefinite storage are expenditures which would be much better spent in actually providing benefits to plan members.

Furthermore, we submit that the proposed policy in its current form will generate a great deal of work for administrators, much of which will have to be repeated for each pension plan. In order to make the process more efficient, and to avoid the needless duplication of efforts, we submit that any document management and retention policy adopted by FSCO should include a basic draft policy which could, in turn, be readily adapted to the individual circumstances of each pension plan.

Finally, we submit that when a document management and retention policy is implemented by FSCO, it is important that sufficient time be provided to plan administrators so that they are able to transition from their current policies to those required by the FSCO policy.

Sincerely,

Martin Kogan

Martin Kogan
General Manager

From: Carl Weise [redacted]
Sent: Wednesday, January 13, 2010 2:10 PM
To: Pension Consultation
Subject: Records Retention

Three brief comments:

Under Management of Plan Records (c) Insolvency of a Plan Sponsor
This consultation policy states that: "If the employer is the administrator and has not been relieved on the administrative functions, this administrator remains responsible for the management and retention of the records."

For this statement to be meaningful, there needs to be consequences – will the FSCO place a lien on this insolvent employer, sue this insolvent employer, establish jail sentences against individual employees of this insolvent employer and/or hold some individual employees financially responsible for future claims or other financial obligations/penalties. With no consequences, the stated responsibility means nothing and should be removed.

In response to the question regarding a company has closed down its business and has wound up its plan – When do the administrator's responsibilities end with respect to the plan records? This consultation policy states that: "This means that the administrator may remain responsible for the plan records long after the wind up date of the plan."

Again, for this statement to be meaningful, there needs to be consequences – will the FSCO place a lien on this company, now a non-existing legal entity, sue this non-existing legal entity, establish jail sentences against former individual employees of this non-existing legal entity and/or hold some former employees of this non-existing legal entity financially responsible for future claims or other financial obligations/penalties. With no consequences, the stated responsibility means nothing and should be removed.

I would have hoped that the FSCO could have established a retention period for these records. For example,

100 years after wind up of pension plan or pension fund is exhausted, whichever occurs earlier

The 100 year period covers a reasonable period of time for all beneficiaries who remain alive to make their claims. Until the pension fund is exhausted covers the reality that if there is no money, there can not be any payouts.

I appreciate your concerns for pensioners – I will be one in a few years!

As we have moved to electronic records, I am sure you are aware of the enormous costs of preserving this information for long periods of time. I can see these administrative costs eroding the value of these pension plans.

Thank you!

18 January 2010

Attention: Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 8th Floor
Toronto, ON M2N 6L9

Dears Sirs:

Re: Records Retention

The DuPont/INVISTA Pensioners Association-Canada have reviewed the consultation document issued in association with the above referenced subject, and wish to register the following comments:

- We wholeheartedly endorse the need to address this issue. It is of fundamental importance to potential pension plan beneficiaries that reliable, complete, and accessible information be maintained and retained so that all potential claimants might have their benefit eligibility established via a system aimed at that objective, and having integrity.

- The proposed system, in good part, recognizes that anything less will not satisfy the need for such information. Furthermore, it is totally impractical to expect an individual to have retained the miscellaneous 'pieces of paper' they may have been given over course of their employment history which might establish pension benefit eligibility.

- We would expect that pension plan sponsors/administrators will argue strongly that the proposed records retention system is unduly onerous and costly. While this argument might have had some validity in the past, today's information management systems are largely electronic, readily updated, and involve minimal storage costs.

- We note that as currently worded, several points are expressed in the context of FSCO's expectations and/or recommendations. For example:

  P1 final sentence....".........FSCO would expect the...."
  P3 third para.........."......is therefore recommended that......"

  We are of the opinion that as little as possible should be left to the discretion of the plan sponsor/administrator, and that a clear "requirement" would more effectively serve the purposes of a sound records retention system.

As a closing observation, we also note that the material issued on the referenced subject does not include any routine audit provision. Possibly this is provided for elsewhere. In any event, we see this as a fundamental requirement and would advocate that the sponsor/administrator be required to annually report their compliance to FSCO.

We thank you for your invitation to provide comments.

Yours sincerely,

M.A.Neil Quigley, Vice Chair
DuPont/INVISTA Pensioners Association-Canada
613 545 0844
ww.dipac.ca

Footnote: The mandate of the DuPont/INVISTA Pensioners Association-Canada, an incorporated not-for-profit organization, is promoting the maintenance and protection of the pension and benefits interests of approximately 3200 retired employees of (the former) DuPont Canada Inc. and its current successor, INVISTA (Canada) Company.

From: Cheridah Luke [redacted]
Sent: Monday, March 01, 2010 4:24 PM
To: Pension Consultation
Cc: Cheridah Luke
Subject: Records Retention

Dear Sir/Madam:

I was very interested to read the Consultation Policy concerning the above topic. And although I believe that many administrators keep very good records there are 2 areas which I would like to address. They are as follows:

- that the specific requirements be prospective only, and
- a fee be charged, as required by many financial institutions such as banks, for historical personal information. Such a fee would be charged by the administrator in order to confirm that a person was a plan member at one time.

Prospective only

One of the concerns I have is the requirement for confirmation of payment going back many years where computer systems may not have been as sophisticated or where such systems have since been updated to remove records of prior payments where such records are no longer associated with a liability of the plan. With many mergers and acquisitions of companies, downsizing and corporate changes in recent years, information may no longer be readily available or may not have been transferred over to the new entity. This may be a reality for many small plans and therefore an onerous task for them to provide confirmation of information previously communicated to the member and thought no longer necessary. To this point, a suggested period of time for keeping old records that are no longer a liability of the plan could be a consideration on a prospective basis.

Fee charge

The other point is the matter of the work involved in tracking information of prior years, particularly if the records are not easily available, as is the case with hardcopy archives. I suggest a fee be considered to cover the cost for staff to perform the search for information which members were already provided with at the time of the transaction.

It is my hope that these two points be given consideration before the policy is finalized.

Yours respectfully,

Cheridah Luke
DB Admin Manager
Phone: 416-696-3963
Fax: 416-429-3794

Eckler Ltd.
110 Sheppard Avenue East
Suite 900
Toronto, Ontario
M2N 7A3

Before printing, think about the environment

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In December of 2009, the Financial Services Commission of Ontario ("FSCO") released a consultation policy entitled Management and Retention of Pension Plan Records by the Administrator - PBA s.22 (the "Policy"). While we support the spirit of the Policy, there are a few points which we believe require clarity or revision. Specifically, we direct your attention to:

- The perceived duplication of records retention between FSCO and administrators of registered pension plans;
- The unclear definition of pension plan records; and
- The potential for disputes between plan administrators and third party providers regarding conflicting record management and retention policies.

Until such time as the above have been addressed by FSCO, we are of the opinion that the Policy should not be implemented as currently written.

Duplication of Records Retention

According to the Policy, the plan administrator will be responsible for records retention as long as there is the potential for claims related to pension entitlements. This could mean retaining records indefinitely which would place an enormous burden on plan administrators in terms of the time, effort and especially the cost of storing large quantities of records. We believe that this burden can be lessened by removing the duplication of records retention between FSCO and plan administrators in relation to general or supporting plan records.

More specifically, supporting plan documentation such as plan texts, plan amendments, funding agreements, actuarial reports, financial statements and annual information returns should be assigned a specific amount of time to be retained by plan administrators. For example, more pertinent documentation (plan texts and amendments) can be assigned a longer retention period than less pertinent documents (annual information returns and financial statements). All supporting documentation is required to be filed with FSCO pursuant to the *Pension Benefits Act* and FSCO's records are maintained indefinitely. Therefore, if supporting documentation is assigned a particular retention period, plan administrators will not have to absorb the associated costs of indefinite records retention. In the event a plan administrator requires historical plan documentation to settle a dispute or make an application to the Superintendent of Financial Services, then the plan administrator can retrieve any relevant documentation in accordance with FSCO policy P500-002 Photocopies of Files under Section 30 of the PBA. Such a change to the Policy would lessen the burden of records retention for plan administrators while continuing to ensure that records remain available for as long as needed.

Defining "Plan Records"

(a) General Plan Records

It is our opinion that a fleeting reference to s. 45 of the *Pension Benefits Act* is not sufficient for plan administrators to fully understand what constitutes a "general plan record" that is required to be maintained indefinitely. We believe that FSCO should be forthcoming with a definitive list, specifically outlining what constitutes a "general plan record" in order to eliminate any guess work required by the plan administrator.

(b) Individual Plan Records

Not unlike our argument in paragraph (a) above, we believe that FSCO should more clearly define "individual plan records". We recommend that a list of what must be included in "individual plan records" as a minimum should be included in the Policy, as it was in relation to plan records for members who transfer their entitlements out of the pension plan (pg. 5 of the Policy). Also, we would suggest that in order to ease the burden imposed upon plan administrators through indefinite records retention, plan administrators be permitted to keep summaries of individual records where appropriate, as opposed to the full and complete copies of documentation.

We also would suggest that the records retention guidelines be amended to address the possible differences between records that must be kept for vested members versus non-vested members. The legal ramifications applicable to a vested member versus those of a non-vested member would likely be different. As such, the Policy should adequately reflect such differences. We believe that the records retention for a non-vested member should be far less onerous.

Conflicting Retention Policies – Plan Administrators versus Third Party Providers

The Policy states that where plan records are maintained by external service providers, a copy of the plan administrator's records management and retention policy should be provided to the service provider, and the contract for services should address the administrator's policy as well as the treatment of records at the end of the contract. In practice, this may be too rigid as plan administrators and service providers are likely to have different approaches to records retention and conflicting records retention policies.

We recommend revising this section of the Policy to afford plan administrators and service providers greater flexibility in this regard. In our view, where plan records are maintained by external service providers, plan administrators should simply be required to use contractual or other means to ensure that the plan records are appropriately managed and retained. In practice, this could mean that the service provider will agree to follow the plan administrator's records management and retention policy, its own policy, or some other form of agreement reached by the two parties. (This model would mirror the approach described in section 4.1.3 of Schedule 1 of the *Personal Information Protection and Electronic Documents Act* which deals with the protection data and records that are held by external service providers.)

Thank you for providing this opportunity to comment on this consultation document. We note that records retention is addressed in Bill 236 and will subsequently be prescribed by regulations to be drafted at a later date. We presume that any conflicts that arise between the Policy and forthcoming regulations shall be addressed if and when they arise.

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March 2, 2010

By email to: pensionconsultation@fsco.gov.on.ca

Attention: Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 8th floor
Toronto, ON M2N 6L9

Dear Sir or Madam:

Re: Records Retention

On behalf of Morneau Sobeco, I am pleased to submit our comments regarding the Consultation Policy on the Management and Retention of Pension Plan Records by the Administrator (the "Policy"). Morneau Sobeco has over 150 clients who sponsor pension plans that are registered in Ontario. We are the largest Canadian-owned actuarial and human resources consulting firm with approximately 2,300 employees, including more than 120 actuaries and Associates of the Society of Actuaries as well as ten pension lawyers.

Introductory Submissions

We agree with the importance of document and records management. We anticipate that records retention policies are likely to have already been implemented for many defined contribution plans as a result of the Capital Accumulation Plan Guidelines (the "CAP Guidelines") and note that the adoption of a records management policy is recommended in Principle 7 of the October 2004 CAPSA Pension Plan Governance Guidelines (the "CAPSA Guidelines"). We commend the Financial Services Commission of Ontario ("FSCO") for providing guidance with respect to the development of these policies. We also note that the publication of a FSCO policy on pension record retention will assist plan administrators in answering any criticism that they are retaining records for too long (i.e., in contravention of privacy legislation).

We would like to make three main points in our submission with respect to the Policy. Firstly, the Policy should clearly recognize that past practice may make it impossible for administrators to comply with the Policy on a retroactive basis. Second, since this is a very challenging area of pension administration, and it is just being developed in Canada, a Policy that is prescriptive will not be appreciated as much as a Policy that provides recommendations and offers insight and assistance. As companies become better able to respond to the recommendations, a more prescriptive policy could be developed. Third, we question the appropriateness of covering the obligations of other pension stakeholders with respect to records issues in separate policies (as you have noted in the Policy). It would seem to be most appropriate to cover all related aspects of record retention in one policy. It is important that plan members, in particular, recognize that they have responsibilities with respect to retention of their own pension records.

We have provided below a number of comments on the specific requirements of the Policy. In many cases these comments relate to our position as appointed administrator on a number of plans. Despite our encouragement to adopt a non-prescriptive approach, we have made a number of comments related to the policy as it is currently drafted.

Formal Records Retention Policy

The number of items required in the suggested records retention policy is extensive and may be excessive, for smaller plans. Plan administrators, particularly in respect of smaller plans, should be able to rely on the records retention policies of third party administrative service providers instead of adopting detailed policies of their own, provided the policy of the service provider is sufficient to protect the plan's records, in keeping with FSCO's Policy.

Maintenance of Plan Records – Future and Historical Obligations

We have concerns with the potential requirement to retain plan records long after the wind up date of the plan. If the Policy will require plan records to be retained after wind up, we suggest that some guidance be provided with respect to how long the documentation need be kept and that the specific type of records to be retained be identified. We question whether plan administrators can or should be required to retain documents or perform any other acts after the wind up in order to be discharged from liability in respect to the plan (suggested on page 5 of the Policy).

This is of particular concern for administrators appointed by the Superintendent of Financial Services pursuant to section 71 of the *Pension Benefits Act* (the "Act"). The on-going financial costs of storage and maintenance may not be chargeable to the plan and there would be no provision for payment to the administrator. It may also be impractical for the appointed administrator to hold plan records indefinitely for a large number of plans. Another issue is that plan records from the past are likely to be incomplete. The requirement for the administrator to demonstrate payment of past benefits may be impossible to achieve in practice, particularly for appointed administrators.

The Policy should make clear that the administrator is only required to make reasonable efforts to maintain the records necessary to administer the plan. Otherwise, a plan administrator could be required to make significant expenditures to attempt to meet a requirement that was not in place at the time certain records were created. As noted above, it is not appropriate to retroactively impose a requirement to maintain full historical plan records. Such records may be unobtainable.

Individual Plan Records

The Policy states that, among other types of information, the administrator should retain a copy of the election form or notice signed by an employee concerning his or her decision to join or not join the plan, as well as the disclosure made to the member at the time an option to transfer was selected. These requirements would be particularly difficult for an appointed administrator to meet in respect of periods before the appointment took place.

It is also suggested that an administrator should retain any evidence that substantiates the payment of the member's entitlement, where a member has transferred his or her entitlement to a third party. This may be impractical depending on the type and format of the records provided by the financial institution.

Onus on Administrator

The Frequently Asked Questions (found at page 7 of the Policy) state that, once the individual's employment and/or membership has been established, the onus is on the administrator to verify whether or not the individual was paid their entitlement under the plan. The administrator must be able to provide evidence in support of its position.

While we agree that it is desirable to maintain complete plan records, we question whether the regulator legally can create an "onus" on plan administrators to demonstrate performance of an obligation to plan members, particularly in the context of a Policy based on section 22 of the Act. The evidentiary burden on an administrator to demonstrate payment would seem to be a matter of contract, trust or evidence law.

An "onus" on plan administrators could allow former members to claim double-benefits, to the detriment of both the employer and the pension fund, based on insufficient record-keeping or lost records historically. In addition, it is unclear what constitutes sufficient evidence, particularly in an age of electronic record-keeping. A plan administrator's records, or the records of its third party service provider, should be sufficient to prove payment.

Finally, we note that the wording in the Frequently Asked Questions appears to be stronger on this point than the body of the Policy. We would suggest that the Frequently Asked Questions should only have content reflecting the Policy and should ideally be a separate document.

Conclusion

As noted above, records retention is a very challenging area of pension administration, and it is just being developed in Canada. We would, therefore, encourage FSCO at this point to develop a policy that provides recommendations and offers insight and assistance, rather than imposing a prescriptive policy.

Yours truly,

Morneau Sobeco Limited Partnership

B. Bethune A. Whiston

Partner

ONTARIO BAR ASSOCIATION
A Branch of the Canadian Bar Association

L'ASSOCIATION DU BARREAU DE L'ONTARIO
Une division de l'Association du Barreau canadien

February 25, 2010

Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 8th floor
Toronto, ON M2N 6L9

Attention: Pension Policy Unit

Dear Sirs/Mesdames:

Re: Records Retention

The Executive of the Pension & Benefits Section of the Ontario Bar Association has reviewed the Financial Services Commission of Ontario's consultation paper entitled *CP – Management and Retention of Pension Plan Records by the Administrator – PBA s.22* and have prepared the enclosed submission. This submission has been reviewed and approved by the OBA's Board of Directors.

Attached is a copy of our submission. Thank you for your consideration. Please contact us if you have any questions.

Yours truly,

Carole J. Brown
President
Ontario Bar Association

Mitch Frazer
Chair, Pension & Benefits Section
Ontario Bar Association

OBA Submission on the Proposed Policy on Management and Retention of Pension Records by the Administrator

Date: February 25, 2010

Submitted to:
Attention: Pension Policy Unit
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 8th floor
Toronto, ON M2N 6L9

Submitted by:
Carole J. Brown
President, Ontario Bar Association

Mitch Frazer
Chair, Pension & Benefits Section
Ontario Bar Association

ONTARIO BAR ASSOCIATION
A Branch of the Canadian Bar Association

L'ASSOCIATION DU BARREAU DE L'ONTARIO
Une division de l'Association du Barreau canadien

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Introduction

We are pleased to provide this submission on behalf of the Ontario Bar Association ("**OBA**"). The OBA represents close to 18,000 lawyers from a broad range of sectors, including those working in private practice, government, non-governmental organizations and in-house counsel. Our members have, over the years, analyzed and provided comments to the Ontario government on numerous legislation and policy initiatives.

Our Pension and Benefits Section has about 300 members representing various stakeholders within the pension and benefits industry. These stakeholders include pension and benefit plan administrators (including third party service providers), employers, unions, employees and employee groups, trust and insurance companies, pension and benefits consultants, and investment managers and advisors.

In December 2009, the Financial Services Commission of Ontario ("**FSCO**") released a Proposed Policy on Management and Retention of Pension Records by the Administrator (the "**Proposa**l"), which is intended to "discuss the long term commitments and responsibilities of the administrator of a pension plan in the management of pension plan records" and "to provide guidance for prudent records management and retention practices".

We appreciate FSCO's efforts to more fully define the duties and obligations of an administrator with respect to management and retention of plan records. Indeed, this is an area in which many of our members would like to see clear guidance from FSCO. However, our members have expressed serious reservations regarding the Proposal. Specifically, they are concerned about the following:

- The implication that plan records be kept indefinitely;
- The absence of clear guidance on what constitutes a "plan record";
- The expectations placed on third party administrators; and
- The somewhat-unrealistic burden placed on administrators appointed by the Superintendent pursuant to Section 71 of the *Pension Benefits Act* (the "**PBA**").

Given the above noted difficulties, which are described in greater detail below, we believe that the Proposal should not be implemented in its current form. Rather, we encourage FSCO to form a working group so that a records management and retention policy may be discussed and developed with the involvement of pension stakeholders. The OBA would be pleased to participate in any such process.

Indefinite Retention

Our members believe that the underlying purpose of the Proposal is to provide a helpful guide to administrators in fulfilling their role, and applaud FSCO in its efforts to provide such a guide. However, at page 2, the Proposal states:

> "the administrator will generally be responsible for the records as long as there is the potential for claims related to pension entitlements by members, former members, any other persons who have an entitlement under the plan and their estates"

In so stating, the Proposal is essentially requiring indefinite retention of all plan records. This is especially troubling given FSCO policy A300-800, which recommends retaining certain plan records for the life of the plan and not until all potential for claims is exhausted. Our members believe indefinite retention to be an impractical, costly and unrealistic expectation. Our members believe that it is not necessary or desirable to require an administrator to keep everything, forever.

This aspect of the Proposal is particularly troubling to our members because the Proposal indicates that records management and retention is an administrative duty linked to Section 22 of the PBA. Given that a failure to administer a plan properly carries with it possible legal and financial liability and our submission that indefinite retention of plan records is not feasible, our members feel that the Proposal is inappropriate when measured against its purpose.

As a result, we believe that the Proposal should not be implemented in its current form. Instead, we encourage FSCO to develop a records management and retention policy, in consultation with pension stakeholders, that provides clear guidance to administrators on records management and retention, and specifically as to how long plan records ought to be retained.

Most administrators of small to mid-sized Ontario registered pension plans, and those tasked with carrying out the records management and retention function, are not equipped to determine what needs to be retained and for how long. Accordingly, any policy developed by FSCO should be very clear as to what records are to be retained and for how long. Specific suggestions on what might be contained in such a policy are contained below.

The Definition of "Plan Record"

The Proposal identifies "any documents related to the pension plan, regardless of physical format, that have been either created or received by or for the administrator during the operation of the pension plan" as plan records. Our members feel this definition is too broad and will cause confusion for administrators about which documents need to be retained, thus adding to plan administration expenses. Our members would like FSCO to develop a clear and comprehensive policy that lists the various types of plan records administrators are be expected to retain. We note that the Proposal lists certain categories of documents, namely:

"documents that create and support the pension plan and pension fund; documents that pertain to the operation of the pension plan and pension fund; documents that pertain to the investment of the pension fund; and documents that pertain to individual plan members"

Our members would support further developing these categories. In addition, our members would like FSCO to identify the particular types of plan records that would fall within each category along with an appropriate minimum retention period for each such plan record.

For illustration purposes, we have included a chart below similar in format to what our members would welcome as part of a FSCO policy on records management and retention.

TYPE OF PLAN RECORD	DOCUMENT	MINIMUM RETENTION PERIOD
Documents that create and support the pension plan	Plan text	[Appropriate retention period to be determined]
	Amendments to the Plan text	
	Restatements of the Plan text	
Documents that create and support the pension fund	Trust agreement/ Group annuity contract	
	Amendments to the trust agreement/ Group annuity contract	
Documents that pertain to the operation of the pension plan	Annual Information Returns	
	Third party contracts with consulting firms	
Documents that pertain to the operation of the pension fund	Monthly balance statements	
Documents that pertain to the investment of the pension fund	Statement of investment policy & procedures	
	Investment management agreements	
Documents related to the plan member	Signed Termination Statements	

In addition to the foregoing, our members suggest that those records applicable to defined benefit or defined contribution plans be delineated, as the list of plan records generated differs depending on plan design.

Finally, our members believe that administrators should have a reasonable transition period to make any changes to their current practices necessary to comply with any new policy, and grandfathered where the administrator's policy with respect to historical documents does not accord with the retention period developed by FSCO.

Third Party Service Providers

The Proposal recognizes that some plan administrators choose to delegate day-to-day administration tasks to third party service providers. In such circumstances, those third party service providers will collect and store many plan-related records. However, we submit that in some areas, the Proposal may be in conflict with the practical realities of such relationships.

For example, the Proposal would see each plan administrator develop a comprehensive records management and retention policy; however, third party service providers are unlikely to agree to review and address the specifics of every administrator's records management and retention policy. Not only would such a requirement be exceedingly difficult to manage, but it would also lead to a significant increase in the costs of plan administration as measures are taken to compare, reconcile and modify various records management retention policies, with little corresponding benefit to the administrator or plan members. Our members see this as another reason why clear guidance from FSCO on records management and retention is necessary.

Another issue with respect to third party service providers concerns proprietary documents created in the course of administering a plan. While third party service providers generally agree to return plan-related records to an administrator upon termination of a service contract, this would typically exclude information and documents proprietary to the third party service provider; that is, there may be records that are created for the purposes of plan administration, but which, if disclosed, would result in serious harm to the business of the service provider. What is viewed as proprietary will vary from provider to provider, but may include (for example) procedural manuals, system-generated worksheets and profiles, working notes, test cases, etc. We suggest that such documentation be excluded from any records management and retention policy.

Administrators appointed by the Superintendent

The Proposal indicates that any entity acting as the administrator becomes responsible for plan records. In the event that a plan administrator is unable or fails to act in the winding–up of a pension plan (e.g. where the administrator is bankrupt), and another is appointed by the Superintendent pursuant to Section 71 of the PBA, the Proposal implies that the appointed administrator becomes responsible for all plan records, both historical and current. This responsibility is problematic for an appointed administrator both in terms of the potential liability that may arise as well as the costs that will inevitably be incurred.

Given the circumstances surrounding an appointment, in most instances the plan records inherited by an appointed administrator will be incomplete. In other cases, plan records will be virtually non-existent. One can easily imagine scenarios where an appointed administrator could be exposed to liability. For example, a deferred/former member could claim an entitlement to a pension, providing the appointed administrator with evidence of past employment or membership. In such a case, the appointed administrator who does not have the appropriate plan records to confirm or refute such a claim would be exposed to liability.

Our members therefore suggest that any policy instituted by FSCO address the unique position in which administrators appointed by the Superintendent find themselves with respect to plan records.

The OBA thanks FSCO for the opportunity to provide comments on the Proposal. We would be pleased to assist FSCO in refining the Proposal so as to make it clear, unambiguous, and helpful to administrators.

Submission Working Group

Co-Chairs

Andrea Boctor, Stikeman Elliot

James Pierlot, Towers Watson

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November 25, 2014

Financial Services Commission of Ontario

Via Email to pensionconsultation@fsco.gov.on.ca

Re: FSCO Guidance Note "Prudent Investment Practices for Derivatives"

Dear Sirs and Madams,

OMERS Administration Corporation ("OAC") appreciates the opportunity to provide comments on FSCO's Guidance Note "Prudent Investment Practices for Derivatives" ("Guidance Note").

Under the Ontario Municipal Employees Retirement System ("OMERS") Act, OAC is the administrator of the OMERS pension plan, one of Canada's largest multi-employer defined benefit pension plans, and trustee of the OMERS pension funds. As of December 31, 2013, OMERS had more than C$65 billion in net assets and serves 982 participating employers and over 440,000 employees and former employees of municipalities, school boards, libraries, police, and fire departments, children's aid societies, and other local agencies across Ontario. OAC manages a diversified global portfolio of stocks, bonds, derivatives, real estate, infrastructure and private equity investments.

We support FSCO in its efforts of undertaking this initiative and generally agree with the practices outlined in the Guidance Note, including the idea that derivatives need to be monitored and managed in a thoughtful, prudent and comprehensive manner.

Our comments pertain to three components of the Guidance Note, which are outlined in further detail below, including: (i) the level of detail to be included for derivative investments in an administrator's Statement of Investment Policies and Procedures ("SIP&P"); (ii) the risk limit measures for derivatives and counterparty exposure; and (iii) the calculation methodology for quantitative derivative exposure limits.

1. The level of detail regarding derivative investments to be included in an administrator's SIP&P

OMERS is of the view that the SIP&P is a foundational document, that establishes the broad, overarching objectives, policies and procedures for the investment management of the pension fund. We believe that the SIP&P should specify the categories of permitted derivative instruments (e.g. credit, forwards, futures, options, swaps) and asset classes (equities, fixed income, currencies, commodities, etc.) to be invested in by the administrator and address the requirement that the administrator fully consider associated risks (identification, measurement, management and monitoring). However, given the broad range and complexity of derivative instruments, we propose that further details regarding permitted derivative investments, including instrument types, strategies, exposure limits and trading authority could be specified in the administrator's internal policies, guidelines and procedural documents.

2. Considerations be given to the guidance note risk limit measures for plan administrators with respect to derivatives and counterparties

OMERS supports that plan administrators should define and measure the level of risk to be taken across the fund including the use of derivatives and exposure to counterparties. Consideration should be given as to whether an across the board 10% limit for a counterparty to derivative and repo transactions is the most appropriate limit for managing counterparty risk. Pension plans should be required to perform credit assessments in order to define credit limits against each or associated counterparty, taking into consideration creditworthiness, collateral arrangements and ongoing monitoring factors and industry supported risk standards such as Basel.

3. Considerations be given to broaden the guidance note on quantitative derivative exposure limits to include various industry measures

We support the establishment of risk limits across the pension plan assets. Our comments would be to broaden the language as it relates to the quantitative derivative limits that can be applied. OMERS is of the view that pension plan administrators in varying degrees of asset size and strategies, including derivative usage, apply various risk based measures within their policy limits. Pension plans may choose to utilize quantitative measures of risk and exposure to monitor and measure the risk of their portfolios, including derivative instruments. Plans may use industry standard methodologies such as value at risk ("VaR"), potential future exposure ("PFE") and sensitivity and stress test measurements or other types of measures. The evolution of the derivative markets and risk practices over the past number of years such as the Basel standards and quantitative risk models and systems that have become available

OMERS

provide market participants with various measures to employ for managing risks across plan assets, including derivatives. Pension plan administrators may choose to utilize the various industry measures that ensure that they can manage the risks considering their investment strategies. Limits can be established based upon the various components of risk to be monitored including market, credit and liquidity risk.

We thank you for your consideration of our views.

Regards,

OMERS Administration Corporation

J Tsouvalis

Jenny Tsouvalis
SVP, Enterprise Head, Investment Reporting, Operations and Applications

cc: Jonathan Simmons, Chief Financial Officer, OMERS
Blair Cowper-Smith, Chief Corporate Affairs Officer, OMERS

OPTrust

OPSEU Pension Trust
Fiducie du régime de retraite du SEFPO

February 25, 2010

Mr. Philip Howell
Chief Executive Officer and
Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, PO Box 85
North York ON M2N 6L9

Dear Mr. Howell,

RE: Consultation Policy - Management and Retention of Pension Plan Records by the Administrator

We appreciate the opportunity to provide comments on the Financial Services Commission of Ontario ("FSCO") proposed policy "Management and Retention of Pension Plan Records by the Administrator – PBA s.22". We believe that FSCO has taken a positive step in continuing to undertake ongoing consultation with pension plan administrators on initiatives such as this. We also believe that this is an important aspect of pension administration that deserves greater attention and policy elaboration.

OPTrust and document management and retention processes

At OPTrust we currently employ a document retention process which ensures that useful records are preserved for the period of time during which their retention is useful or otherwise required by law.

The goals of the document retention process is to:

1. Retain important documents for reference and future use;
2. Delete documents that are no longer necessary; and,
3. Organize important documents for efficient retrieval.

The above-noted processes are targeted towards hard copy and electronic records. At OPTrust we believe that proper document retention procedures can reduce the business risk by identifying documents that are important. The most important aspect is to ensure that member, pensioner and beneficiary records are retained and stored in the most effective way possible. An additional benefit of this process is to ensure that various records are preserved in order to protect the organization in the event of an

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audit, vendor disputes or other matters where necessary documents can be used to support the organization's position.

The document retention process spells out several categories of records, as well as specific records that contain fixed retention periods. These include accounting records, bank records, tax records, corporate documents (including leases, sub-contracts, insurance documents and Audit Committee material), historical documents (legacy materials) and certain e-mails. Each type of document has a specific retention period assigned to its respective category.

Each administration department at OPTrust is responsible for boxing and preparing records (paper documents) for off-site storage. An inventory control of records is maintained for all off-site paper records which contain the details from when each department prepared the records and when they were sent for storage. On an annual basis, all records that are scheduled for destruction are identified as per the retention schedule. Electronic pension records are maintained in a number of databases currently in use at OPTrust.

Electronic records are also maintained and backed up by the Information Technology department. Any electronic records that are not stored on-site at OPTrust are also kept at the same facility as the paper records. The Information Technology department maintains an electronic backup policy and procedure document which is used for all production servers. It outlines specific retention periods for the tape rotation cycle. The Investment Division also maintains copies of their own records (in both electronic and paper format).

OPTrust also has access guidelines for staff to use when requests for pension file records are made. These guidelines outline the information that OPTrust should disclose following a request from a member or pensioner (or someone representing that individual) to access the contents of their pension file. The guidelines provide direction to staff on what to do when access requests are made, and which documents are to be released.

Comments on the proposed policy

OPTrust supports any measures taken to improve and formalize records management and retention processes. While the responsibilities of administrators is codified through section 22 of the *Pension Benefits Act ("PBA")*, what has been lacking to date are the specific guidelines for ensuring that records management and retention practices are properly followed. This policy document sets out the baseline for pension plan administrators to follow. Each plan must be cognizant of its responsibilities and this policy ensures that there is mandatory buy-in.

We support the policy as written in the consultation draft and do not have major changes to suggest. However, we would counsel some further clarification about the intent of having the administrator being responsible for reproducing excerpts from old plan documents in disclosure notices that are required to be distributed to plan beneficiaries. Further guidance on what constitutes "plan documents" (e.g., registration documents, plan texts, governing documents, amendments, etc.) would be of great assistance to administrators in evaluating those documents that must be kept permanently.

Conclusion

OPTrust will be expanding its existing document retention process to ensure that it complies with the proposed written records management and retention policy. Our goal is to ensure that on a go-forward basis, our policy reflects the items contained within the FSCO policy. We believe that enhancing the existing processes currently in place will ensure that we will have appropriate practices in place for how plan records are managed, retained and who is responsible within the organization for those records.

Once again, we commend FSCO on its commitment to solicit input from pension plan administrators, and hope that our comments will be of assistance to you.

We trust that our submission has been helpful in this regard, and are prepared to meet with FSCO staff if this would be of further assistance.

Sincerely yours,

Hamish Dunlop
Vice-President, Policy, Governance and Communications

TEACHERS'
PENSION PLAN - RÉGIME DE RETRAITE
DES ENSEIGNANTES ET DES ENSEIGNANTS

5650 Yonge Street
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February 26, 2010

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Financial Services Commission of Ontario
5160 Yonge Street
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Toronto, ON M2N 6L9

Attention: Pension Policy Unit

Re: Proposed Policy on Management and Retention of Pension Records

The Ontario Teachers' Pension Plan (Teachers') is a multi-employer defined benefit pension plan. It serves 175,000 elementary and secondary teachers, 114,000 retired teachers and their survivors, and 69,000 inactive members.

In its final report, the Expert Commission on Pensions encouraged the regulator to "develop guidelines and codes of best practices with regard to the provision of plan information to active and retired members in accessible form". We appreciate the efforts of the Financial Services Commission of Ontario to provide guidance on the retention of pension records but have three concerns about the proposed policy.

1. Scope – "Plan Records" Defined Too Broadly

On the third page of the proposed policy, "plan records" are defined as documents that create and support the pension plan and pension fund; documents that pertain to the operation of the pension plan and pension fund; documents that pertain to the investment of the pension fund; and documents that pertain to individual plan members.

Teachers' believes that the term "plan record" is defined too broadly, and should instead be limited to "general plan records" and "individual plan records", as those terms are explained on pages 4 and 5 of the proposed policy. We note that section 45 of the Regulations already provides guidance on which documents are classified as "general plan records". While the term "individual plan records" is not listed in the regulations, it is a self contained class of documents. Further, it is these two classes of documents that are key in the determination of benefit entitlements and other applications that may be made to the Superintendent. In contrast, documents relating to the operation and investment of the fund are not required for the calculation of benefit entitlements and should not be included in the policy.

2. Implications of Breach of Policy – Violation of Section 22 of the PBA

Section 22 of the *Pension Benefits Act* sets forth the standard of care by an administrator in connection with the administration and investment of a pension plan and related fund. We think that the proposed policy creates too strong a connection between the creation of a document retention policy and compliance with this standard of care. Given that a failure to properly administer a plan in accordance with the *Pension and Benefits Act* creates legal liability and our submission that the definition of "plan record" is too broad and ambiguous, Teachers' believes that the proposed policy, in its current form, is inappropriate.

3. Retention of Electronic Communication

Page 3 of the proposed policy states that where the administrator communicates electronically with the plan beneficiaries, the administrator must be able to reproduce or generate the information provided to them and any response. The proposed policy also references policy A300-805 and the CAPSA Guideline No.2, Electronic Communication in the Pension Industry. By incorporating the CAPSA Guideline into a policy that purports to define an administrator's fiduciary obligations, any breach of the Guideline could potentially be considered a violation of section 22 of the *Pension Benefits Act*. Instead, any FSCO policies that elaborate on a plan administrator's electronic communication obligations would be more appropriately included under new section 30.2 of Bill 236.

Summary

Teachers' appreciates this opportunity to provide comments on the Proposed Policy on Management and Retention of Pension Records by the Administrator. With respect, we submit that this proposed policy does not provide practical assistance to plan administrators for it does not define the requirements for the minimum retention standard for each of the classes of documents listed in the definition of 'plan records'.

We believe that this policy should only include general plan records and individual plan records. We recommend that the policy not include documents relating to the operation and investment of the fund.

We also suggest that any requirements concerning electronic communication be addressed in a separate policy under section 30.2 of the *Pension Benefits Act*, and not under section 22 of the *Pension Benefits Act*.

Please do not hesitate to contact me directly at (416) 730-6339 with any questions regarding Teachers' comments.

Yours truly,

A Slivinskas

Anne Slivinskas
Senior Legal Counsel, Member Services
Ontario Teachers' Pension Plan

ACPM/ACARR
The Association of Canadian Pension Management
L'Association canadienne des administrateurs de régimes de retraite

April 7, 2011

Financial Services Commission of Ontario
Attention: Tim Thomson, Project Manager
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Sir:

Re: FSCO Consultation Document on Risk-Based Regulation Framework

The Association of Canadian Pension Management (ACPM) is the informed voice of Canadian pension plan sponsors, administrators and their allied service providers. Established in 1976, the ACPM advocates for an effective and sustainable Canadian retirement income system through a non-profit organization supported by a growing membership and a team of volunteer experts. Our members are drawn from all aspects of the industry from one side of this country to the other. We represent over 400 pension plans consisting of more than 3 million plan members, with total assets under management in excess of $330 billion.

The ACPM promotes its vision for the development of a world leading retirement income system in Canada by championing the following Guiding Principles:

- Clarity in legislation, regulations and retirement income arrangements;

- Balanced consideration of other stakeholders' interests; and

- Excellence in governance and administration

ACPM is in general agreement with the direction proposed in FSCO's Risk-Based Regulation Framework consultation document. To use some of the words from the document's executive summary, we are encouraged by the desire to be more proactive and to focus more effort on those situations which pose greater risk. Rather than address each of the questions posed in the Consultation Document, our submission provides overall directional comments.

If we understand the document's intent correctly, this model would give FSCO more flexibility to dig deeper when warning signs appear and at the same time potentially pay less attention to bureaucratic matters if a pension plan appears healthy otherwise. We believe that this approach will be more effective in identifying problem areas sooner, particularly where FSCO resources may be limited.

This may mean that pension plans will receive different treatment, depending FSCO's risk assessment from the information received. This seems appropriate and should allow FSCO to get the "greatest bang for the buck" in supervising pension plans in the Province of Ontario.

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While the proposed process implies flexibility, the consultation document also addresses the need for quality control in the application of this process. It is important that stakeholders such as FSCO staff and the plans being supervised understand this tradeoff between flexibility and quality control. Therefore stakeholder education, as correctly identified in the document, is a very important issue.

While we agree with the general approach being proposed, the operational application of the process will have an enormous impact on how individual plans are scored and targeted for follow up. Also, it is not clear to us what the implications are if a plan does not score well on these measures. It should be made clear to plan administrators how assessments are done so that they can focus their efforts to reduce risk in an effort to stay off FSCO's radar screen. More clarity regarding definitions is required as well. For example, Table 2.1 refers to "qualified outsourced providers". It is unclear what this means and the answer to this question is important if it contributes to the assessment of a plan.

The type of plan being scored such as single employer plans, multi-employer plans (MEPPs) or multi-jurisdictional, could have important implications on the outcome depending on the metrics used. For example will MEPPs always, all else being equal, be scored as riskier than single employer plans and therefore more likely be subject to a Tier 1 or 2 review? Or will it be acknowledged that these plans are simply different and have a different "normal"? Likewise, client complaints are likely to be different depending on these plan types. If MEPPs tend to have more complaints will they generally be scored as riskier or will these issues be taken into consideration? Furthermore, in the case of MEPPs the security of benefits is an agreement between many parties and may vary substantially from one arrangement to another. For this reason we question the statement under section 1.2 that one of the objectives of risk-based regulation is that "regulation should enhance the security of plan beneficiaries' benefits". How will you judge whether the security of benefits is satisfactory or not? We believe these issues raised by plan type should be carefully considered. The security of benefits under a pension plan needs to be assessed within the context of the particular pension deal established and communicated between the parties as well as any potential impact on the PBGF.

Overall we are optimistic about the important changes outlined in the framework document and support your efforts. It is a move in the right direction. As outlined above we encourage you to closely examine the operational application of this process as this will determine satisfaction within your stakeholder groups. We also urge you consider the appropriateness of different treatment for different plan types. It is likely that your risk-based approach could be an iterative process which would be modified through time as experience with this program grows. Finally, we encourage FSCO to continue seeking input from stakeholders as you develop new regulatory tools indicated in Figure 2.5 to build and enhance the risk-based regulatory framework.

Sincerely,

Bryan D. Hocking
Chief Executive Officer

April 15, 2011

Mr. Tim Thomson
Financial Services Commission of Ontario
5160 Yonge Street
Toronto ON M2N 6L9

Dear Tim,

Subject: FSCO Risk-Based Regulation – Submission by Aon Hewitt

Aon Hewitt is pleased to be given the opportunity to comment on the FSCO Consultation Document entitled "Risk-Based Regulation Framework" dated March 2011.

1. *Do you agree with FSCO's overall approach to risk-based regulation?*

   In general, we believe that the Risk-based Regulation approach identified and detailed in the consultation document is a major step in the right direction and has been well thought-out. Risk-based regulation is an appropriate and prudent method of regulating pension plans, given limited resources and should enable FSCO to identify, monitor and act with maximum effectiveness in ensuring benefit security for pension plan members. So in answer to question 1, we do agree with FSCO's overall approach to risk-based regulation. It is far more effective than treating all plans in a like manner (the "shot-gun approach") which typically does not identify major issues or problems until it is too late, and creates unnecessary paperwork for the majority of plans.

2. *Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?*

   Yes, it appears to be much more effective than the current system of regulation, since it focuses on problematic plans and plan sponsors, and should in the long run enable FSCO to better protect the benefits of members who need the protection.

3. *Do you agree with the design principles on which the Framework is based?*

   Yes. We believe that the company/industry/sector risk is of paramount importance, and we are pleased to see that such risk assessment is an integral part of the model. In fact, if appropriate tools and screens could be developed, that might be the very first screen to determine enhanced level of scrutiny and regulation.

4. *Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?*

   Yes. We believe that the model considers all relevant factors necessary for input, analysis, monitoring and action. We trust that since you have dialogued with other pension regulators as discussed on page 9, you will attempt to use their experiences to maximize the effectiveness of the FSCO system, and avoid any issues in their experience that were problematic.

5. *Are the risk universe and related risk indicators appropriate for risk assessment purposes?*

   Yes. However, the relative emphasis of the risk factors should be carefully considered. For instance, investment strategy for large plans could be very complex and appropriate for the circumstances, and include alternative asset classes and asset-liability mismatches, and yet may be flagged by the system as high-risk. However, if complex investment strategies (such as alternative asset classes) are combined with consistent poor returns, then that would be far more serious and deserving of regulatory follow-up.

   Are there any other risk indicators that should be taken into account?

   Hypothetical wind up position could be more important than solvency position, particularly for plans that are in danger of wind up or where there is a solvency issue with the sponsor. As mentioned earlier, company/industry/sector risk is probably the factor that should be most heavily weighted in the determination of risk and regulatory action. In addition, relative (rather than absolute) solvency and hypothetical wind up position should be considered, since at times like the 2008-2009 financial crisis, most plans suffered huge declines in solvency and transfer ratios. Of course, the relative ratios would have to be calculated based on the particular filing date of the last actuarial valuation report (and maybe an internal adjustment factor could be used to compare plans as at the same date).

6. *Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?*

   The sources identified appear to be appropriate (AIR, AIS, Actuarial Valuation Reports, IIS, Financial Statements, Contribution Reports from Custodians, etc.). We understand that the SIP&P and other accounting disclosures, based on the recent Ontario budget, could also become part of the mix of data sources. Custodian reports of delinquent filings should be considered carefully before follow-up, because in our experience, the custodians/trustees do not always understand the Form 7's filed with them, and may inappropriately report contribution discrepancies. Also, perhaps it is not necessary for custodians/trustees to report overcontributions,as that should not be considered as a risk factor for members' benefit security. With respect to undercontributions, it is important for trustees/custodians to also understand the ability to use the Prior Year Credit Balance to take a contribution holiday before reporting to FSCO.

7. *Do you have any comments on the regulatory process flow and the related business processes?*

   These seem reasonable, but we await to see how the process flow and business processes will be used in practice. Overall, the processes seem quite complex and might require increased resources. It is extremely important though that the process use existing staff (or no increase in total staff at least). Ontario pension plans will inevitably be forced to pay (through the AIR Assessments) for such enhanced supervision. However, perhaps a mechanism can be introduced to charge affected high-risk plans (at least those in the intervention or proactive supervision quadrants) directly for increased supervision, rather than charge all plans equally for close supervision of only a few. Another possible mechanism for fairly charging for this enhanced regulation would be to add a surcharge to AIR Assessments for plans in high-risk categories or who need additional attention, and/or provide a discount for the lowest-risk plans. We have already seen significant increases in AIR assessments over the last few years and sponsors and administrators will not welcome much higher assessments than they are paying now.

8. *Do you consider the transition plan reasonable, in the light of FSCO's regulatory capacity and the stakeholders' expectation?*

   It is important to implement e-filings of various forms, as this will help enable FSCO to perform its risk-based supervision and will also ease the filing process for plan administrators. We also laud the plan to promote the knowledge and governance requirements for pension plans. As a general comment, we suggest not trying to build the perfect model from scratch, and perhaps start with only a few areas to monitor risk that are readily available. Then, as experience builds, try to gradually increase or modify tools and factors used to be more effective.

9. *Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation?*

   Yes, this would be an integral step in the introduction of the risk-based regulation, and must be done well in advance of implementation.

In addition to responses to your consultation draft, we have the following comments:

- It is extremely important to backtest the new system. In other words, check to see if the system would have been able to intervene early in the process to protect members' benefit security for actual cases of bankruptcy and insolvency where members' benefits were lost, or it was necessary to make PBGF claims. Likewise, once the system is in place, FSCO should monitor and measure whether there are decreased instances of members losing benefits and reduced severity of members losing benefits, and lower PBGF claims.
- Over the last few years, plan administrators started receiving system-generated notices, which can be problematic. In one case, such a notice was generated and sent to plan administrators merely due to a high level of equities in their asset mix, with ominous warnings of possible breaches of the PBA. In another recent case, plan administrators were notified of many potential serious problems with their IIS merely because of a $1 rounding issue. To ensure credibility in the new system, such one-off notices must be avoided. If a plan is in the monitoring stage, it is best to only communicate when there is a real issue, and it is best to communicate all relevant

issues at once, rather than many separate, independent letters for each small item that is identified needing further investigation. In addition, communications with plan sponsors/administrators should be specific to the case, and not include a "laundry list" of possible problems if only one issue actually applies.

- The system as outlined appears that it will require a great deal of human resources to implement and monitor. We strongly urge you to ensure that the system be designed with existing resources in mind, and not be developed in a vacuum oblivious to the costs that such a system could engender. Such additional costs would eventually need to be paid by the regulated plans, either the ones requiring attention, or all registered plans in the province.
- Similarly, FSCO must take the cost of compliance into account for plans that are in the proactive supervision and intervention stages. Additional service-provider fees should be considered when FSCO makes additional requests for information to enable the risk-based supervision. We encourage FSCO to perform as much analysis and review as possible without resorting to asking the administrator or sponsor for extraneous data or analysis, unless there is substantive evidence of a violation of the Act and regulations. When such information is requested, we suggest your processes be designed to request as much relevant information (to the potential problems) at once rather than in a piece-meal fashion.
- The system should be fluid. Until the system is in place and there has been experience with it, it is difficult to determine what possible issues might arise. We urge FSCO to be flexible with respect to suggestions that come from stakeholders after the system has been in place and there has been some experience with it.

Thank you so much for giving us the opportunity to comment on the Risk-based Regulation Framework model, and we hope that you find our comments and suggestions helpful.

Sincerely,

Aon Hewitt

Jerry Loterman
JL:vr

cc: Mr. William Da Silva, Aon Hewitt

caat
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April 7, 2011

Mr. Tim Thomson
Project Manager
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Tim.Thomson@fsco.gov.on.ca

RE: Risk-Based Regulation Framework

Dear Mr. Thomson:

Please accept this letter as the submission representing the comments of the Colleges of Applied Arts & Technology (CAAT) Pension Plan concerning FSCO's Consultation Document on Risk-Based Regulation Framework.

About the Colleges of Applied Arts & Technology (CAAT) Pension Plan

The CAAT Pension Plan is a multi-employer, jointly sponsored, defined benefit pension plan with a bi-cameral governance structure having equal member and employer representation on all of its governance committees. The Plan has more than $5 billion in assets to meet the pension promise for over 30,000 active and retired members. The CAAT Pension Plan covers the employees of Ontario's 24 Colleges of Applied Arts and Technology and 4 associated Non-College Employers.

The CAAT Pension Plan has been a strong supporter of the Ontario Expert Commission on Pensions (OECP) and most of its recommendations. As the Consultation Document represents FSCO's intent to improve its monitoring capabilities of key pension risks, and it is based upon some of those same OECP recommendations, we are supportive of the overall direction that FSCO is proposing.

For additional emphasis, the Plan is an ardent proponent of the OECP recommendations that recognize the unique governance structure of Jointly Sponsored Pension Plans (JSPPs), such as the CAAT Pension Plan. The Plan has been, and continues to be a strong proponent of the principle expressed in the OECP report, that JSPPs, by the very nature of their unique joint sharing of risks and governance responsibilities between employers and members, should be legislated and regulated in a manner that reflects their unique structure.

The concept that JSPP's have different risks largely based on their governance characteristics was supported by the government and expressed in legislation. For example in Bill 120, JSPPs were provided with a permanent exemption from funding solvency deficiencies. We believe that the intent of the government, of its recognition of different governance models, should extend from the legislation into the regulatory oversight function. We do not propose any type of special treatment for JSPPs, just the recognition that these types of plans have different risks when compared with other types of plans, most notably single employer pension plans. We believe the regulatory priorities should be different. For example, the stated objective of maximizing the security of benefit is a thoughtful and well intentioned goal. However, for JSPPs the level of desired benefit security is a joint decision, usually defined in a funding policy. Since there is no risk to the PBGF, the parties who govern the plan must treat intergenerational equity as an equal or higher principle. Maximizing security may not be a desirable goal if it is at the expense of select generations of beneficiaries in favour of other beneficiaries.

We agreed with the proposal to take proactive measures to reduce risks and to focus regulatory attention and compliance on those plans posing the most serious risks. The proposed model appears to provide FSCO with tools to assist in identifying warning signs in a particular plan. This would then allow FSCO the flexibility to investigate further when these warning signs appear, and to focus on the area(s) of concern, and to pay less attention to areas where the plan is otherwise healthy.

As above, we encourage FSCO to ensure that the proposed Regulatory Response Model accurately takes into consideration the relative risks associated with different types of pension plans and their respective governance models. FSCO will need to have the capability to propose different types of treatment for different types of pension plans. This should assist both FSCO and any plan under scrutiny in efficiently applying their valuable resources, while effectively achieving their respective responsibilities.

The proposed process also implies flexibility in its application. However, there is a quality control theme prevalent throughout. There will need to be a tradeoff between flexibility and quality control. It is important that the distinction between these variables be properly understood by both the regulator and the plans under supervision. Therefore, both stakeholder education and FSCO staff training take on even greater significance. For example, the risk ratings applied to any individual plan or type of plan, and the operational application of the proposed process, would appear to have a significant impact on how individual plans are evaluated and targeted for additional oversight and follow-up. It is important that plan administrators are clear on how the risk thresholds and metrics are created for their individual plan, and for flexibility, even to allow them some input into how these are designed and evaluated. Understanding at this level will allow individual plans to focus on any areas of concern and allow for the Risk Management Framework warning thresholds to be adjusted, as time goes by, to accommodate the evolution of an individual plan and the pension environment as a whole. We would suggest that FSCO also look for improvements to their model as issues are identified with the system.

The CAAT Pension Plan believes that jointly sponsored multi-employer pension plans with good governance, professional management, and transparent communication should likely be considered low risk pension plans and should be treated as such within the proposed Risk Management Framework. Risk measures that are developed for single employer plans are not likely to have the right focus in assessing risk and corrective actions. The simple fact that we are large pension plans should not trigger a high risk rating. In addition, since our funding targets are based on going concern valuation measures, any solvency or wind-up measures should not be a cause of risk and regulatory concern. All funding and contribution decisions are a joint responsibility that is shared and agreed to with all stakeholder groups.

We thank you for the opportunity to be part of this consultation process. We would be more than pleased to answer any questions you have about our comments. We would also welcome the opportunity to participate in any further consultations and/or education seminars on this new proposed process.

Sincerely,

D. deO. per D. Dobson

Derek Dobson
CEO & Plan Manager
Colleges of Applied Arts & Technology Pension Plan

CFP/FCR
www.pensioners.ca

Canadian Federation of Pensioners
Fédération Canadienne des Retraités

121 Ashbourne Drive, Toronto, Ontario, M9B 4H9

April 1, 2011

Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON, M2N 6L9
Attn: Tim Thompson, Project Manager

Dear Mr. Thompson:

Risk-Based Regulation Framework

I am responding on behalf of The Canadian Federation of Pensioners, representing over 150,000 members of defined benefit pension plans. Most of these pensioners live in Ontario, and are directly affected by the pension regulatory systems in place here. The CFP has been an active participant in the Ontario pension reform process, and has been a strong advocate for reforms that can be expected to improve pensioner security.

The remainder of this communication reviews FSCO's March 8, 2011 consultation document on a Risk-Based Regulation Framework. In particular, we address the nine questions posed starting on page five of the subject document.

1. Do you agree with FSCO's overall approach?

The CFP congratulates FSCO for an excellent proposed framework document. We endorse this approach as a much-needed step that will lead to a major transformation of the role of the pension plan regulator in Ontario. Overall, FSCO needs to be seen as far more proactive than is currently the case, and must take appropriate actions for those plans determined to be in a weakened state. As such, this document is definitely a step in the right direction. It sets a tone that FSCO should no longer be viewed as a "laid-back" regulator. As the majority of Canadian pension plans are registered in Ontario, FSCO must take a leadership role within the country in establishing best practices.

2. Will [it] help FSCO more effectively regulate Registered pension plans?

The proposed framework will give FSCO the ability to quickly identify pension plans that have fallen into financial difficulties, and will be able to warn stakeholders of the problem. This will afford earlier opportunities to implement corrective action or to mitigate negative impacts where involuntary plan windups become inevitable.

3. Do you agree with the design principles on which the Framework is based?

The Framework's five principles are admirable, but omit one vital tenet – that of full disclosure and transparency. The definition of stakeholders does not include plan members and we feel that this is a serious omission. In our view, the plan members should be in a priority position. The paper excludes informing plan members of the risk results and is silent as to whether the outcome would even be divulged. An effective process should be open to all plan members and perhaps even published in an annual report. Such a powerful tool for spurring corrective action must not be ignored. Non-conforming sponsors need to recognize that we are entering a new era of accountability and visibility.

4. [is the Model] an appropriate way to regulate pension plans and to guide regulatory response actions?

Experience applying the Model will reveal its strengths over time. We expect that ongoing reviews and application of PDCA (Deming) cycle principles will ensure the regulatory process remains current, relevant, and effective.

The three examples provided in the appendix illustrate the model's application. The first two examples both have a low (65%) solvency ratio; however, neither is classified as "Intervention". Any ratio lower than 70-75% deserves far closer scrutiny and follow-up, most especially when there are "excluded benefits" that further increase the plan's windup deficit. Only the third example is classified as "Intervention" with the sponsor just days away from receivership/bankruptcy. It is disappointing that the examples provided appear to diverge from strong commitment and follow-through by illustrating a more relaxed environment

5. Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?

The paper outlines five risks (Funding, Investment, etc). We would like to draw attention to a sixth risk which is the pro-sponsor bias of Service Providers. The actuaries and their assumption bias should receive attention as, at times, they have been known to be compliant to the needs of the sponsor. Parameter bias can also infect other service providers (accountants' fund statements, etc.) and should be guarded against.

6. Are the data sources and regulatory tools that support the Framework the right ones, unnecessary, or too difficult to obtain? Are any additional data needed?

The model commendably draws information from various sources including the sponsor's financial statements, etc. Mention is made that for private companies, information could be provided by credit reports. While this source cannot be ignored, we recognize that there are often reliability issues with such reports. Privately held corporations must be required to divulge their statements to FSCO in order to gauge the sponsor's ability to return a troubled plan to a non-risk state. They always have the choice to refuse disclosure by immediately correcting the plan's deficiency.

While it may be distressing to consider, the possibility of future plan failures and windups does offer the opportunity of conducting a "post mortem" investigation which may reveal new or overlooked data sources that might act as a valuable predictor in future cases.

7. Do you have any comments on the regulatory process flow and the related business processes?

When a plan is determined to be in one of the risk categories, the model accentuates discussions with management/sponsors. We feel there needs to be more consideration given to follow-up, legal proceedings, etc. While the majority of sponsors are ethical and willing to co-operate, sponsors need to know that there will be consequences for the few outliers. This is also an opportunity for FSCO to demonstrate that the past lax practices are no longer acceptable.

While some data are gathered annually, FSCO needs the information contained in a plan's AIR / AIS / IIS / accounting statements, etc. on a much more current basis than is now the case. Annual reports, which are today only required nine months (or more) after year-end, don’t meet regulatory needs, particularly given today’s volatile financial environments. Even more problematic: how can FSCO be seen as proactive if a plan’s latest actuarial valuation can be up to **40 months out of date** before being revised?

It makes no sense in today’s information-processing environment to not significantly tighten reporting time frames. Current IT systems and practices make it much easier for plan administrators and sponsors to provide estimated key indicators such as solvency data in a matter of weeks, not months or years. As we noted earlier (#1), FSCO should take its national leadership mantle seriously and use the most current financial and investment indicators to flag plans that may have fallen into a solvency deficit position.

We recognize that FSCO is hampered by current legislative and regulatory prescriptions. We urge FSCO to promote changes in law that will impose a requirement on sponsors and administrators to disclose to FSCO, at least annually, the financial status of their pension plans. This requirement is necessary if FSCO is to be capable of the regulatory oversight that its “Risk-Based Regulation” paper contemplates. If FSCO is to provide effective regulatory oversight, it must be an active advocate within government circles for more timely disclosure of critical pension plan information.

8. Do you consider the transition plan reasonable?

The transition period is projected to be three years. We would encourage FSCO to shorten their period as much as possible as many plans in today’s environment are in a less than healthy state with no signs of abating. We will seek full support for the transition plan from the Minister and from the Department of Finance and others in government.

9. Will the proposed stakeholder education activities enhance stakeholders’ understanding of FSCO’s risk-based regulation approach?

The growing awareness of pension plan issues among plan members has led to a demand for current and relevant information on pension plan performance. Being reassured that there is a regulator mandated to look after the best interests of plan members will be enormously beneficial.

Concluding Remarks

We are encouraged by FSCO’s initial efforts; however, there is still work to be done, as highlighted in our response above. We thank you for this opportunity of providing input. In view of the importance to the Canadian Federation of Pensioners of this initiative we plan to contact you to arrange a meeting to review our concerns. We would like to do this after you have had a chance to study our responses and can indicate how you plan to address our reservations. Our recent meetings with the management team at FSCO have been mutually beneficial in reviewing issues of interest to us and providing direct feedback to you. We look forward to meeting with you again in the near future.

Sincerely,

DJ Young

David J. Young
Secretary to the Board
Canadian Federation of Pensioners

cc: ..alex.mazer@ontario.ca; dwight.duncan@ontario.ca; leslie.cooke@ontario.ca; roger.smithies@ontario.ca; celia.harte@ontario.ca; dgordon@fsco.gov.on.ca; maria.policelli@fsco.gov.on.ca; bmills@fsco.gov.on.ca; lellis@fsco.gov.on.ca; george.ma@fsco.gov.on.ca; norm.miller@pc.ola.org; pmiller-qp@ndp.on.ca

April 14, 2011

Financial Services Commission of Ontario
Attention: Tim Thomson, Project Manager
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Re: Consultation Document – Risk-Based Regulation Framework

Mr. Thomson:

The Canadian Institute of Actuaries (CIA) is pleased to offer comments on FSCO's recently released consultation document, Risk-Based Regulation Framework. The early part of the year is a busy time for our members and, as a result, it was difficult to find volunteer resources quickly. Given this constraint, we have chosen to offer comments only on selected items within your document, as we feel a partial response will still be of value to you.

We applaud FSCO's desire to take a more risk-based approach to pension supervision. For some time, the CIA has called for pension regulation to be less rules-based, so we are encouraged by this approach. The risks associated with the management of a pension plan are dynamic and can change in magnitude over time, so a supervisory framework that anticipates this variability should perform more effectively in the long run. The profession's emphasis on the use of enterprise risk management principles is also consistent with this approach.

However, we do want to offer some caution that this approach will require significant additional resources. Not only will significant additional staff be needed, the requisite skill sets will have to be developed as well. There is a scarcity of individuals well-versed in modeling and risk. Because this exercise would need to be conducted with adequate skill and accuracy, we caution FSCO not to underestimate the amount of expertise required. The CIA is, of course, willing to assist in whatever way it can.

If the cost of these additional resources will be recovered through assessments paid by plan sponsors, we would like to offer some further suggestions. It would be beneficial to communicate regularly to plan sponsors, specifically to demonstrate how the supervisory system has been improved. That way, sponsors will feel they are receiving an adequate return on their investments. As well, we have some concern that any significant additional costs will not be feasible for smaller pension plans. Since we want to ensure employer-sponsored pension plans remain viable, we trust this factor will be taken into account.

We do have concerns about the whistle-blowing provision mentioned on page 26. Actuaries work with plan sponsors and administrators to help them comply with all applicable regulations, and we notify them when a potential breach is sighted. A whistle-blowing provision could mean actuaries are no longer privy to the inner workings of the sponsor, to the detriment of all involved. We suggest FCSO consult extensively before proceeding with this provision.

On the matter of asset selection, more details on the proposed framework would be beneficial. We note the administrator is responsible for asset allocation subject to the rule of prudence and constraints in the regulations, including what asset mix is deemed prudent. As a result, it is unclear what role the regulator could play here, other than monitoring and commenting. Were FSCO to believe an asset selection was inappropriate, it is not apparent what corrective measures could be required. We accept that the asset mix is an essential part of a plan's risk profile, but the usefulness of the framework is limited if FSCO would have no authority to request a change.

We have a final comment on the proposed risk indicator ratings, where we see an analogy with the regulatory oversight of life insurers. MCCSR ratios, which are publicly available, provide the public with an indication of the capitalization levels of a given company. However, we also know OSFI maintains risk ratings for companies under its supervision, which are for internal use only and not disclosed to the public. On the pension side, solvency ratios are publicly available, and (like MCCSR ratios for insurers) provide an indication of a pension plan's financial position. We expect FSCO would take a similar approach with risk ratios; specifically, to not disclose them to the public. It is likely they would not be interpreted correctly, which could lead to conflicting opinions about the financial health of a given pension plan.

The CIA thanks you for providing us with the opportunity to offer these comments. We look forward to working with FSCO in the future. If you require the assistance of the actuarial profession as you develop a risk-based approach to your oversight activities, please do not hesitate to contact us.

Respectfully submitted,

Micheline Dionne

Micheline Dionne, FCIA
President

Comments by James C. Murray
Regarding the
Financial Services Commission of Ontario
Consultation Document,
RISK-BASED REGULATION FRAMEWORK
March 2011

- Congratulations to FSCO for not only producing an excellent consultation document but primarily for taking on a much needed and very challenging journey. This will lead to a major transformation of the role of the pension plan regulator in Ontario.
- The writer is a member of the Ontario Advisory Council on Pensions and Retirement Income. I am a DB plan retiree who has been actively involved with pension plan legislative and regulatory issues since 2003. I am a member of a very large pensioner group's pension committee and a founding director (retired) of the Canadian Federation of Pensioners.

Response to the Consultation Questions

General questions

1. - Do you agree with FSCO's overall approach…?
2. - Do you think that the proposed framework will help FSCO more effectively regulate - Registered pension plans? -

An informed, communicative and proactive regulatory environment will benefit the ongoing financial health and well being of pension plans.

This new environment will re-invigorate the pension plan regulatory organization as a whole and will be a more stimulating environment for the staff. By reaching out rather than simply waiting before reacting, FSCO will be seen as being a place for plan administrators to go to for counsel.

Pension plan members will benefit by there being a more "tuned-in" regulator who can more easily and thoroughly comprehend their problems and issues.

A regulator, with the ability to get a quickly identify those pension plans that have fallen into financial peril or which could be teetering in that direction, will be able to signal the needed warning notes to stakeholders and others in government. The result will be more opportunities to do what is needed to remedy the issues or at the very least to mitigate the impacts where involuntary plan windups become inevitable.

Section 1

3. - Do you agree with the design principles on which the Framework is based?

The Framework will provide FSCO with valuable insights on the present plus and provide early warnings about potential future perils at both the individual plan level as well as at the macro levels. Appropriate sharing of this information outside of FSCO should be an important element in ensuring success and providing maximum benefits to all stakeholders. This is an important element and deserves to be recognized as a key component of the 'Proactive' principle (P.11; Ref 1.3).

Section 2

4. - Do you agree that the Model is an appropriate way to regulate pension plans and to guide regulatory response actions?
5. - Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?

The writer has assumed that other Canadian and offshore pension plan regulatory bodies can offer far more experience and expert opinion in answering the above questions. That said, it would seem reasonable to expect that there will be a need for regular ongoing review and tweaking to ensure the regulatory process remains current and relevant following implementation of the Framework.

6. - Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?

It is probably better to strive at the start to accumulate too much data and data analyses information at the macro and micro levels. Experience with handling and using the collected information will determine what is relevant for each plan, plan type, sponsor industry, and so on and thus will drive ongoing refinements in data collection and analyses.

In addition, living as we are in the information age, there is constant improvement in access to information from existing and emerging sources. This has lead to improved information systems and technologies for speedier and economical collection, analyses and storage of data. Data and information which might be difficult or time consuming to attain now could sooner rather than later become more accessible. It is important to have historical data available for performing trend analyses and the like.

No one probably wants to dwell on it but nevertheless the unfortunate and probability of having to deal with future involuntary wind-ups of plans with solvency deficits should be recognized as a learning opportunity. A detail 'autopsy' for each such wind-up could identify weaknesses in the framework and thus provide opportunities for continuing improvement.

7. - Do you have any comments on the regulatory process flow and the related business - processes? -

A key driver for ensuring a useful risk-based regulatory framework is to be able to perform analyses and take decisions using current data and information. ***In***

order to effectively regulate pension plans you need the data and information contained in a plan's AIR / AIS / IIS / accounting statements, etc. on a much more current basis than is currently being received by FSCO. Annual reports, which today can be submitted only nine months or more after the year-end, don't meet current relevancy test particularly given today's volatile financial market and economic environments. And how can you be fully proactive if a plan administrator hasn't submitted an actuarial study report for the past two or three years?

It doesn't make much sense in today's information and data processing environments to not tighten reporting time frames. Current IS/IT systems and practices make it much easier for plan administrators and sponsors to provide estimated key indicators such as solvency data in a matter of weeks, not months.

This writer also is aware that OFSI has the means to use current financial investment market indicators to quickly flag individual pension plans that may have fallen into a solvency deficit position. This ability is invaluable in enabling a proactive environment for the regulator and also in providing "heads-up" information to other government parties and more.

Section 3

8. - <u>Do you consider the transition plan reasonable, in light of FSCO's regulatory capacity and the stakeholders' expectations?</u>
9. - <u>Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?</u>

Key to satisfying <u>stakeholders' expectations</u> would be knowing that there is a commitment of full support for the transition plan from the Minster and from the Department of Finance and others in government. This has to be in addition to the pension plan regulator communicating regularly with stakeholders to state milestones and to state the progress of the implementation throughout the three-year period.

Regarding <u>education and stakeholder engagement</u>, there is growing understanding and awareness of pension plan issues amongst active and retired plan members. One of the greatest contributors to increased fear and misunderstanding for this stakeholder group is the lack of current and relevant information on pension plan performance. Being reassured that there is a regulator that is mandated to look after the best interests of plan members above all else would be enormously beneficial. Knowing that the regulator has the tool kit and the means to provide this assurance would an immeasurable plus.

Jim Murray
jas.murray@sympatico.ca
March 26, 2011

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April 7, 2011 Via email to: Tim.Thomson@fsco.gov.on.ca

Mr. Tim Thomson
Financial Services Commission of Ontario
5160 Yonge Street, 4th Floor
North York ON M2N 6L9

Dear Tim:

RE: Comments on Risk-Based Regulation Framework

On behalf of Morneau Shepell Ltd. ("Morneau Shepell"), we take great pleasure in providing our comments to the Financial Services Commission of Ontario on its risk-based regulation framework consultation paper dated March 8, 2011 (the "Framework"). Morneau Shepell is the largest Canadian-owned actuarial and human resources consulting firm and provides actuarial and other services in respect of hundreds of registered pension plans covering over a million Canadians.

In general, we support the concept of risk-based regulation and applaud FSCO's efforts to engage stakeholders in consultations on its internal processes. This memo outlines the aspects of the Framework we agree with, some points of concern, and provides suggestions for improvement.

1. **Do you agree with FSCO's overall approach to risk-based regulation?**

   We are pleased to learn that FSCO recognizes the benefits and is moving towards a risk-based regulation of pension plans in Ontario. We think that this approach will have the positive impact of making plan administrators "risk aware", which we view as a material improvement to the current "compliance focused" mindset. Moreover, risk-based regulation of financial institutions in Canada has proven its value in the recent financial turmoil.

   However, pension plans are programs usually voluntarily put in place by sponsors to provide retirement benefits to employees. The burden of additional legislation and regulation is a disincentive for a plan sponsor to maintain or put in place a pension plan, particularly defined benefit pension plans. Protection of accrued benefits is a worthy effort, but the sustainability of the defined benefit pension plan as a retirement solution for future generations should be considered as well. It is a topic that should be addressed by all stakeholders. We think that FSCO has to remain aware that, however perfect and fool-proof the regulation is, there is a disincentive effect of adding additional requirements.

   Nonetheless, we understand that the current Framework focuses on the regulatory response taken by FSCO to address risk situations and not on additional requirements to plan sponsors. This framework redefines FSCO's internal processes and should not necessarily result in an increase in interventions towards pension plans. As it is, we do not believe that this should represent an additional burden on plan administrators, particularly for plan sponsors that already developed a risk-aware approach in the management of the pension plan.

It would also be important for FSCO to ensure compliance with laws and regulations. For instance, a pension plan can be in an excellent financial position, but its sponsor regularly files its valuation reports late. While it may not be judged as a risky situation, this administration is not conforming to the law and the situation should be rectified.

2. Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?

Yes.

As opposed to a rules-based approach, a risk-based approach will favour concerns and interventions that are more in line with genuine risks to members' benefits. It will also allow FSCO to reassign its resources to effectively deal with plans and sponsors that are at greater risk.

3. Do you agree with the design principles on which the Framework is based?

In general, we agree with the principles presented. Other principles should also be considered.

First, we think "Objectivity" should be one of the guiding principles. We are concerned with the subjectivity of the risk assessment process, both in terms of the role of the individual risk assessor and the types of risks identified. The comments in the examples set out in the Appendix of the Consultation Document are qualitative, rather than quantitative. The Example 2 – Plan B provided in the Appendix of the Consultation Document illustrated an opinion that alternative asset classes such as real estate, infrastructure and private equity are risky investments. There are many ways of investing in those asset classes, with some approaches being more risky than other. While at first glance those asset classes might appear risky, they can potentially be less risky than equities, represent a better match with liabilities, or lower overall risk as part of a diversified, prudent portfolio. We recommend that the assessment be performed in light of quantitative evidence and guidelines.

FSCO should also be careful not to perform "relative risk assessments". We define "relative risk assessment" as comparing the characteristics of two pension plans, assessing that one is relatively riskier than another and focusing attention only on the riskier one. It is possible that a pension plan is riskier than the other, but that both are objectively risky and, as such, intervention should be considered for both.

Second, we think "Timeliness" should also be a guiding principle. It would be important for FSCO to react promptly when a situation arises.

Finally, we believe "Transparency" should be a guiding principle. FSCO should allow plan administrators to follow FSCO's chain of thought to determine where their plan falls in the Regulatory Response Model, anticipate regulatory action and address risk in their own governance processes. We

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also believe that the risk assessment reports should be made available to plan administrators. While it may be objected that such disclosure would compromise FSCO's efforts, we believe that it would be helpful for plan administrators to be able to access their risk profiles and take measures even before FSCO acts.

4. **Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?**

We agree with the Regulatory Response Model.

However, we are concerned with the division into "very large" and "smaller" plans. We understand that very large plans pose a greater risk from a regulatory or political standpoint, and potentially for the PBGF. Nevertheless, from a plan beneficiary and fairness standpoint, it is important that risks affecting very large and smaller plans are addressed in the same manner. We think that any concerns on "size" should be made in respect of plan liabilities relative to the size of the plan sponsor and should be an input in the assessment of Sponsor/Industry risks.

We would also suggest that the terms "probability" and "impact" be better defined. Impact would seem to refer to both the impact of a risk on the plan should it materialize and the overall impact of the plan based on the number of beneficiaries. Probability would seem to refer to both the probability that the risk will materialize and the probability that there will be an impact on plan members. We would suggest that these terms should be defined and that more examples, preferably as specific as possible, should be given so that plan administrators can classify the types of risks their plans face.

Examples of Potential Regulatory Responses in Figure 2.3 indicate that FSCO will respond with "Proactive supervision" in respect of high impact/low probability events, while responding with "Monitoring" in respect of low impact/high probability. More precise examples of such measures and an explanation of how these two approaches differ would be appreciated in future documentation.

5. **Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?**

Concerning the risk universe, we believe that including Sponsor/Industry Risk in the risk universe is extremely important. Table 2.1 should include liquidity and currency risks in the examples of Risk Considerations under Investment Risk.

The risk indicators are all appropriate. However, more detail and guidelines should be provided to address how FSCO views the level of a plan's maturity. A plan's maturity and the nature of its liabilities should be tied with its investment mix.

6. **Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?**

This issue is extremely important since this is where we go from the theory of the framework to operation.

First, we appreciate that FSCO will rely on documents already being filed.

However, we wonder if the Form 8 (the Investment Information Summary) contains enough information to assess the investment risk. For instance, a pension plan could have a lower exposure to bonds than its peers and appear riskier. However, Form 8 does not allow splitting bonds between long-term bonds and universe bonds, and nor does it ask for the bond benchmark. It is thus difficult to appropriately judge the matching risk of a plan. We believe that this evaluation should be made in the Tier 1 Risk Assessment process and, accordingly, we would recommend improvements to the Investment Information Summary to allow this to happen.

Moreover, there is no mention of the funding policy in data sources. Even though such a policy is not required by law or regulation, several plan sponsors have developed such a policy as a funding risk-management tool.

For example, the investments of a pension plan may seem particularly risky, but there is a funding policy or agreement in place that states that the sponsor will fund any going-concern or solvency deficiency in a single instalment to be made soon after the actuarial valuation report is filed. We think that such a policy should be considered by FSCO in its risk assessment process.

We note that sponsor data can be scarce for some types of companies, such as privately held companies. We wonder how FSCO will get the data without putting additional burden on the plan administrator or raising confidentiality and privacy concerns. We also note that there is no specific legislative authority for FSCO to obtain this type of information or intervene based on the financial condition of a company.

We do have a concern with the proposed whistleblower obligations on sponsors, administrators or plan advisors. Such obligations would place individuals working on pension plans in a conflict of interest position with their employers or clients. They would potentially compromise the relationship between plan administrators and their advisors, impeding the flow of information and damaging plan governance in the long run. There are also potential concerns with respect to the professional and legal obligations in respect of confidentiality on the part of advisors.

7. Do you have any comments on the regulatory process flow and the related business processes?

It is mentioned that a detailed risk assessment will be performed periodically for pension plans that are not highly risky. We think that "periodically" should be better defined.

8. Do you consider the transition plan reasonable, in the light of FSCO's regulatory capacity and the stakeholders' expectation?

The three-year plan seems reasonable.

As it was seen in the past, we believe that pension advisors will be an important stakeholder in the transition. We think that it could be useful for FSCO to have resources specifically designated to be the link with pension advisors. It will be important to communicate clearly who to contact if we have questions on the Framework or the transition. We think that centralizing

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questions and providing full disclosure will dispel confusion and concern on the part of plan administrators.

Under section 3.1, it is mentioned that further scrutiny will be put on governance and administration of the pension plans. We believe that well governed pension plans will get favourable risk assessments by FSCO and that strong governance structures are more likely be found in larger pension plans. An emphasis on governance policies and procedures would put pressure on smaller and defined contribution pension plans that do not necessarily have as many resources as larger pension plans. FSCO should encourage the development of third-party administration, governance and risk management delegation of responsibilities[1].

9. **Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?**

Yes. We encourage FSCO to establish well-defined channels of communication with stakeholders, including pension professionals, administrative service providers and plan administrators' human resources and finance staff responsible for pension plan governance.

We believe that a risk-based approach to regulation of pension plans is an improvement. This approach will have many benefits to the pension plan industry by raising risk awareness and by allowing FSCO to focus interventions on serious, genuine problems. We recommend clarifications and minor changes to the framework that should provide an excellent template for other jurisdictions considering a transition to a risk-based approach.

Managing Partner,
Ontario Pension Consulting
National Practice Leader
Regulatory Consulting

Partner & National Practice Leader
Risk Management

[1] We believe that a business model where experienced, qualified and dedicated third-party advisors are responsible for most tasks related to sponsoring and administrating a pension plan is the way to relieve sponsors from the burden the pension plan might have become and ensure the sustainability of defined benefit and even defined contribution pension plans as a retirement solution.

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PLAN FOR THE FUTURE

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April 7, 2011

Mr. Tim Thomson
Project Manager
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
TORONTO ON M2N 6L9

Dear Mr. Thomson:

Re: Risk-Based Regulation Framework – Consultation Document

OMERS is pleased to provide comments on the "Risk-Based Regulation Framework" proposed in the consultation document released by the Financial Services Commission of Ontario ("FSCO") on March 8, 2011. We support a risk-based approach to regulation of registered pension plans, and we agree with the design principles upon which Risk-Based Regulation Framework is grounded. Identifying pension plans posing the greatest risks and intervening early should improve the regulator's effectiveness in fulfilling its statutory role.

OMERS is:

- a jointly-sponsored pension plan with a tradition of employer/member governance;
- a large multi-employer defined benefit pension plan with a highly diversified membership of more than 400,000 members from about 920 employers;
- a large, experienced pension fund investor pursuing a global investment mandate; and
- a direct investor of over 25 billion dollars in the Ontario and other regional Canadian economies through major infrastructure, real estate and energy assets.

We are one of the largest pension plans in Canada, with recognized administration and investment expertise. One in twenty working Ontarians is a member of OMERS. Providing outstanding service to members and employers is our key objective.

Our comments reflect this broad perspective and focus on the areas that, in our view, require further consideration, modification or a change in emphasis.

General Comments

The Framework outlined in the consultation document is much more comprehensive and holistic than the Risk-Based Supervision of the Funding of Ongoing Defined Benefit Pension Plans released in May 2000. Unlike the earlier risk-based supervision, the Framework does not only focus on funding risk, but also on investment, administration, governance and sponsor/industry risk. Generally, this is a sound approach, but at least during the transition, the emphasis ought to be on monitoring and identifying funding/solvency risk, as such risk has the most significant potential impact on the PBGF and on plan beneficiaries.

In addition, the Framework should take into consideration the plan sponsor's or administrator's internal risk management processes, including stress testing, vis-à-vis the pension plan and fund. Many sponsors of large plans are more likely to have effective risk management in place. The regulator should assist those plans who do not by making available appropriate tools to enable them to conduct a self-assessment of pension risk, and attach value to the risk management processes developed by some plans.

The Ontario Expert Commission on Pensions ("Commission") recognized the special nature of jointly-sponsored pension plans and the built-in safeguards that they have. This has been reflected in certain provisions of the *Pension Benefits Act*. The Risk-Based Regulation Framework should be applied consistently with these principles.

Specific Comments

Regulatory Response Model – Section 2 of the Framework

Overall, the Regulatory Response Model is reasonable; within the Risk Universe (pages 17-18), the focus should be on the funding risk since it is the most significant regulatory and beneficiary risk.

Member Complaints as a Risk indicator

In response to Consultation Question #5, we question the use of member complaints as a risk indicator before the relevant metrics are substantiated (and only when a volume relative to the size of the plan has been reached).

Another concern is that during the transition period (before the risk-based regulation model is refined), it may be difficult to achieve a rigourous and accurate assessment of "complaint severity" (making distinctions between member inquiries and member complaints/ developing a scale for the substance of complaints). Recognition of the fact that the plan size may play a role in the number of complaints is also desirable. If the approach to risk-based regulation is holistic, then the number and nature of complaints should generally be assessed in conjunction with other risk indicators such as significant underfunding or major restructuring affecting a large number of plan members.

We do recognize however that there may be instances where member complaints are indeed a risk indicator. Frequent member complaints related to inaccurate underlying data used for benefit calculations may be an indicator of larger scale errors and should be subject to a risk assessment by the regulator.

Collection of Data

We urge FSCO to continue to study potential new data sources outside the regular filing process to bolster risk-based regulation. In particular, some of the events included in "Notifiable Events" (page 26) are typically available through news feeds on a reasonably timely basis. Caution should be exercised to ensure that data collection does not interfere with the business operations of the sponsor or administrator, or affect their competitive position.

It is crucial to the success of risk-based regulation that filing and reporting data, as well as other collected data is handled by the regulator using up-to-date technology (i.e. provided and collected electronically, with an analysis capability), and that the costs of improvements in this area are accounted for in a transparent manner.

Value of the Governance Model vs. Plan Size

The Framework states that the cornerstone of the Regulatory Response Model is a Risk Indicator Tool ("RIT") that uses incoming plan information as input. Based on pre-defined algorithms, the RIT presents the outcome of various risk indicators in a "traffic light" format, and it determines if a plan or a transaction requires further review.

It appears, based on a review of the examples, that the RIT does not place enough weight on the governance model compared to the weight attached to large member numbers. The value of the governance model cannot be underestimated, especially where member and employer representation is equal and risk/reward is shared (as in a jointly-sponsored pension plan or a JSPP). A JSPP governance model has an inherent risk management underpinning – contributions and/or benefits are adjusted to ensure the health and long-term viability of the pension plan and communication/disclosure is extensive. This is supported by the Commission report and recommendations. A spectrum of proactive supervision should be considered given the potential differences within that category of response.

Transition Plan – Section 3 of the Framework

We generally support FSCO's three-year transition plan to risk-based regulation as set out in the Framework.

Integration of Monitoring and Review of Funding and Investment Risks

The transition plan will integrate the monitoring and review of funding and investment risks. During the transition, the focus will be on the review of appropriateness of actuarial assumptions and methods, contributions remittance, asset mix policy in relation to the liabilities of the plan, and the measurement of fund performance relative to appropriate benchmarks.

Generally, we agree with the inherent risk considerations enumerated by FSCO with respect to investment risk: market risk, matching risk and credit risk. However, these risks must be considered alongside sponsor/industry risks – to the extent the financial strength of the plan sponsor is reasonably stable, investment risk will be borne by the sponsor. Only more significant missteps in investment strategy should be a cause for regulatory concern, i.e. where the prudent person rule considerations come into play or there is non-compliance with the statement of investment policy.

We have some concern with respect to the monitoring and review of the plan's asset policy relative to the plan's liabilities and the measurement of fund performance relative to the appropriate benchmarks. Asset classes are evolving and newer classes (e.g. infrastructure) may not have accessible benchmarks. FSCO should be prepared to discuss newer asset classes with relevant stakeholders to develop such benchmarks. In addition, any review of the asset policy relative to the plan's liabilities should take into account the plan provisions, the governance model and the industry in which the plan sponsor operates.

Stakeholder Education and Engagement

We agree that stakeholder education and engagement is an important element of risk-based regulation. Education and communication by FSCO of the changes to the regulatory approach will enhance the transparency of regulation. It will also help stakeholders understand how plan events, transactions and changes will be viewed by the regulator. This supports the principle of fairness – that the regulator will apply the regulatory rules after having communicated them to the stakeholders.

Conclusions

We support a risk-based approach to pension regulation as described in FSCO's Framework. We are pleased that FSCO recognizes that ongoing consultation and communication with the stakeholders is essential to ensuring that everyone understands how the regulatory framework will operate.

There are several themes that we believe are important to the application and success of risk-based regulation:

- One size does not fit all. Large plans will have the resources for better risk management; small plans need assistance and tools from the regulator to manage pension risk. Size also matters when it comes to member complaints - the larger the plan, the higher potential for a greater number of member complaints. Member complaints should not necessarily be a stand-alone risk indicator, but must be considered alongside other risk indicators, if applicable.
- Jointly-sponsored pension plans already have built-in risk safeguards. The risk-based regulation should be applied to such plans accordingly.
- The development of a robust electronic system for the collection of pension data (filing, reporting, industry and statistical data) will help with analysis and monitoring of risk.
- During the transition period, a focus on funding/solvency risk is desirable, since this risk has the most significant potential impact on the PBGF and the plan beneficiaries.
- Investment risk should be assessed in the context of sponsor characteristics such as stability and governance structure.
- Ongoing consultation and communication with the stakeholders leads to open, transparent and fair regulation.

OMERS would be pleased to discuss these comments at your convenience.

Yours truly,

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April 11, 2011

Mr. Tim Thomson
Project Manager
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Mr. Thomson:

Re: Risk Based Regulation Framework

We are writing in response to your recent consultation document entitled "Risk Based Regulation Framework".

In our submission to the Ontario Expert Commission on Pensions (OECP) and our response to the OECP report, Ontario Pension Board (OPB) recommended the use of a risk-based consumer protection approach to pension plan regulation. Naturally, we are delighted that FSCO is pursuing risk based regulation and is actively consulting the pension community on the development of its approach.

We have reviewed the consultation document and found the proposed framework is consistent with the recommendations expressed in our earlier submissions. Specifically, it:

- Acknowledges a key risk is a possibility of loss to plan beneficiary;
- Uses a range of risk indicators and risk assessment that are not inherently biased toward a particular form of plan; and
- Is flexible and can be adapted to changing operating environment.

While the document provides a good description of the framework there are a couple issues relating to implementation that are not addressed in the consultation. As a result, it is difficult to understand the impact of proposed framework on our regulatory obligations and the PSPP beneficiaries. Although they are not related to the specific questions you posed in the consultation they do present some uncertainty for us, as an administrator, and we wanted to bring them to your attention as you proceed with this important initiative.

.../2

Over the last 3 years we have noticed a considerable increase in our pension assessment invoices. For 2011 alone OPB's pension assessment increased by 28% compared to 2010. We are now paying just over $115K compared to our invoice 3 years ago of $76K. FSCO explained the cause of these increases was linked, in part, to activities that support risk based regulation.

The risk based regulation framework introduces more changes we believe will have an impact on FSCO's resources. Overall, we would expect to see increases to your operating costs due to staff training, IT improvements and potentially additional staff with specialized skill sets. From this document and other publications we are not clear on whether that translates into significant and permanent increases to our regulatory cost.

In addition, plan administrators will likely experience administrative cost increases associated with the collection, interpretation and disclosure of greater volume of corporate pension information. The complexity and availability of the new data requirements will define the cost to the plan and ultimately its beneficiaries.

We understand that these are implementation issues and it may be early to begin discussing the financial impact of these changes. However, we want to be clear that we are operating in an environment of financial restraint and it is critical that we understand and can prepare for financial challenges this initiative might impose. We are hopeful that these considerations will be taken into account as you determine your operational requirements.

The other issue we would like to draw to your attention relates to our comments in earlier submissions regarding broader pension coverage for Ontarians. In those submissions we promoted the concept of broader coverage and affirmed our belief that "the traditional defined benefit plan is the most efficient and effective model to deliver retirement security at a reasonable cost to all stakeholders". Although we consider risk based regulation to be a desirable solution to current regulatory challenges for all plan types, regulatory complexity is often seen as discouraging pension coverage.

We do not think risk-based regulation is intended to make plan administration unwieldy or disproportionately assign compliance costs to DB plans. However, one could reasonably reach that conclusion if the framework produces inconsistent results due to assessments that focus on pension entitlement form. In the document you acknowledge

.../3

that the risk-based approach applies to pension plans delivering "DB or DC benefits or both". We are optimistic that all plan forms will be regulated equally to protect the interests of the plan beneficiaries. Far from driving compliance costs up we expect risk–based regulation to contribute to more efficient regulation and pension security improvements by raising risk awareness and guiding stakeholder behaviour.

Finally, we appreciated the opportunity to meet with you and other stakeholders last October to discuss the risk-based regulation. We were pleased to see changes to the proposal that reflect the discussion at that session. We appreciate the consultative approach you have adopted and look forward to participating in future consultations.

If you have any questions regarding this letter or our comments please contact me directly at 416.601.3950.

Sincerely,

Mark A. Henry
Director, Regulatory Affairs

c. Peter Shena, Ontario Pension Board

OPTrust

OPSEU Pension Trust

Fiducie du régime de retraite du SEFPO

April 6, 2011

Attention: Tim Thomson, Project Manager
Financial Services Commission of Ontario
5160 Yonge Street (Box 85)
Toronto ON
M2N 6L9

RE: Consultation on FSCO's proposed Risk Based Regulation Framework

The OPSEU Pension Trust (OPTrust) is pleased that the Financial Services Commission of Ontario ("FSCO") has requested comment on its proposed Risk Based Regulation of pension plans in Ontario.

The OPSEU Pension Plan (the Plan) is a contributory defined-benefit pension plan with approximately 82,000 members and pensioners and $13 billion in assets. It is a jointly sponsored pension plan sponsored by the Ontario Public Service Employees' Union and the Government of Ontario. Being a large public sector pension plan, we are acutely aware of the importance of effective regulation of pension plans, and that particular focus should be paid to those plans that are deemed to be at highest risk.

We trust that our comments on the proposed framework will be of use to FSCO. We have addressed those areas that we feel are most important to OPTrust and that require further clarification on the part of FSCO. We realize that this consultation is a fluid process and are hopeful that FSCO will consider certain changes to strengthen the proposed regulation process.

<u>OPTrust input</u>

OPTrust agrees that risk based regulation is an important process that will identify and continuously monitor those pension plans that are at highest risk of failure or funding pressures. We are also in agreement that the proposed Framework is a useful tool in helping to expand the existing regulatory processes employed by FSCO.

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We have provided our comments in two sections. The first outlines our views on an additional proactive technique to assist pension plans in ensuring a more secure level of funding. The second section provides comments on the proposed mechanisms that have been presented in the consultation document.

Promoting the creation of Contribution Rate Stabilization Reserves

Though it was not specifically identified in the current consultation document, we felt it important to identify one other option that could assist pension plans (and FSCO) in ensuring a more secure level of funding. FSCO's risk-based approach seems to focus more on assessment and monitoring as the means to dealing with risk. We believe that the adoption of proactive mechanisms to mitigate funding risk should also be encouraged.

Within this context, we feel that some consideration should be given to encouraging plans to use funding reserves or contribution rate stabilization reserves. This is a key technique used by the sponsors of the OPSEU Pension Plan to manage downturns in the investment market. The level of the reserves is unique to each plan and is determined based on the plan's investment policy and demographic profile.

A stabilization reserve is a powerful instrument in the management of defined benefit plans during poor market conditions. It allows funding of required contribution increases without an immediate impact on the plan sponsor(s) and/or members. Stabilization funds have proven to be very successful at OPTrust. We would be glad to share our knowledge and experience with FSCO about this approach, as it can easily be used by other pension plans.

Comments on the proposed Framework

Framework principles

We feel that the design principles on which the Framework is based are sound. However, we suggest the addition of one further principle: "balanced". By "balanced" we mean that FSCO should take into account all circumstances and use a balanced approach when examining any pension plan under the Framework. We feel that the greatest focus should remain those plans that are at highest risk of solvency threats or even outright failure. We do not necessarily agree that "widening the net" to examine all plans more closely is the most prudent approach.

Instead, we feel that FSCO should continue to focus primarily on at-risk plans, particularly those that are most likely to have an event that may put them in a precarious position. We would urge against taking a "scattershot approach" and instead, urge FSCO to continue to identify the plans that require the most scrutiny.

We recognize that much of the risk based framework is based on the wind-up liability and the transfer ratio. Though this may be an appropriate risk measure for some pension plans, we are not certain that this is the case for the larger public pension plans. This may be an area for further consideration in the design of the framework principles and the risk quadrants.

Regulatory Response Model

We feel that the Regulatory Response Model, as well as the risk universe and risk assessment methodology is effective as proposed, however, we do have some comments on certain parts of the model where we feel it could be strengthened.

We agree that documentation and filings from plans are effective tools in the ongoing monitoring approach. It is unclear, however, if FSCO will impose additional filing requirements. We feel that FSCO should use prudence weighing the type of plan, the actual risk level and the resources required to conduct such a review.

On the "Intervention" quadrant you identify *significant number of complaints about plan administration or benefit entitlements* as a risk indicator. We feel that this is not defined sufficiently and needs further clarification. The nature of the complaints as well as the representative size of the plan need to be assessed objectively. A complaint that a termination option form was not provided in a timely matter is valid; a complaint that a specific plan does not provide a subsidized early retirement is not.

This example highlights the concerns that we have about using all complaints as a measure against a plan administrator. We are wary of FSCO using complaints (or the numbers of complaints) as a trigger with which it would begin monitoring pension plans more closely. We feel that this could place a plan administrator in a position of being "guilty until proven innocent". We suggest that the types of complaints should be considered, as well as threshold numbers and other factors if this mechanism is to be used as a trigger point. Complaints should be characterized and placed in relevant categories which could then be used in a proper assessment. We believe that FSCO should focus on appropriate complaints and only then take actions to remedy them.

Detailed Risk Assessment

In the "Detailed Risk Assessment" area of the document you indicate that risk factors must not be considered in isolation, but that a "holistic" approach needs to be taken to assess the risk picture. Yet, there is no mention of what this approach should entail. We are concerned that this implies a subjective review. Additional information is required on this subject as well as what criteria will allow a plan to move from one quadrant to another.

We suggest the adoption of a "risk report card" for all pension plans. FSCO should establish performance measures against which plans may be assessed. This would assist plans in understanding FSCO's expectations, how they may be measuring up as well as acting as an ongoing communication tool to interact with plans. These report cards should be shared with the respective plans so that they could track their input and progress. A report card allows plans and FSCO a quantifiable and appropriate way to monitor progress. Report cards could also be used for all pension plans and not only those deemed at-risk.

We understand that a large part of this framework revolves around the use of checklists to identify potential problem areas. We are not opposed to this approach. However, we do have some concerns about the ongoing use of a checklist. If FSCO is satisfied with the responses provided in the initial review and no trigger points have been engaged nor has a situation materially changed, we would hope that the regulator would not repeat this same process the following year. If FSCO is satisfied that a plan is not at risk it should not pose the same questions again unless it has a valid reason to suspect that the situation has changed. Otherwise, this process could become onerous for the plan administrator, potentially stretch the resources of the regulator and also add unnecessary interactions between the respective parties.

Regulatory tools in support of the Framework

We feel that the business processes identified in the Framework are robust, however, we would urge that more emphasis be placed on the "Education and Engagement" component. It is important that all stakeholders and administrators are made aware of any new processes, how they will be applied and which resources will be made available to implement this program effectively.

Transition plan

We agree that the review of pension plan governance processes is imperative in the risk based regulation process. Jointly sponsored pension plans, such as the OPSEU Pension Plan, are based on a shared risk and reward relationship. We feel that a number of the mechanisms and governance standards in effect at jointly-sponsored plans would also benefit other plans in the province. While we recognize that a large number of plans are not jointly sponsored, it is critical for all sponsors and members to realize the importance of fostering the climate of a pension partnership. In this context, we would suggest using existing plans with proven governance success as the models for the future. This is an area where we would be glad to share our experiences with FSCO.

We trust that our comments have been helpful. We look forward to being kept apprised of the progress of this initiative and to further opportunities to provide input on this process.

Sincerely,

Bill Foster
Chief Administrative Officer

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April 18, 2011

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By E-Mail

Mr. Tim Thomson, Project Manager
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Mr. Thomson:

Risk Based Regulation Framework

We are pleased to respond to the invitation to provide feedback to the Financial Services Commission of Ontario ("FSCO") on its consultation document, "Risk-Based Regulation Framework" (the "Consultation Paper").

Generally speaking, a risk-based approach can be an effective means of regulating pension plans. The federal regulator, the Office of the Superintendent of Financial Institutions ("OSFI"), for example, has established a risk assessment framework and intervention process for federally regulated pension plans, which appears to be quite effective. However, we have a number of concerns about the risk-based approach (the "Framework") proposed in the Consultation Paper.

The Consultation Paper contemplates the development of a very sophisticated "risk indicator tool" designed to present the "risk indicators through taking quantifiable/measureable risk-based metrics and presenting these in an appropriate format". We agree that it is important for FSCO to store the information it obtains through the various filings that are required under the *Pension Benefits Act* (Ontario) (the "PBA") in a way that can be used to assist in identifying "at risk" plans. We would urge FSCO to focus on developing systems that will permit it to monitor plans using the information it already collects, rather than devoting its already stretched resources to the development of what appears to be a very sophisticated program requiring the collection and analysis of additional information that may not be readily available. We believe the adoption of a model more in line with that of the federal regulator would be much more practical and efficient. In this regard, we note that one type of filing that is not listed is plan amendments. This is a filing that OSFI reviews as part of its risk assessment program and, in our view, could be a relevant factor in the monitoring of plans.

We have some concerns with the two-tier analysis described in the Framework. Some of the factors being considered – such as plan size, plan type, plan demographics, complexity of plan structure, whether multi-jurisdictional and/or collectively bargained – could apply to an overly broad sample of plans. If the Tier 1 analysis is largely automated (as suggested in the Consultation Paper), it appears that a number of plans – including some very sophisticated public and private sector plans – could automatically move into the Tier 2 stage (and, accordingly, be subject to a more rigorous – and likely unnecessary – review). If Tier 1 is to be largely automated, we would suggest that a *three tier* system would be more appropriate. This would allow FSCO staff to apply a subjective analysis at the Tier 2 level, and determine whether in fact plans should be subject to the more detailed review requirements of the final (third) tier.

In our view, FSCO's resources should be directed at the second (or third as we suggest above) stage of the assessment, i.e., once a plan is identified exhibiting risk factors. At this stage, the process becomes much more subjective and more labour intensive. We have serious concerns that FSCO does not have the necessary resources and/or expertise to engage in this type of sophisticated analysis. Being categorized by FSCO staff as "high risk" would have serious consequences for a pension plan, and it would be critical for such a review to be both timely and accurate. Should FSCO proceed with the proposed Framework, we are of the view that it will be very important for FSCO to first ensure that it has sufficient resources and staff to implement the Framework in an effective manner.

We also have a concern that while the criteria under the various categories of risk are quantifiable (e.g., number of member complaints, late contributions, late filings), others are very vague. For example, what criteria will be used to evaluate the governance of a plan, or the plan's investment strategy? Plan sponsors need to know what the specific criteria are upon which they will be evaluated. In the past, FSCO has determined that plans failed to meet the prudent person standard based on unpublished criteria. Risk-based reviews need to be properly based on a detailed set of public standards to avoid time consuming investigations applied to ad hoc situations that end with expensive and inconclusive results. If the Framework is to be implemented, we believe that more specific criteria than the CAPSA Guidelines is required to properly assess risk in these areas, and that they need to be published on the FSCO's website.

The Consultation Paper indicates that the Framework is intended to apply to defined contribution (DC) plans (as well as defined benefit plans). However, some of the key risk areas do not apply to DC plans. For example, investment returns is a key risk factor for DC plans, but FSCO does not collect investment information about DC Plans. Investment results for DC Plan members is dependent upon both the menu of investment options offered under the plan by the administrator from time to time, as well as the choices members make based on their individual risk profiles in constructing their DC account portfolio from such menu. How will investment options and investment returns be assessed in the DC context?

Finally, we commend the Consultation Paper for its emphasis on the importance of working with plan sponsors and administrators in identifying and addressing risk areas.

We strongly urge FSCO, as part of the roll-out of the risk-based approach, to develop protocols that encourage dialogue and focus on reasonable solutions, to minimize the potential for confrontation. We also urge FSCO to ask the Ontario Government to make it explicit in the PBA that any information provided by a plan sponsor to FSCO will be kept strictly confidential. In our view, if the financial strength of the sponsor is one of the relevant risk areas, it is essential that plan sponsors have comfort that their information will not be at risk of public disclosure outside of normal reporting requirements.

Finally, we note that stakeholder education is a critical component of the effective implementation of the Framework. Prior to roll-out of the Framework, we would like to see a more detailed plan of the regulatory guidance to be provided.

Yours very truly,

Ian McSweeney

Louise Greig

LV:IM:LAJG

ONTARIO TEACHERS'™
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DES ENSEIGNANTES ET DES ENSEIGNANTS

Comments on FSCO's Proposed Risk-Based Regulation Framework

April 7, 2011

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Consultation Questions

Ontario Teachers' Pension Plan (OTPP) is responding to the broad-based Framework proposed by the Financial Services Commission of Ontario (FSCO) for the risk-based regulation of pension plans in Ontario. We have tailored our response to the general / specific questions provided in the Consultation Document.

General Questions

1. Do you agree with FSCO's overall approach to risk-based regulation?
2. Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?

Section 1: Specific Questions

Section 1 sets out the objectives for FSCO's risk-based regulation of pensions and the design principles in creating the Framework.

3. Do you agree with the design principles on which the Framework is based?

Section 2: Specific Questions:

Section 2 gives an overview of the Regulatory Response Model, describes the risk universe and risk assessment methodology, identifies the data sources and regulatory tools necessary to assess risks and to carry out the regulatory response, and describes the regulatory process flow.

4. Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?
5. Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?
6. Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?
7. Do you have any comments on the regulatory process flow and the related business processes?

Section 3: Specific Questions:

Section 3 outlines the principal activities FSCO plans to carry out over the next three years for transition to the Framework.

8. Do you consider the transition plan reasonable, in light of FSCO's regulatory capacity and the stakeholders' expectation?
9. Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?

Overview

Thank you for providing Ontario Teachers' Pension Plan an opportunity to provide comments on the Risk-Based Regulation Framework. Teachers' is an independent corporation responsible for investing the fund's $107.5 billion in assets and for administering the pensions of Ontario's 295,000 active and retired teachers.

We have reviewed the proposed Risk-Based Regulation Framework in detail and our comments are outlined in the questions below. In short, while we agree with the need to monitor key pension risks, we have significant concerns that the proposed Model Framework will not achieve the stated objective of encouraging sponsors and plan administrators to adopt good governance, risk management and business practices.

General Questions

1. Do you agree with FSCO's overall approach to risk-based regulation?

While we support the notion of introducing a mechanism to improve FSCO's overall effectiveness in its monitoring of key pension risks, we believe that the proposed system fails to meet the objective of "encouraging sponsors and plan administrators to adopt good governance, risk management and business practices".

The Consultation document highlights that the proposed Framework is grounded on five principles. We believe that the Framework does not adequately address two of the five principles; Informed and Proportionate. For FSCO to be both **Informed** and the response **Proportionate**, questions must be asked of the plan sponsors and administrators to ensure that the appropriate investment and risk mitigation strategies and related competencies are in place to effectively manage the risk.

The Framework focuses on five risk areas, but fails to include appropriate risk mitigation strategies or a competency assessment. The Model is heavily focused on quantitative inputs and measures, but does not take into account key mitigating factors or competency criteria to determine if the plan has the capability to manage the size of the fund. The failure to understand the complexity and sophistication of the plan, as well as the risk mitigating strategies employed by the plan limits the ability to deliver the stated objective of promoting good governance and risk management.

On the whole, FSCO's approach to promoting risk-based regulation appears to have taken a "one-size fits all" philosophy in attempting to identify plans that fall into the high-risk category. The Framework is focused on leveraging an automated Risk Indicator Tool that examines quantifiable and measurable risk-based metrics. In our opinion many of the indicators inappropriately classify prudent and appropriate strategies as risky. As well, in our opinion, some of the indicators apply risk measures to investment plans which are wholly inappropriate (i.e. solvency funding valuation to JSPPs).

Finally, we have serious concerns with the fact that the model scores and prematurely "labels" the plans as risky. The Risk Indicator Tool calculates two automated scores based on inputs derived mainly from information on file at FSCO and from previous plan transactions and prescribed filings: Actuarial Information Summary; Annual Information Return; and the Investment Information Summary. Based on the scores, the plan is categorized as either not requiring any further review or it proceeds to a more detailed risk assessment - a Tier 1 or Tier 2 review.

In our opinion, this premature classification of a plan as high risk is not appropriate and could raise serious issues for the plan administrators, their boards and members. While we support a process that applies filters to focus FSCO's resources on a narrow scope of plans, the classification of a plan as risky should not occur until FSCO has completed all stages of its review.

As well, it is extremely important that the risk assessment (including the Tier 1 and Tier 2 reviews) should remain confidential, particularly to the extent that the assessment deals with investment processes or strategies. Some plans are active investors in a competitive market consequently this disclosure of proprietary investment processes or details on who provides investment advice and actuarial services.

2. Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?

As discussed in Question #1, we have a number of concerns with the proposed Framework. To reiterate our concerns, we believe that the Framework does not adequately address two of the design principles: Informed and Proportionate. In our opinion, for FSCO to be both **Informed** and the response **Proportionate** – questions must be asked to identify the types of risk mitigating factors and competency criteria that the Plan has put in place to manage risk effectively. For example; does the plan have a Board of Directors with the appropriate professional experience? Does the plan have qualified investment professionals? Does the plan have a risk management capability that reports to the Board? Without looking at a combination of risk mitigating and competency factors the Model will not encourage administrators to adopt good governance, risk management and business practices.

The proposed Model does not encourage appropriate investment conduct – if anything, it encourages formulaic conduct without consideration of circumstances or investment consequences. The model may encourage what it is trying to prevent by leading a plan administrator to avoid what otherwise would be prudent investment decisions in order to avoid risk points being imposed under the proposed Model.

The Model applies a "one-size fits all" philosophy when applying the criteria. For example, the focus on "solvency", even though JSPP's are exempt from funding solvency deficiencies and are not at risk of wind-up given the public sector nature of the coverage. The Model needs to take into account the size and complexity of various funds and apply appropriate criteria to determine proportionate risk.

As discussed, in the previous question we have concerns with respect to the labelling of the fund as "high-risk" prior to examining the issues further internally or with the Plan itself. Any labelling of the plan as high risk may have unintended repercussions to the plan administrators, its members and board.

Finally, we note that FSCO would require significant additional regulatory authority to mitigate potential risk to pension plans and their beneficiaries. To enable FSCO to address non-compliance issues, FSCO would require exemptive order / relief powers in addition the additional authority identified.

Section 1 – Specific Questions

3. Do you agree with the design principles on which the Framework is based?

In Section 1.2, one of the key objectives of FSCO's risk-based regulation is to encourage the sponsors and plan administrators to adopt good governance, risk management and business practices. It is our opinion that the proposed Framework does not fully achieve three of the five design principles:

- **Proportionate** – The Framework should enable FSCO to plan its regulatory activities proportionate to the risk involved. This includes use of high impact regulatory tools towards areas of higher risk and intervention only when necessary.
- **Informed** – Risk assessment and our regulatory response should be informed by the evidence and due attention should be paid to emerging risks.
- **Focused** – The model seems to focus attention on large plans and runs the risk of small plans quantitatively passing the assessment.

In our opinion, for FSCO to be both Informed and the response Proportionate – questions must be asked to identify the types of risk mitigating factors that the Plan has put in place to manage risk effectively. In terms of the Focused design principle, the Model seems to automatically categorize large plans into the "high-risk" category and runs the risk of smaller, more risky plans passing the quantitative assessment.

Finally, we would also suggest that the first principle, Proactive, be restated to "the Framework should encourage compliance, recognizing that prevention is better than a cure".

Section 2 – Specific Questions

4. Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?

We agree with the Regulatory Response Model approach, but believe that the approach could only be effective, if:

- The risk indicators accurately identify the plans that are at risk and therefore require additional regulatory supervision; and
- FSCO has the personnel resources, with the necessary qualifications and experience in investments and risk management available to review and evaluate the information provided by the plans.

The approach should also include:

- A review of the valuation assumptions; and
- An assessment of the competency / calibre of the plan's Board of Directors / Trustees. One of the key questions to assess is whether or not the plan is governed by a board comprised of lay persons or professionals.

We also question whether FSCO has the regulatory tools to ensure that the plan members' interests are protected when a plan is in the high risk, high probability quadrant. At that point, any orders made by FSCO will be insufficient to address systemic under-funding or the financial demise of the plan sponsor.

5. Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?

See earlier comments

6. Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?

According to the Consultation document, the data obtained by FSCO through plan filings is broadly consistent with those of leading risk-based peer regulators. In our opinion, the Regulatory Response Model will only work if the risks are correctly assessed. A large plan like OTPP appears to fall in the high risk category. OTPP would be able to allocate resources to explain its practices, but we question whether this close supervision is the best use of FSCO's resources. Here are some examples, of our concerns with the risk assessment:

- Non-remittance of contributions: The amount of contributions should be quantified. OTPP regularly deals with non-remittance of contributions from various small employers, but that fact does not, in and of itself, indicate a high risk of pension plan failure. Further, we question how FSCO will know about the shortfall. The custodian is not aware of all remittance shortfalls.

- Funding shortfalls: A funding shortfall may not necessarily indicate high risk of plan failure. The regulator should examine the valuation assumptions when assessing the funding shortfall for it is easy to mask a significant shortfall with inappropriate assumptions.

- Member complaints – member complaints should be assessed on a per capita basis to reflect the reality that a plan with a higher membership base will likely have more complaints. We note that this factor may not be an accurate indicator, for FSCO does not have exclusive jurisdiction for pension complaints. Plan member have the option of filing a complaint with the Human Rights' Tribunal, with the administrator's internal appeal body or may initiate civil litigation.

- Investment returns – Absolute returns are not an appropriate measure of risk. Rather, the investment returns should be assessed according to the plan's benchmark. For example, OTPP is now a mature pension plan and cannot assume as much risk now as it did in the past. High investment returns in a mature plan may mean that the administrator has assumed too much risk, which is inappropriate and counter-productive to the risk model.

- Poor governance – FSCO must take into account the quality of the board / sponsors that oversee JSPPs and MEPPs. Contrary to the Arthur's report, the inclusion of plan members on the Board of Directors increases risk, for it is unlikely that a lay person will have the level of knowledge required to oversee a financial institution.

- Ongoing media monitoring – this type of monitoring will be very personnel-intensive, assuming that FSCO will be assessing each flagged media report for substantive issues. It should also be recognized that investors such as OTPP are frequently the subject of unfounded media speculation and rumour.

7. Do you have any comments on the regulatory process flow and the related business processes?

See earlier comments

Section 3 – Specific Questions

8. Do you consider the transition plan reasonable, in the light of FSCO's regulatory capacity and the stakeholders' expectations?

No comments

9. Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?

We agree that the concept of providing education internally and externally is critical to promote risk-based regulation, but want to emphasize that there is no amount of education that can serve as a substitute for professional experience and expertise. For example, investment professionals and a qualified board are absolutely critical to providing the oversight required for a large pension plan.

Conclusion

In summary, we have reviewed the proposed Risk-Based Regulation Framework and while we agree with the need to monitor key pension risks, we have significant concerns that the proposed Model Framework will not achieve the stated objective of encouraging sponsors and plan administrators to adopt good governance, risk management and business practices.

Pension Investment
Association of Canada

Association canadienne des
gestionnaires de caisses de retraite

May 26, 2011

Tim Thomson
Project Manager
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

Dear Mr. Thomson:

RE: FSCO Risk-Based Regulation Framework

PIAC is pleased to present our comments and observations on FSCO's Risk-Based Regulation Framework. As an association representing the largest pension funds in Canada, PIAC is well-positioned to provide meaningful and constructive input to your consultation process.

PIAC has been the national voice for Canadian pension funds since 1977. Senior investment professionals employed by PIAC's member funds are responsible for the oversight and management of over $1 trillion in assets on behalf of millions of Canadians. PIAC's mission is to promote sound investment practices and good governance for the benefit of pension plan sponsors and beneficiaries.

PIAC Response to Consultation Questions

General questions

1. *Do you agree with FSCO's overall approach to risk-based regulation?*

   PIAC Response: Yes, PIAC supports and congratulates the government on the development of this framework which will contribute to the goal of enhancing the sustainability of pension plans in Ontario.

2. *Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?*

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PIAC Response: Yes, we do. It is within the regulator's key responsibilities to identify and flag risks that impair the ability of a financial vehicle being regulated to fulfill its promised purpose.

Specific questions

3. Do you agree with the design principles on which the Framework is based?

PIAC Response: Yes, PIAC supports the principles for the risk-based approach to regulation, but at the same time recommends that application of such principles do not lead to onerous compliance requirements that could discourage plan sponsors from establishing and maintaining pension plans.

Recommended: Refine the following two principles by adding the following concepts:

- Consistent: All the risk measures taken together, not only stand alone, should lead to a consistent measure of risk exposure across all plans.
- Informed: Education should be the first response to 'emerging risks'.

4. Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?

PIAC Response: Yes PIAC does, however the proverbial "devil is in the detail" of what triggers the categorization of plans into one of the four quadrants would apply. Our key concerns and recommendations are as follows:

- Lack of clarity on definitions and metrics in the analysis makes it difficult for plan sponsors to understand both how the data will be collected and how it would be used.

Recommended: Clarify all terms and metrics so that a plan sponsor could calculate themselves how they would be rated using the quantitative measures.

- Communications need to be ongoing and fulsome. It should be the goal of FSCO to have no surprises for plan sponsors.

Recommended: Carefully plan the communication process to include:

- Raising general level of awareness of the process amongst plan sponsors
- Clarifying how and when various steps will apply
- Clarifying what plan sponsors will be asked for, and what FSCO will calculate from other data provided. For example, it appears that the Fund benchmark return (for the Investment Performance Concerns metric) will be calculated indirectly using asset mix information provided in the SIP&P. This can be a complex calculation and using indirect data is likely to produce different results from the benchmark used by the plan sponsor. Sponsors should have to option to provide this measure directly, if desired.

- o Advise plan sponsors annually if their plan is not under investigation, or when an investigation has been completed and their plan is clear of any issues that might lead to a Tier 2 investigation.
- o Contacting plan sponsors if potential issues exist to advise and enable them to provide clarifying information before the issue escalates and additional or unnecessary analysis is conducted by the regulator. (For example, a large allocation to illiquid assets may cause a plan to be considered higher risk; however the plan sponsor may have an analysis demonstrating how this lowers plan risk).
- o Identifying the individual risk rating and rationale to plan sponsors in a customized letter. The letter should include the specific risk indicators and their calculation and provide benchmarking used.
- o Maintaining confidentiality by ensuring the results of a specific plan's risk-rating are not publicly available to enable organizations to appropriately manage labour relations and reputational risks.

5. Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?

6. Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?

PIAC Response to Q5 and Q6: The Financial Risk indicator categories of Funding and Investment are appropriate, but we are concerned that some of the indicators such as Credit Quality and Currency Risk will be very complex to evaluate with very little to be added to the score either way.

PIAC believes that the Funding Risks should be weighted more heavily in the scoring of a plan than the Investment Risks. This weighting is currently 60%/40%, but it is not clear if this will be maintained if and when the data for the new indicators are developed and how the weightings will be redistributed to include the future enhanced measures.

Further, it should be expected that diversification and risk management will usually be more complex for larger funds. This will speak to analytical and measurement tools needed as well as the requirement for investment knowledge, sophistication and experience on the part of the FSCO reviewers. This also points to the need to consider all risk indicators as a whole and in the context of the entire fund.

Recommended:

- o Ensure that there is a balance between the materiality of the measure and the complexity in calculating it.
- o A better measure of overall diversification / concentration is needed rather than focussing on individual risks such as currency risk and credit quality risk in isolation.

- o What about a measure for leverage?
- o Ensure that the weightings applied to the Funding Risk Indicators are over weighted relative to the other Risk Indicators for the other Categories, since Funding Risk is the most important measure of benefit security.
- o The financial risk of the plan sponsor is a key factor in determining the safety of the benefits, so developing the intelligence process to collect this data should be a focus.

7. Do you have any comments on the regulatory process flow and the related business processes?

PIAC Response: PIAC believes that key to the success of this regulatory process is the education and experience of FSCO staff who will be implementing it.

Recommended:

- o Subjective judgements should be minimized wherever possible.
- o FSCO staff should be carefully trained to ensure metrics are calculated and analyzed consistently and fairly between plans.
- o FSCO should establish a review committee to ensure the subjective judgements of staff are consistent between staff.
- o Once the new risk-based framework has been in place for a year and more data is available on Tier 1 vs. Tier 2 ratings, these results should be shared publicly and if necessary the metrics and measures recalibrated to ensure the framework is meeting the desired goal within an appropriate allocation of resources both for FSCO and the plan sponsors.

8. Do you consider the transition plan reasonable, in the light of FSCO's regulatory capacity and the stakeholders' expectation?

PIAC Response: We take this question to refer to the gradual implementation of the Framework. PIAC generally agrees that this is reasonable, as long as the education, communication and engagement with plan sponsors is comprehensive and ongoing (as discussed in other sections of this letter) and that FSCO resources are adequate. For example, PIAC supports e-filing, assuming FSCO has the IT infrastructure to bring this information into the framework.

Recommended: As development and implementation of this project continues, FSCO should periodically re-evaluate the resources available to ensure they are adequate and effective, and ensure that additional knowledgeable resources are available, if required.

9. Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?

PIAC Response: Yes, PIAC supports comprehensive communication and engagement with stakeholders and the customer service approach described in the paper. As already stated in this submission, we believe the communication with individual plan sponsors should be ongoing and customized to their plan results.

Recommended: Communication should have multiple stages encompassing awareness, education and clarification of specific plan status within the process, even before a conclusion is made on the appropriate rating.

In conclusion, we reiterate our congratulations to FSCO on this important work to enhance the security of pension plans and funds in Ontario. We thank you for this opportunity to share our thoughts with you.

PIAC would be pleased to discuss our comments and observations with you further if desired.

Yours sincerely,

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Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

SECTION:	Financial Statements Guidance Note
INDEX NO.:	FSGN-001
TITLE:	Disclosure Requirements for Financial Statements Filed Pursuant to Regulation 909 s. 76
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (date to be determined)
EFFECTIVE DATE:	Fiscal years beginning on or after January 1, 2012

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

PURPOSE

In 2010, the Canadian Institute of Chartered Accountants' Handbook (CICA Handbook) was restructured and updated. New accounting standards for pension plans are set out in Part IV of the CICA Handbook, as Section 4600 replaced Section 4100 (from the previous version of the CICA Handbook). The CICA Handbook applies to pension plan financial statements for fiscal years beginning on or after January 1, 2011.

The Financial Services Commission of Ontario (FSCO) is of the opinion that some of the disclosure requirements in the CICA Handbook may not be necessary for special purpose financial statements that are filed under the PBA and Regulation, and that the new accounting standards for pension plans should apply to both pension plans and pension funds.

The purpose of this Financial Statement Guidance Note is to specify FSCO's expectations for disclosure, in regards to:

1. **Statement of Changes in Pension Obligations** (refer to sections 4600.10(c) and 4600.28 in the CICA Handbook);

2. **Interest in a Master Trust** (refer to sections 4600.05(q)(i), 4600.05(r) and 4600.15 in the CICA Handbook);

3. **Capital Management (including SIP&P and Contributions)** (refer to sections 4600.37 and paragraphs 135-136 of IAS 1– Presentation of Financial Statements in Part I of the CICA Handbook)**;** and

4. **Financial Instruments: Disclosures** (refer to sections 4600.32 and IFRS 7 – Financial Instruments – Disclosure in Part I of the CICA Handbook).

All pension plan or pension fund financial statements that are prepared for filing with FSCO under section 76 of the Regulation, are expected to follow these disclosure requirements. By providing this disclosure, FSCO does not anticipate that the administrator of the pension plan (administrator) will need to develop a new set of data or statistics, as the administrator can rely on information that was already provided internally to key management personnel.

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BACKGROUND

Under the PBA and the Regulation, the administrator is required to file financial statements for the pension fund or plan as of the plan's fiscal year end date. Subject to the requirements of section 76 of the Regulation, the financial statements and the auditor's report (where required), must be prepared in accordance with the principles and standards that are set out in the CICA Handbook. FSCO has posted some questions and answers on its website to address the differences between the CICA Handbook and section 76 of the Regulation. In addition, when financial statements that need to be filed with FSCO are being prepared, the administrator should refer to FSCO Policy F100-102 – Requirement to File Pension Plan or Pension Fund Financial Statements for guidance.

FSCO'S DISCLOSURE EXPECTATIONS

1. Statement of Changes in Pension Obligations

Section 4600 of the CICA Handbook introduces the requirement that a pension plan's financial statements must present the pension obligations of a defined benefit plan (refer to section 4600.12 (g)) and the resulting surplus or deficit (refer to section 4600.12(h)) on the face of the statement of financial position. Furthermore, section 4600.10(c) also requires a statement of changes in pension obligations, as described in section 4600.28. Section 4100 from the previous version of the CICA Handbook, allowed a pension plan to present the pension obligation in the notes to the financial statements.

It should be noted that FSCO will accept pension plan or pension fund financial statements that are filed under section 76 of the Regulation, which do not disclose pension obligations, since the PBA specifies the requirements for determining and disclosing pension liabilities in actuarial valuation reports filed with FSCO.

When financial statements are prepared for regulatory filings (as pension fund financial statements), the statement of financial position (which excludes pension obligations), is generally renamed as the "statement of net assets available for benefits".

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FSCO expects the following disclosure in order to satisfy the requirements of section 76 of the Regulation:

The pension plan or pension fund financial statements will disclose the following:

- *the basis of accounting in a note to the financial statements;*
- *the departure from the principles and standards set out in the CICA Handbook (where applicable)to meet the requirements of section 76 of the Regulation; and*
- *for pension fund financial statements, Canadian Auditing Standard 800 — the special purpose framework for financial statements — will be applicable and the auditor's report will:*
    - *state that the financial statements are prepared in accordance with the financial reporting provisions of section 76 of Regulation 909 of the PBA; and*
    - *include a paragraph on the basis of accounting and restrictions on its use.*

2. Interest in a Master Trust

Master trust holdings make up more than 50 per cent of the assets that are held by defined benefit plans which are regulated by FSCO. Section 4600.15 of the CICA Handbook no longer allows the use of proportional consolidation or equity accounting for a pension plan's participation in master trusts.

This means that pension plans — some of whose assets are primarily (and sometimes solely) invested in a master trust — could present only a single line item to report their investment assets as **an interest in a master trust** (as per section 4600.05 (q)(i)). Section 4600.14 stresses the importance of distinguishing investment assets and liabilities "by type, because that information is useful to users in understanding the risks associated with a pension plan's investments". FSCO requires more detailed information on the master trust holdings as they relate to the pension plan.

FSCO expects the following disclosure in order to satisfy the requirements of section 76 of the Regulation:

The pension plan or pension fund financial statements will disclose in a note to the statements:

- *sufficient information (quantitative and qualitative) to understand the risks associated with a plan's or fund's investment in master trusts, subject to the materiality requirement;*
- *information on the types of investments, fair value hierarchy (see section 4) and disclosure required under section 76(13) of Regulation 909 for the entire master trust, in addition to the single line presentation on the face of the statement, as required under Section 4600; and*
- *the plan's or fund's position in the master trust (e.g., number of units over total issued, or percent holding of the total).*

3. Capital Management (including SIP&P and Contributions)

Under the accounting standards that are set out in the CICA Handbook, pension plans administrators are required to disclose information regarding capital management, in accordance with the requirements in paragraphs 135-136 of IAS 1 – Presentation of Financial Statements. Pension plans administrators that decide to use the accounting standards for private enterprises from Part II of the CICA Handbook (instead of the IFRS in Part 1 of the CICA Handbook), are nevertheless required by section 4600.37 to provide capital disclosures, as indicated in paragraphs 135-136 of IAS 1 in Part 1 of the CICA Handbook.

Plan's objectives, policies and processes for managing capital

When these disclosures are provided, the administrator can rely on the information that is provided internally to key management personnel, which includes the pension plan's Statement of Investment Policies & Procedures (SIP&P) (as per section 78 of the Regulation). The administrator should draw a succinct and significant portrait on how it has achieved (or not achieved) the SIP&P's objectives in managing the plan's capital assets. There is no need for the plan administrator to develop a new set of data and statistics.

Most pension plans administrators define their capital as net assets available for benefits, or net funded position. In such cases, the statement of net assets available for benefits, or the statement of financial position (as applicable), could be used for the disclosure that is required under IAS 1, paragraph 135(b). Similarly, the statement of changes in net assets would be adequate for the portion of paragraph 135(c) that asks for details of changes in paragraph 135(b).

Contributions accrued and due are externally imposed capital requirements

Section 56(1) of the PBA requires that the administrator "who is responsible for receiving contributions under the pension plan shall ensure that all contributions are paid when due". FSCO considers required contributions as "externally imposed capital requirements", for the purpose of complying with paragraphs 135(a)(ii), 135(d) and 135(e).

FSCO expects the following disclosure in order to satisfy the requirements of sections 76 of the Regulation:

Capital *– the financial statements must include sufficient information for the regulator to be able to identify the pension plan administrator's objectives, policies and processes for managing capital. The disclosures should include:*

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- *a description of what the plan administrator manages as capital; and*
- *the dollar amount of the capital being managed, or a reference as to where it can be found.*

SIP&P *– the following disclosures should be included with respect to the SIP&P:*

- *a statement that the plan administrator has adopted a SIP&P and the date when it was established;*
- *the date the SIP&P was last amended;*
- *if a SIP&P has not been established as required, a statement that the plan does not have one;*
- *if the SIP&P was amended during the period covered by the financial statements, the details of the change;*
- *a description of the following included in the SIP&P:*
    - *categories of investments and loans referred to in the SIP&P*
    - *asset mix targets*
    - *rate of return expectations*
    - *investment options offered to plan members of a defined contribution plan*
- *a measurement of the results achieved by the plan administrator during the period related to targets or benchmarks included in the SIP&P; and*
- *a statement that the pension plan's investments fell within the asset mix target ranges for a defined benefit plan, as of the end of the year.*

Contributions *– the financial statements must include:*

- *a disclosure on whether or not all required contributions that were due were paid, as of the end of the period.*

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4. Financial Instruments: Disclosures

Under the accounting standards, as set out in the CICA Handbook, pension plan administrators are required to provide disclosures (in regards to investments that are financial instruments) that are required by IFRS 7 – Financial Instruments: Disclosures. Pension plans that decide to use the accounting standards for private enterprises, from Part II of the CICA Handbook (instead of the IFRS in Part 1 of the CICA Handbook), are nevertheless required by section 4600.32 to provide financial instrument disclosures using IFRS 7, as indicated in Part 1 of the CICA Handbook.

When these disclosures are provided, the administrator can rely "on the information provided internally to key management personnel", to offer useful insight on how the pension plan's administrator views and manages financial instruments risk. There is no need for the development of a new set of data and statistics.

Pension plans administrators are required under section 4600.19 to measure all investment assets and liabilities at fair value[1]. Section 4600.32 of the CICA Handbook requires a pension plan administrator to also provide the disclosures that are required by IFRS 7 for its investments in financial instruments. It also requires a description of how fair values have been determined, in regards to investments that are not financial instruments.

When fair value is estimated by valuation techniques, the result is more subjective than those established from an observable market price. Accordingly, paragraph 27 of IFRS 7 requires financial instruments to be classified in a three-level measurement hierarchy, to help assess the extent of this subjectivity when making these measurements.

[1] While section 76 of the Regulation refers to "market value", the accounting standards have evolved toward the use of "fair value", which is primarily a market-based measurement. FSCO recognises the standards for fair value measurement as equivalent or superior to the legacy market value measurement. Similarly, section 76 of the Regulation also refers to "book value", which was in use when pension plans were required to account using historical prices only. FSCO also recognises the expression "historical cost" as the equivalent of the legacy book value.

Paragraph 31 of IFRS 7 requires pension plans administrators to "disclose information that enables users of its financial statements to evaluate the nature and extent of risks arising from financial instruments to which the entity is exposed at the end of the reporting period." For each type of risk, some **qualitative disclosures** (i.e., exposures to the risk, how they arise, the pension plan administrator's objectives, policies and processes for managing the risk, and method used to measure it) and **quantitative disclosures** (as described in paragraphs 36 – 42 of IRFS 7) must be disclosed.

The various types of risks defined in Appendix A of IFRS 7 are:

- **Credit risk** – failure to discharge an obligation by a counter party to a financial instrument will cause a financial loss to the pension plan.
- **Liquidity risk** – the pension plan will encounter difficulty in meeting pension and/or other obligations that are settled by delivering cash or another financial asset held for managing liquidity risk.
- **Market risk** – the fair value or future cash flows of financial instruments will fluctuate because of changes in market prices. Paragraph 40 of IFRS 7 requires a pension plan to disclose **a sensitivity analysis for each type of market risk**, along with the methods and assumptions used in preparing it. Alternatively, paragraph 41 allows a plan administrator who uses dynamic analysis (e.g., a value-at-risk model that combines many market variables to manage financial instrument risks) to disclose these types of model findings, instead of those required by paragraph 40. The types of market risks, risk variables and risk factors are presented in the following table:

TYPE OF MARKET RISKS	RISK VARIABLES	RISK FACTORS
Currency risk – changes in foreign exchange rates	Foreign currencies exchange rates	Level of foreign currency hedging
Interest rate risk – changes in market interest rates	Interest rates	Duration of interest-bearing financial instruments
Other price risk – changes in market prices (other than those arising from currency risk or interest rate risk), whether those changes are caused by factors specific to the individual financial instruments or its issuer, or factors affecting all similar financial instruments traded in the market.	Equity markets benchmark price index	Sensitivity of equity financial instruments to equity index benchmark prices (also known as Beta)

The sensitivity analysis that is required under paragraph 40(a) shows the effect on the net assets available for benefits (or net financial position, as applicable) of reasonably possible changes in an externally available risk variable, assuming such changes had occurred at the end of the reporting period, and had been applied to the risk exposures in existence at that date.

FSCO expects the following disclosure in order to satisfy the requirements of section 76 of the Regulation:

The financial statements should contain sufficient information for the regulator to assess the level of subjectivity in fair value measurement, and to get insight on how the plan administrator views and manages financial instrument risks. More specifically, the disclosures should include:

- *for those investments that are financial instruments – a table presenting each type of investment assets and liabilities classified in the three-level measurement hierarchy of IFRS 7, paragraph 27;*
- *when a plan has in interest in a master trust – the fair value hierarchy table presents each type of investment assets and liabilities of the whole master trust, along with the plan's position (total dollar*

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amount or percentage) in the master trust;

- *for all investments that are not financial instruments – a description of how fair value have been determined;*
- *a description of the nature and extent of risks arising from financial instruments to which the plan is exposed at the end of the period, and how the administrator manages those risks;*
- *a credit ratings schedule of interest-bearing financial instruments (AAA, BBB etc.);*
- *a maturity analysis of interest-bearing financial instruments;*
- *a sensitivity analysis of the foreign currency denominated financial instruments, with regard to a possible change of 5 per cent in the foreign currency exchange rate (one analysis for each applicable foreign currency subject to the materiality requirement);*
- *a sensitivity analysis of interest-bearing financial instruments, with regard to a possible change of 1 per cent in the overall level of interest rates;*
- *a sensitivity analysis of equity financial instruments, with regard to a possible change of 10 per cent in the appropriate equity index benchmark (one analysis for each applicable category of equity investments permitted by the SIP&P and subject to the materiality requirement; and*
- *the methods and assumptions used in preparing these sensitivity analyses.*

Note: *only the first three bullets are required for defined contribution plans where members direct the investment decisions for the assets in their accounts.*

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APPENDIX

FSCO has prepared some examples of financial statement notes that should be referred to, when preparing financial statements which will be filed in respect of section 76 of the Regulation.

EXAMPLE 1: Statement of Change in Pension Obligations

The financial statements of the pension plan for employees of XYZ Corporation were prepared without the disclosure of pension obligations. Here is an example of how the auditor's report was qualified and how the basis of accounting is disclosed in the notes:

Example of an Independent Auditor's Report to the Administrator of the Fund of the Pension Plan for Employees of XYZ Corporation

We have audited the accompanying financial statements of the **fund of the pension plan for employees of XYZ Corporation** (the Plan) as of December 31, 20XY. They include the statements of net assets available for benefits as of December 31, 20XY and 20XX, the statements of changes in net assets available for benefits for the years then ended, and a summary of significant accounting policies and other explanatory information. The financial statements have been prepared by the administrator based on the financial reporting provisions of Regulation 909 and Section 76 of the Pension Benefits Act (Ontario).

The Administrator's Responsibility for the Financial Statements

The administrator of the plan (the administrator) is responsible for the preparation and fair presentation of these financial statements in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act (Ontario). This includes determining that the applicable financial reporting framework is acceptable for the preparation of the financial statements in these circumstances, and for such internal control as the administrator determines is necessary, to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditor's Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with Canadian generally accepted auditing standards (GAAS). GAAS require that we comply with ethical requirements, and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making these risk assessments, the auditor considers internal control relevant to the plan's preparation and fair presentation of the financial statements. This is done in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the plan's internal control. An audit also includes evaluating the appropriateness of accounting policies used, the reasonableness of accounting estimates made by the administrator, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained in our audits is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements present fairly, in all material respects, the net assets available for benefits of the plan as of December 31, 20XY and 20XX, and the changes in net assets available for benefits for the years then ended in accordance with the financial reporting provisions of Section 76 of Regulation 909 of the Pension Benefits Act (Ontario).

Basis of Accounting and Restriction on Use

Without modifying our opinion, we draw attention to Note 2 to the financial statements, which describe the basis of accounting. The financial statements are prepared to assist the plan in meeting the requirements of the Pension Benefits Act (Ontario) and the Financial Services Commission of Ontario (FSCO). As a result, the financial statements may not be suitable for another purpose. Our report is intended solely for the administrator and FSCO. It should not be used by parties other than the administrator or FSCO.

Note 2 – Basis of Accounting

These financial statements have been prepared in accordance with the accounting policies set out below, to comply with the accounting guidance provided by FSCO for financial statements under Section 76 of Regulation 909 of the Pension Benefits Act (Ontario). The basis of accounting used in these financial statements materially differs from Canadian generally accepted accounting principles (GAAP). It excludes the pension obligations of the plan's benefits and related information (and as a result do not purport to show the adequacy of the plan's assets to meet its pension obligations), and includes disclosures beyond that required by the CICA Handbook.

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EXAMPLE 2: Investments in a Master Trust

The investment assets of the pension plan for employees of XYZ Corporation are made solely of units in the XYZ Master Trust. Here is an example of how investments are reported on the statement of net assets available for benefits and how the master trust details are presented in the notes:

The Fund of the Pension Plan for Employees of XYZ Corporation

STATEMENT OF NET ASSETS AVAILABLE FOR BENEFITS

As of December 31, 20XY

	20XY $	20XX $
Assets		
Investments in a master trust (note 3)	11,595,000	11,480,000
Employer contributions receivable (note 7)	75,000	60,000
	11,670,000	11,540,000
Liabilities		
Accrued expenses (note 8)	30,000	25,000
Net Assets Available for Benefits	**11,640,000**	**11,515,000**

Note 3 – Investments in a Master Trust

As of December 31, 20XY and 20XX, the assets of the plan were invested in the XYZ Corporation Master Trust Fund (the Master Trust Fund). The detail of the Master Trust Fund investments and the plan's proportionate share thereof are:

	20XY		20XX	
	Fair value $	Cost $	Fair value $	Cost $
Bond pooled funds	13,100,000	11,650,000	12,200,000	10,525,000
Canadian equity pooled funds	7,000,000	6,015,000	7,500,000	5,450,000
Foreign equity pooled funds	5,900,000	5,600,000	6,500,000	5,040,000
Other financial instruments	480,000	480,000	420,000	420,000
	26,480,000	23,745,000	26,620,000	21,435,000
Plan's share of Master Trust assets ($)	11,595,000	9,925,000	11,480,000	9,025,000
Plan's share of Master Trust assets (%)	43.8%		43.1%	

As of December 31, 20XY, the Master Trust Fund held the following investments where the fair value or cost exceeded 1% of the total fair value or total cost of the Master Trust Fund's assets.

	Fair value $	Cost $
ABC Canadian Bonds Universe Exchange Trade Fund	5,305,000	5,225,000
ABC Canadian Long Bonds Fund	7,795,000	6,425,000
DEF Canadian Equity Exchange Trade Fund	4,375,000	4,050,000
DEF Small Caps Alpha Fund	2,525,000	1,965,000
GHI U.S. Large Caps Equities Fund	2,995,000	2,575,000
GHI EAFE Equities Index Exchange Trade Fund	2,905,000	3,025,000

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EXAMPLE 3: Capital Management

This note is prepared with the information available to the administrator through its Statement of Investment Policies and Procedures (the SIP&P), investment managers' quarterly reports and performance measurement monitoring documentation. There is no need to repeat information that is already available elsewhere in the financial statements (e.g. details of contributions paid may be included in another note dealing with the Funding Policy prepared for compliance with section 4600.29(c)).

Note 4 – Capital Management

The capital of the plan is represented by the net assets available for benefits. The plan's objective when managing the capital is to safeguard its ability to continue as a going concern and to maintain adequate assets to support pension obligations.

The plan's administrator has adopted a Statement of Investment Policies and Procedures (the SIP&P) which states investment objectives, guidelines and benchmarks used in investing the capital of the plan, permitted categories of investments, asset-mix diversification and rate of return expectations. The SIP&P was last amended effective July 1st, 20XV.

The plan's absolute return expectation over a five-year horizon has been set in the SIP&P at 6% annualized rate of return, net of investment management fees. The plan's annualized five-year average rate of investment return (net of fees) as of December 31st, 20XY was 3.9% (5.2% as of December 31st, 20XX).

The SIP&P permits four broad categories of assets. A set of benchmarks has been identified to measure against each category's annual rate of investment return (net of fees). The total investments annual rate of return is measured against a composite index made up of the weighted average of each category's benchmark return using the target allocation of the SIP&P to weight the various categories. The plan's relative annual rate of investment return expectation is to equal or exceed the composite index on a net of fees basis. The plan's investment was allocated within the allowed asset categories range, as of the date of the financial statements. The following table presents the asset allocation and annual rate of investment return for each asset category, and total investments, along with appropriate benchmarks.

Asset categories *	Benchmark	Asset allocation (%)			Annual rate of investment return (%)			
		SIP&P Target**	As of December 31st		Benchmark		Actual (net of fees)	
			20XY	20XX	20XY	20XX	20XY	20XX
Cash & Equivalents	DEX 91 days T-Bills Index	2.0	1.8	1.6	1.0	0.5	0.4	0.4
Fixed-Income	DEX Mid Term Bond Index	48.0	49.5	45.8	10.9	7.8	11.8	6.7
Canadian Equities	S&P/TSX 60 Index	25.0	26.4	28.2	-9.1	13.2	-6.3	13.4
Foreign Equities	MSCI World Index (C$)	25.0	22.3	24.4	-3.2	5.9	-1.4	5.0
Total Investments	**Composite Index**	**100.0**	**100.0**	**100.0**	**2.2**	**8.7**	**3.5**	**7.8**

The plan invests in units of the Master Trust Fund, which itself invests in pooled funds managed by ABC Asset Management Ltd, DEF Canada Group of Funds and GHI Global Investors (the investment managers), in accordance with the SIP&P and investment mandates specific to each investment manager. The plan's investment positions expose it to a variety of financial risks which are discussed in Note 5 – Financial Instrument Risks. The allocation of assets among various asset categories is monitored by the plan administrator on a monthly basis. A comprehensive review is conducted quarterly, which includes measurement of returns, comparison of returns to appropriate benchmarks, ranking of returns to appropriate universes and risk analysis.

The employer is required under the PBA to pay contributions, based on actuarial valuations, necessary to ensure the benefits are funded on the plan's provisions. More details on members and employer contributions that were paid during the period can be found in Note 7 – Funding Policy. All contributions that were accrued and due, as defined in the PBA, were indeed paid into the fund during the period covered by the financial statements.

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* In the case of a defined contribution plan, this column heading would read as "Investment Options" and present the various options offered to plan members.
** Idem. There would be no such target for a defined contribution plan when options are elected by plan members.

EXAMPLE 4: Financial Instruments: Disclosures

This note is prepared with the information available to the plan administrator through internal documentation, investment managers' quarterly reports and performance monitoring documentation.

Note 5 – Financial Instruments Risks

The plan's investments in financial instruments are susceptible to the following risks:

1. Fair Value Measurement Risk

The following is a breakdown of the master trust investments and the plan's proportionate share of it using the fair value hierarchy set forth in paragraph 27 of IFRS 7 – Financial Instruments: Disclosures. The hierarchy assesses the subjectivity of inputs used in the fair value measurement in a three-level classification:

- Level 1 – fair value based on market prices quoted in active markets;
- Level 2 – fair value based on observable market data; and
- Level 3 – fair value based on pricing models for which some key market data are unobservable.

	As of December 31st, 20XY			
	Level 1 **$**	**Level 2** **$**	**Level 3** **$**	**Total** **$**
Bond pooled funds and ETF	5,305,000	7,795,000	-	13,100,000
Canadian equity pooled funds and ETF	4,475,000	2,525,000	-	7,000,000
Foreign equity pooled funds	-	5,900,000	-	5,900,000
Other financial instruments	-	480,000	-	480,000
	9,780,000	16,700,000	-	26,480,000
Plan's share of master trust assets ($)	4,280,000	7,315,000	-	11,595,000

	As of December 31st, 20XX			
	Level 1 **$**	**Level 2** **$**	**Level 3** **$**	**Total** **$**
Cash	-	195,000	-	195,000
Bond pooled funds and ETF	4,650,000	7,550,000	-	12,200,000
Canadian equity pooled funds and ETF	4,750,000	2,750,000	-	7,500,000
Foreign equity pooled funds	-	6,500,000	-	6,500,000
Interest and dividends receivable	-	225,000	-	225,000
	9,400,000	17,220,000	-	26,620,000
Plan's share of master trust assets ($)	4,055,000	7,425,000	-	11,480,000

2. Credit Risk

The plan is subject to indirect exposure to credit risk, which is the risk that a counterparty will be unable to pay amounts in full when they are due. The SIP&P restrictions prohibit directly or indirectly investing more than 5% of assets in any one entity, or two or more associated or affiliated entities. Furthermore, the SIP&P restricts investing more than 5% of assets in fixed-income instruments with a credit rating below BBB.

The following are the master trust investments in interest-bearing financial instruments, the exposure to credit risk and the plan's proportionate share of it.

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Credit Ratings	AAA $	AA $	A $	BBB $	BB $	Total $
As of December 31st, 20XY						
master trust	1,310,000	5,500,000	4,210,000	1,830,000	250,000	13,100,000
plan's share ($)	570,000	2,410,000	1.845,000	800,000	110,000	5,735,000
As of December 31st, 20XX						
master trust	1,100,000	5,240,000	4,025,000	1,595,000	240,000	12,200,000
plan's share ($)	470,000	2,260,000	1,735,000	690,000	105,000	5,260,000

3. Liquidity Risk

Liquidity risk is the risk that the plan may be unable to meet pension payment obligations in a timely manner and at a reasonable cost. Management of liquidity seeks to ensure that even under adverse conditions, the plan has access to immediate cash that is necessary to cover benefits payable, withdrawals and other liabilities. The SIP&P requires the plan's investments to be highly liquid, so they can be converted into cash on short notice. The plan's exposure to liquidity risk is considered negligible.

The following is a maturity analysis of the master trust investments that are held for managing liquidity risk and the plan's proportionate share of it.

Maturity	< 1 year $	1 – 5 yrs $	5 – 10 yrs $	10 – 20 yrs $	> 20 yrs $	Total $
As of December 31st, 20XY						
master trust	655,000	1,965,000	3,930,000	4,585,000	1,965,000	13,100,000
plan's share ($)	290,000	860,000	1.720,000	2,005,000	860,000	5,735,000
As of December 31st, 20XX						
master Trust	610,000	1,830,000	3,660,000	4,270,000	1,830,000	12,200,000
plan's share ($)	260,000	790,000	1,580,000	1,840,000	790,000	5,260,000

4. Market Risk: Currency

The master trust holds financial instruments denominated in currencies other the Canadian dollar — the measurement currency. The plan is therefore exposed to currency risk as the value of these financial instruments will fluctuate due to changes in foreign exchange rates. The SIP&P requires the plan's investments denominated in foreign currencies to be hedged back to the Canadian dollar to a minimum of 50%.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits, following reasonably possible changes in foreign currency exchange rates, for each currency to which the plan has a significant exposure.

Currency risk	Currency	Change in exchange rates	Change in Net Assets Available for Benefits as of December 31st 20XY $	December 31st 20XX $
United States dollar	US $ / C$	+ / - 5%	- / + 38,000	- / + 43,100
Euro	€ / C$	+ / - 5%	- / + 13,400	- / + 12,500
Japanese Yen	¥ / $C	+ / - 5%	- / + 8,300	- / + 9,800
Great Britain Pound	£ / C$	+ / - 5%	- / + 4,900	- / + 4,600
Total			- / + 64,600	- / + 70,000

5. Market Risk: Interest Rate Risk

The master trust holds interest-bearing financial instruments. The plan is therefore exposed to interest rate risk, as the value of interest-bearing financial instruments will fluctuate with changes in interest rates. The plan administrator views interest rate risk on interest-bearing financial instruments as a hedge that offset the larger interest rate risk on pension benefit liabilities. In order for this offset to significantly reduce the overall level (on assets and pension benefit liabilities) of the plan's interest rate risk, the SIP&P requires that at least 50% of holdings in interest-bearing financial instruments be invested in long maturities.

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The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits following a reasonably possible change in interest rates for all maturities (a parallel shift in the yield curve).

Interest rate risk	**Change in interest rates**	**Change in Net Assets Available for Benefits as of December 31st 201XY $**	**December 31st 20XX $**
Interest-bearing financial instruments	+ / - 1%	- / + 757,000	- / + 641,700

6. Market Risk: Equity Prices Risk

The master trust holds equity financial instruments. The plan is therefore exposed to equity price risk as the value of equity financial instruments will fluctuate due to changes in equity prices. In order to limit the level of equity price risk, the SIP&P limit the sensitivity of the plan's investments in equities with regard to specific stock market benchmarks (also known as Beta or "ß") to a maximum of 1.00.

The following sensitivity analysis summarizes the impact on the plan's net assets available for benefits, following reasonably possible changes in equity prices for each stock market benchmark to which the plan has a significant exposure.

Equity prices risk	**Stock market benchmark**	**Change in prices index**	**Change in Net Assets Available for Benefits as of December 31st 20XY $**	**December 31st 20XX $**
Canadian equities	S&P/TSX 60 Index	+ / - 10%	+ / - 291,200	+ / - 313,700
Foreign equities	MSCI World Index (C$)	+ / - 10%	+ / - 235,100	+ / - 257,900
Total			+ / - 526,300	+ / - 571,600

7. Market Risk: Methods and Assumptions Used in Preparing the Sensitivity Analyses

The various sensitivity analyses are based on similar disclosures presented in the audited financial statements of the various fund holdings of the master trust. When the master trust invests in more than one fund with similar financial instruments risk, the impact on the plan's net assets available for benefits is calculated separately for each of these funds, and then added together. When funds with similar financial instruments risk use a different level of reasonably possible change to assess the impact on their net assets value, this impact is prorated in order to use a consistent level of reasonable possible change in presenting the aggregate impact on the plan's net assets available for benefits.

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Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Investment Guidance Notes

FSCO’s Investment Guidance Notes set out FSCO's expectations of plan administrators relating to the investment of pension plan assets, and the administrator’s investment-related obligations under the Pension Benefits Act (PBA) and Regulation 909 (Regulation) under the PBA.

The Guidance Notes are posted for public consultation; prior to being finalized and published.

How to Provide Comments

There are several ways to submit your comments:

1. Email: pensionconsultation@fsco.gov.on.ca
2. Mail: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street
   Toronto ON M2N 6L9
3. Fax: (416) 226-7787

If you need clarifications on the Guidance Notes before submitting your response, please email FSCO.

At the end of the consultation period, submissions will be made available upon request, in the language they were received. If you wish your response to remain anonymous, please state this explicitly in your letter. We will take the necessary steps to meet your request. However, please be aware that, should we receive a formal request under Freedom of Information legislation, we may be required to disclose your response, subject to the Freedom of Information and Protection of Privacy Act.

Closed Consultations:

Index No.:	IGN-005
Consultation Reference:	Overview of Statements of Investment Policies and Procedures (SIPP) Requirements Size: ## kb
Summary:	Section 78 of the Regulation is amended, effective January 1, 2016, to require plan administrators to file their statement of investment policies and procedures (SIPPs) with FSCO.

	This guidance note outlines the content, filing and disclosure requirements for SIPPs, as set out in Regulation 909 under the Pension Benefits Act. In addition, it outlines factors that FSCO expects the pension plan administrator to consider in establishing and reviewing a SIPP in accordance with its fiduciary duties and as a matter of good governance.
Posting Date:	December 8, 2015
Deadline for Submissions:	February 8, 2016
Please include a subject line in your letter referencing 'Overview of Statements of Investment Policies and Procedures (SIPP) Requirements'.	

Index No.:	IGN-004
Consultation Reference:	Environmental, Social and Governance (ESG) Factors Size: ## kb Size: ## kb
Summary:	Section 78 of the Regulation is amended, effective January 1, 2016, to require plan administrators to file their statement of investment policies and procedures (SIPPs) with FSCO. Under section 78(3), the SIPP must include information as to whether environmental, social and governance (ESG) factors are incorporated into the plan's investment policies and procedures, and if so, how this is done. IGN-004 provides background information on ESG factors and guidelines to assist pension plan administrators in meeting the disclosure requirement of section 78(3).
Posting Date:	June 30, 2015
Deadline for Submissions:	August 28, 2015
Please include a subject line in your letter referencing 'Environmental, Social and Governance (ESG) Factors'.	

Index No.:	IGN-003

Consultation Reference:	Statements of Investment Policies and Procedures (SIPPs) for Member Directed Defined Contribution Plans Size: ## kb
Summary:	As a result of recent amendments to the Federal *Pension Benefits Standards Regulations, 1985* (PBSR) and to the Regulation, the requirements have changed for the statement of investment policies and procedures (SIPP) for plans where the members direct the investment of the assets in their accounts (i.e. member-directed defined contribution (DC) plans and combination benefit or hybrid plans with member-directed accounts). IGN-003 sets out FSCO's expectations regarding the content of SIPPs for these types of plans in light of these changes; it does not apply to defined benefit (DB) plans, or to DC plans where the administrator directs the investment of the assets.
Posting Date:	June 30, 2015
Deadline for Submissions:	August 28, 2015
Please include a subject line in your letter referencing 'Statements of Investment Policies and Procedures (SIPPs) for Member Directed Defined Contribution Plans'.	

Index No.:	IGN-002
Consultation Reference:	Prudent Investment Practices for Derivatives Size: ## kb
Summary:	The Guidance Note provides plan administrators detailed assistance with respect to prudent investment practices related to derivatives.
Posting Date:	October 24, 2014
Deadline for Submissions:	November 24, 2014

Please include a subject line in your letter referencing 'Prudent Investment Practices for Derivatives'.	

Index No.:	IGN-001
Consultation Reference:	Buy-In Annuities for Defined Benefit Plans Size: ## kb
Summary:	The Guidance Note provides information for plan administrators of defined benefit plans about FSCO's expectations with respect to the investment of pension plan assets in buy-in annuities.
Posting Date:	October 7, 2014
Deadline for Submissions:	November 7, 2014
Please include a subject line in your letter referencing 'Buy-In Annuities for Defined Benefit Plans'.	

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SECTION:	Investment Guidance Notes
INDEX NO.:	IGN-005
TITLE:	Overview of Statements of Investment Policies and Procedures (SIPP) Requirements
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (date to be determined)
EFFECTIVE DATE:	January 1, 2016

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca*. All pension policies and guidance notes can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

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1.0 Purpose

This guidance note outlines the content, filing and disclosure requirements for statements of investment policies and procedures (SIPP), as set out in Regulation 909 (Regulation) under the Pension Benefits Act (PBA). In addition, it outlines factors that FSCO expects the pension plan administrator (administrator) to consider in establishing and reviewing a SIPP in accordance with its fiduciary duties and as a matter of good governance.

An administrator of a member-directed defined contribution (DC) plan, or a combination or hybrid plan with a member-directed DC provision[1], should also refer to *IGN-003: Statements of Investment Policies and Procedures (SIPPs) for Member-Directed Defined Contribution Plans* (IGN-003).

[1] A DC plan or provision is "member-directed" where members or beneficiaries are permitted to make some or all investment choices for their individual accounts. A member-directed DC plan or provision is distinguished in this policy from an "administrator-directed" DC plan or provision, where all investment choices pertaining to the individual accounts are made by the administrator.

2.0 Background

2.1 Differences between Investment Policy Statements and SIPPs

An **investment policy statement** is a generic term for a document that sets out the investment policies and parameters of an investment program, such as investment objectives, investment principles, asset allocation mix, and risk tolerances.

A **SIPP** is a document required by the Regulation that must outline key investment policies and procedures for the pension fund and meet minimum requirements set out in the Regulation and described in section 3.3 of this guidance note.

The SIPP may serve as the plan's sole investment policy statement, as is the case for many pension plans. In such instances, it may be appropriate for the SIPP to go beyond the prescribed minimum content requirements, and address a broader range of investment policy matters.

Alternatively, a plan may establish a SIPP which is intended to simply meet the prescribed content requirements, and establish a separate document that serves as the plan's more detailed investment policy statement. In some cases, the SIPP and/or the investment policy statement may be further supplemented by additional investment policies covering a variety of topics (such as manager selection and portfolio rebalancing).

2.2 One SIPP per Plan

Some plans have both defined benefit (DB) and DC provisions. For instance, there are combination plans where members have to choose between a DB and DC option, or hybrid plans, which offer a minimum guaranteed defined benefit, with upside potential offered through a member-directed DC provision.

Section 78(1) of the Regulation requires a plan to have a single SIPP, including when the plan has both a DB and member-directed DC provision. This means that the SIPP for a combination or hybrid plan must address the assets that pertain to all provisions covered by the plan, although the SIPP would address the assets of each provision differently as there are fundamental differences in the investment of DB assets and member-directed DC assets.[2] The SIPP must be filed with FSCO through the Pension Services Portal.[3]

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[2] Under a DB provision, members' assets are pooled together and invested under a single coherent investment policy or strategy (a similar approach is taken with an administrator-directed DC plan). In contrast, under a member-directed DC provision, each member provides investment instructions for the assets notionally credited to the member's separate account within the investment parameters and options of the plan. Accordingly, the content requirements for the SIPP of a member-directed DC provision will differ from that of a DB or administrator-directed DC provision.

[3] A single SIPP may be made up of separate parts for different provisions (for example, Part A relating to the investment of the DB provision and Part B relating to the investment of the DC provision). However, someone reading the SIPP must be able to identify it as the complete SIPP for the plan and, therefore, where the SIPP is divided into parts, there should be an indication in the document of the number of parts and the provision to which each part relates.

2.3 Similar SIPPs for Multiple Plans

In practice, an administrator of a plan may adopt a SIPP that contains provisions identical to those in the SIPP for other plans. For example, plans with the same administrator, plans that invest in the same master trust, or plans that use the same investment consultant may be modelled after the same SIPP.

However, the administrator of each plan must first determine, in accordance with its fiduciary duties, that the investment policies and procedures set out in the model SIPP are appropriate for its plan given all relevant factors such as the plan type and demographics/ maturity. If the administrator considers the model SIPP to be appropriate for its plan, the administrator must formally adopt the SIPP and the approval must be properly documented. If needed, the administrator should modify the SIPP to address any unique characteristics of the plan.

The administrator of each plan is responsible for its own SIPP; therefore, any amendments to the model SIPP must be considered and adopted, rejected, or modified by the administrator for each plan.

3.0 Regulatory Requirements

The following is a summary of key statutory and regulatory requirements pertaining to the SIPP. Administrators and their advisors are directed to review the PBA and regulations directly for complete details.

3.1 Standard of Care

Under section 22 of the PBA, an administrator is responsible for administering and investing the pension fund in accordance with the administrator’s standard of care, in a prudent manner, and in the best interests of the pension plan’s beneficiaries. It is the responsibility of the administrator to determine what prudence requires in the context of the plan and fund that it administers. The administrator must determine the investment policies and procedures to be set out in the SIPP, implement a review and approval process, and monitor compliance with the SIPP, all in accordance with the administrator’s fiduciary duties.

The administrator should document the rationale for key investment policies and procedures, although this does not necessarily have to be documented in the SIPP itself.

3.2 Establishing a SIPP

The requirement to establish a SIPP is set out in section 78(1) of the Regulation and applies to all pension plans.[4] Specifically, section 78(1) requires the administrator to establish a SIPP for the plan that meets the requirements of the federal investment regulations (FIR), as modified by sections 47.8 and 79 of the Regulation.

The FIR are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the federal *Pension Benefits Standards Regulations, 1985* (PBSR) made under the *Pension*

[4] Individual pension plans and designated pension plans, as defined under the *Income Tax Act*, are also required to establish a SIPP.

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Benefits Standards Act, 1985 (Canada) as they may be amended from time to time. The FIR are incorporated by reference in sections 78 and 79 of the Regulation.[5]

Under the PBA, the application of the FIR is modified by sections 47.8 and 79 of the Regulation. Section 47.8 permits plans to invest in certain derivative contracts issued under the *Ontario Municipal Employees Retirement System Act*, subject to certain prescribed conditions. Section 79 permits plans to invest in securities issued by the United States Government.

3.3 Content Requirements for the SIPP

The content requirements for SIPPs are set out in the Regulation and the FIR as incorporated therein. In addition, FSCO's investment guidance notes (specifically IGN-003 and *IGN-004: Environmental, Social and Governance (ESG) Factors* (IGN-004)) provide guidance on the regulatory requirements and best practices. Details are provided below.

Section 7.1 of the PBSR

Content requirements for SIPPs of DB plans and administrator-directed DC plans are set out in Section 7.1(1) of the PBSR, which specifies that the SIPP must address the following policies and procedures:

a) categories of investments and loans, including derivatives, options and futures,
b) diversification of the investment portfolio,
c) asset mix and rate of return expectations,
d) liquidity of investments,
e) the lending of cash or securities,
f) the retention or delegation of voting rights acquired through plan investments,
g) the method of, and basis for, the valuation of investments that are not regularly traded at a marketplace; and
h) related party transactions permitted under section 17 of Schedule III and the criteria to be used to establish whether a transaction is nominal or immaterial to the plan.

Typically, a SIPP would contain a separate section describing each of these elements. For a description of the above listed policies and procedures, see OSFI's *Guideline for the Development of Investment Policies and Procedures for Federally Regulated Pension Plans*.

Section 7.1(1) of the PBSR also states that the SIPP must be prepared "having regard to all factors that may affect the funding and solvency of the plan and the ability of the plan to meet its financial obligations" (hereinafter referred to as "funding and solvency factors").

Stated another way, the administrator must take into account various funding and solvency factors in preparing its SIPP. This requirement reflects the importance of a plan's liabilities and funded status in setting investment policy. It is the responsibility of the administrator to determine what factors affect funding and solvency of the plan.

Under section 7.1(2) of the PBSR, the SIPP must include a description of its funding and solvency factors, and the relationship of those factors to the policies and procedures set out in the SIPP.

[5] The "federal investment regulations", or "FIR" for short, is a defined term under the PBA, and refers collectively to certain sections of the PBSR as indicated above. In this guidance note, when referring to individual sections under the FIR, however, reference will be made to the PBSR, not the FIR.

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Member-Directed DC Plans or Provisions

The content requirements of section 7.1(1) of the PBSR do not apply to member-directed DC plans or provisions. For information concerning the content requirements for these types of plans, see IGN-003.

Environmental, Social, and Governance Factors

Under section 78(3) of the Regulation, the SIPP must include information as to whether environmental, social, and governance (ESG) factors are incorporated into the plan's investment policies and procedures, and if so, how those factors are incorporated. This requirement applies to all pension plans.

For further information on ESG factors and on FSCO's expectations concerning ESG disclosures, refer to IGN-004.

SIPP Content to be Consistent with Schedule III of the PBSR

The terms and provisions of the SIPP must be consistent with the requirements of the FIR as modified in sections 47.8 and 79 of the Regulation, including Schedule III of the PBSR.[6] Schedule III includes investment regulations that deal with permitted investments, concentration risk, and related party transactions.

If there is a conflict between the terms and provisions of the SIPP and the FIR (including Schedule III) as modified by the Regulation, the FIR as modified takes precedence. The administrator should amend its SIPP to remove any such conflict.

Optional Content

The SIPP may serve as the sole investment policy document for a plan, as noted previously. Therefore, the document may go beyond the minimum prescribed requirements and include other investment policies or procedures.

Summary of SIPP Content

Sample table of contents for DB and DC plans or provisions have been provided in Appendix A and Appendix B. A summary of content requirements for SIPPs has been provided in Appendix C.

3.4 Investing in Accordance with the FIR and the SIPP

Under section 79 of the Regulation, the assets of the plan must be invested in accordance with the SIPP **and** the FIR (as modified by sections 47.8 and 79 of the Regulation).

This has important implications for the administrator in preparing or updating a SIPP, including the following:

- The administrator will need a mechanism to monitor whether the plan is in compliance with the FIR **and** the SIPP.

[6] As required by section 78(2) of the Regulation.

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- If key elements of a plan's investment program change, the administrator must ensure that any changes are consistent with the SIPP, or alternatively, the SIPP is amended to reflect the changes.
- If there is a conflict between the FIR and the provisions of the SIPP, the SIPP must be amended. Under section 79(1.1) of the Regulation, the investment rules of the FIR (as modified by the Regulation) take precedence over the SIPP (as well as over the provisions of the plan or an instrument governing the plan).[7]
- Administrators should be careful to draft the SIPP in such a way that it is clear how to comply with it.

3.5 Filing and Disclosure Requirements

Filing the SIPP with FSCO

Administrators are required to file their SIPPs with FSCO through the Pension Services Portal, subject to the following deadlines:

- For plans registered before January 1, 2016, the SIPP must be filed by March 1, 2016.
- For new plans registered on or after January 1, 2016, the SIPP must be filed within 60 days after plan registration.
- An amendment to a SIPP must be filed within 60 days after the date the amendment is made. (Administrators are encouraged to file the entire amended SIPP, rather than just the amendment.)

The administrator must file the SIPP, and any SIPP amendments, with a SIPP Information Summary (Form 14)[8].

Administrator to make SIPP available

Under section 29 of the PBA and section 45 of the Regulation, the administrator is required to make the SIPP available for inspection upon written request of specified persons, and provide copies subject to a prescribed fee. The persons include, among others, a member, former member or retired member; the spouse of a member, former member or retired member; any other person entitled to pension benefits under the pension plan; a representative of a trade union that represents members of the pension plan; and an employer. (See section 29 of the PBA for a complete list of specified persons.)

The administrator is also required to provide copies of such documents by mail or e-mail, upon written request and payment of the applicable fee. The administrator is also required to provide the SIPP to the plan's pension advisory committee[9], if any, and to the plan's actuary, in the case of DB plans.[10]

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[7] For example, administrators will need to take note of changes to Schedule III of the FIR which come into force on July 1, 2016, and modify their SIPP to ensure consistency with the revised regulations.
[8] Form 14 has been approved by the Superintendent in accordance with section 113.2 of the PBA.
[9] The authority for this requirement is section 24 of the PBA, which requires the administrator to provide such information as is under the control of the administrator and is required by the advisory committee or its representative for the purposes of the committee. It is FSCO's position that the SIPP is a document required by the pension advisory committee.
[10] As required by section 7.1(3) and 7.2(2) of the PBSR.

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Superintendent to make SIPP available

Under section 30 of the PBA and section 46 of the Regulation, the Superintendent is required to make the SIPP available for inspection upon written request of the parties specified in section 29(1) of the PBA. The Superintendent is also required to provide copies of such documents by mail or e-mail, upon written request and payment of the applicable fee.

SIPP Information in Member Statements

Effective July 1, 2016, administrators are required to include prescribed content about SIPPs in annual statements to members, and biennial statements to former and retired members. The prescribed content includes general statements about the requirement for a plan to establish a SIPP, that the SIPP will contain information about the plan's ESG policy, and how members, former members, and retired members may view or obtain a copy of the SIPP (as described above). Details are prescribed in sections 40, 40.1, and 40.2 of the Regulation.

Summary of Filing and Disclosure Requirements

Key filing and disclosure requirements under the PBA and the Regulation are summarized in Appendix D.

3.6 Review of SIPP

Under section 7.2 of the PBSR, an administrator must review and confirm, or amend the SIPP with respect to the assets of DB or administrator-directed DC plans or provisions at least once each plan year.

SIPPs that pertain to member-directed DC plans or provisions are not subject to the annual review requirements of section 7.2 of the PBSR. Consistent with their fiduciary duties, however, administrators must periodically review the SIPP. See IGN-003 for further details.

There are also instances where the SIPP will need to be amended prior to a regularly scheduled review. The assets of every pension plan, including member-directed DC plans, must be invested in accordance with the SIPP for the plan at all times.[11] Therefore, if there is a proposed change to the investment strategy, investment practices, or the investments themselves that would be contrary to the SIPP, the SIPP must be amended before any such change is implemented.

As a matter of good governance, the administrator should implement a review and approval process for the SIPP. If the administrator has adopted several amendments to the SIPP, the administrator should incorporate the amendments into a restated SIPP.

4.0 Development and Review Considerations

4.1 External Assistance

The SIPP is a plan document that addresses a wide range of technical topics and must meet regulatory requirements. The preparation, review, and revision of the SIPP will require a high level

[11] As required by section 79 of the Regulation.

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of technical knowledge and expertise. If the administrator does not feel it possesses adequate knowledge and expertise, it has a fiduciary duty to seek external expert assistance in this regard.

4.2 Reference Materials

In establishing or reviewing a SIPP, administrators and their advisors should review the following materials for additional guidance and information:

- FSCO *IGN-003: Statements of Investment Policies and Procedures (SIPPs) for Member-Directed Defined Contribution Plans.*
- FSCO *IGN-004: Environmental, Social and Governance (ESG) Factors.*
- OSFI's *Guideline for the Development of Investment Policies and Procedures for Federally Regulated Pension Plans*, April 2000.
- CAPSA's *Guideline No. 6 Pension Plan Prudent Investment Practices Guideline and Self-Assessment Questionnaire on Prudent Investment Practices*, November 2011.

This guidance note also contains the following appendices, for reference purposes:

- Appendix A: Sample Table of Contents for SIPPs for DB Plans and Administrator-Directed DC Plans
- Appendix B: Sample Table of Contents for SIPPs for Member-Directed DC Plans
- Appendix C: Summary of Content Requirements for SIPPs
- Appendix D: Summary of SIPP-Related Disclosure Requirements under the PBA

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Appendix A: Sample Table of Contents for SIPPs for DB Plans or Administrator-Directed DC Plans

A sample table of contents for the SIPP of a DB plan or an administrator-directed DC plan is provided below. This example is for illustrative purposes only. In developing the SIPP, administrators must meet the standard of care required under section 22 of the PBA, as well as any specific regulatory requirements.

This sample table of contents includes the minimum content prescribed under section 7.1(1) of the PBSR and section 78(3) of the Regulation. It also includes other suggested content that may be appropriate where the SIPP serves as the plan's sole or primary investment policy statement. (The suggested items, as marked by asterisks, may be included at the discretion of the administrator.)

1. Introduction – Purpose and Scope of the SIPP*
2. Overview of the Plan*
3. Governance and Administration of the Pension Fund*
4. Funding and Solvency Factors
5. Environmental, Social and Governance Factors
6. Categories of Investments And Loans
7. Diversification of The Investment Portfolio
8. Asset Mix And Rate of Return Expectations
9. Liquidity of Investments
10. Lending of Cash or Securities
11. Proxy Voting Rights
12. Valuation of Investments
13. Related Party Transactions
14. Performance Measurement Monitoring*
15. Selection and Termination of Investment Managers*
16. Policy Approval and Review*

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Appendix B: Sample Table of Contents for SIPPs for Member-Directed DC Plans

A sample table of contents for the SIPP of a member-directed DC plan is provided below. This example is for illustrative purposes only. In developing the SIPP, administrators must meet the standard of care required under section 22 of the PBA, as well as any specific regulatory requirements.

This sample table of contents includes the ESG disclosure requirement prescribed under section 78(3) of the Regulation, and items suggested for consideration by administrators in *IGN-003: Statements of Investment Policies and Procedures (SIPPs) for Member-Directed Defined Contribution Plans.* The sample table of content also contains other suggested items that may be appropriate where the SIPP serves as the plan's sole or primary investment policy statement.

1. Introduction – Purpose and Scope of the SIPP
2. Overview of the Plan
3. Governance and Administration of the Pension Fund
4. Environmental, Social and Governance Factors
5. General investment principles
6. Permitted asset classes from which investment funds can be selected
7. The default investment option for member accounts where no selection is made
8. Selecting, monitoring, and terminating investment managers and funds
9. Plan expenses and investment fees related to the DC plan/provision
10. Related party transactions
11. Information guidelines for plan members on investment options
12. Policy Approval and Review

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Appendix C: Summary of Content Requirements for SIPPs

Plan type covered by the SIPP	Content Requirements
Defined benefit plan(s) and/or Administrator-directed defined contribution plan(s)	• Investment policies and procedures in respect of the plan's portfolio of assets and loans, including: o Minimum content requirements as set out in sections 7.1(1) and (2) of the PBSR. o ESG disclosures as prescribed in section 78(3) of the Regulation. (See also *IGN-004: Environmental, Social and Governance (ESG) Factors* for more information). • SIPP terms and provisions must be consistent with Schedule III of the PBSR.
Member-directed defined contribution plan(s)	• Investment policies and procedures in respect of the plan's portfolio of assets and loans, including: o ESG disclosures as prescribed in section 78(3) of the Regulation. (See also *IGN-004: Environmental, Social and Governance (ESG) Factors* for more information). o Suggested content as set out in section 4 of *IGN-003: SIPPs for Member-Directed Defined Contribution Plans*. • SIPP terms and provisions must be consistent with Schedule III of the PBSR.
Hybrid or combination benefit plan that includes the following provisions: Defined benefit provision and/or administrator–directed DC provision and Member-directed DC provision	• Investment policies and procedures in respect of the plan's portfolio of assets and loans, including: o With respect to a DB provision or administrator–directed DC provision, minimum content requirements as set out in sections 7.1(1) and (2) of the PBSR. o With respect to a member-directed DC provision, suggested content as set out in section 4 of *IGN-003: SIPPs for Member-Directed Defined Contribution Plans*. o With respect to all provisions, ESG disclosures as prescribed in section 78(3) of the Regulation. (See also *IGN-004: Environmental, Social and Governance (ESG) Factors* for more information). • SIPP terms and provisions must be consistent with Schedule III of the PBSR.

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Appendix D: Summary of SIPP-Related Disclosure Requirements under the PBA

Disclosure Requirement	Timing (where applicable)	Citation
Upon written request, the administrator is required to make available for inspection a plan's SIPP to persons specified in section 29(1) of the PBA, and/or provide a copy by mail or e-mail.		s. 29 of the PBA s. 45 of the Regulation
Upon written request, the Superintendent is required to make available for inspection a plan's SIPP to persons specified in section 29(1) of the PBA, and/or provide a copy by mail or e-mail.		s. 30 of the PBA s. 46 of the Regulation
Administrator must file the plan's SIPP with FSCO subject to the following deadlines: For plans existing on January 1, 2016. SIPPs for new pension plans established after January 1, 2016. Any amendments to a SIPP.	 To be filed by March 1, 2016 To be filed within 60 days of the establishment of the plan To be filed within 60 days of the amendment	s. 78(4), (5) & (6) of the Regulation
In the case of defined benefit plans, the SIPP and any amendment must be provided to the plan actuary.	To be provided, as applicable, on or before the later of: (i) 60 days of the establishment of the SIPP or its amendment, as applicable, (ii) on the appointment of the actuary.	s. 7.1(3) and s. 7.2(2) of the PBSR
The SIPP must be provided to the plan advisory committee, if any, where the SIPP is required by the advisory committee for the purposes of the committee.		s. 24(7) of the PBA
Prescribed information concerning the SIPP must be included in annual member statements.	Required for member statements issued on or after July 1, 2016.	s. 27(1) of the PBA s. 40 of the Regulations
Prescribed information concerning the SIPP must be included in former and retired member biennial statements.	For plans registered on January 1, 2015, the first such statement must be issued no later than July 1, 2017 (and within 6 months after the plan's fiscal year end), and then every two years thereafter.	s. 27(2) of the PBA ss. 40.1 and 40.2 of the Regulations

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Commission des services financiers de l'Ontario

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Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies and guidance notes can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

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1. Purpose

This guidance note provides background information and guidelines on **environmental, social and governance (ESG) factors**, to assist pension plan administrators (administrator) in meeting the requirement of section 78(3) of Regulation 909 (Regulation) under the Pension Benefits Act (PBA), which comes into force on January 1, 2016. Under section 78(3), a plan's statement of investment policies and procedures (SIPP) is required to include information as to whether environmental, social, and governance (ESG) factors are incorporated into the plan's investment policies and procedures and, if so, how those factors are incorporated.

2. Background on Relevant Legislation

a. PBA Requirements for Prudent Investing (Section 22)

An administrator is responsible for investing the pension fund in accordance with the administrator's standard of care, in a prudent manner, and in the best interests of the pension plan's beneficiaries. Prudent investing entails understanding, monitoring and mitigating risk. It is the responsibility of the administrator to determine what prudence requires in the context of the plan and fund that it administers.

Accordingly, all investment decisions that are made by the administrator (or its delegates), including the decision as to whether or not to incorporate ESG factors, and, if so, how must be made in accordance with the administrator's fiduciary duties.

b. PBA Regulations

Under section 78(1) of the Regulation, the administrator of a pension plan is required to establish a SIPP for the plan that meets the requirements of the federal investment regulations[1] as modified in sections 47.8 and 79 of the Regulation. A SIPP is a document that contains investment policies and procedures in respect of a plan's portfolio of investments and loans.

Section 78 of the Regulation has been amended, effective January 1, 2016, to add the following requirements concerning the SIPPs that are applicable to Ontario registered pension plans:

- Administrators will be required to file their SIPPs, and subsequent amendments to their SIPPs, with FSCO; and
- SIPPs must include information on whether or not ESG factors are incorporated into the plan's investment policies and procedures, and if so, include a description of how those factors are incorporated.

Under sections 40, 40.1, and 40.2 of the Regulation, effective July 1, 2016, administrators must include prescribed statements about the SIPP in annual statements to members, and in biennial statements to former and retired members.

The disclosure requirements set out in the Regulation are applicable to both defined benefit and defined contribution plans.

3. ESG Factors

The term "ESG factors" is not defined in the PBA or the Regulation, and there is no standard definition of ESG factors that has been accepted among the investment community. Similarly, the approach to incorporating ESG factors into investment policies and procedures differs among investors.

One such approach involves integrating ESG factors into fundamental investment analysis to the extent that they are material to investment performance. This approach is driven by the belief that effective research, analysis and management of ESG factors can play a part in assessing the valuation and future performance of an investment over the short, medium and long term. It involves the assessment of a wider range of risks and opportunities that may influence the investment performance of the pension fund, by looking at factors beyond those included in traditional financial analysis. It also recognizes the long-term nature of ESG factors, and the impact they may have on the sustainability and profitability of individual entities in which the pension fund may invest. This approach sees ESG factors as among the many factors that may materially impact the investment performance of an asset; while all such factors should be taken into account as part of an administrator's duty to invest prudently, it is up to the

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[1] The federal investment regulations (FIR) are defined by section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the *Pension Benefits Standards Regulations, 1985* (PBSR) made under the *Pension Benefits Standards Act, 1985* (Canada) as they may be amended from time to time. The FIR are incorporated by reference in sections 78 and 79 of the Regulation. The Regulation also modifies the application of the FIR with respect to Ontario plans.

administrator as fiduciary to evaluate which factors are material and how to take them into account.

Another approach is to incorporate ESG factors into the investment process from an ethical or moral perspective, instead of from a financial perspective. For example, an investor may screen investments on social and environmental factors, such as employing ethical screens targeting guns, tobacco, or nuclear power. An administrator should be cautious to ensure that its approach to incorporating ESG factors does not conflict with its fiduciary duties, as may be the case with the use of ethical screens. The best interests of plan beneficiaries has traditionally been defined by the courts in terms of the beneficiaries' financial interests, with the result that there is a potential conflict with investing with other goals in mind such as social causes. If the administrator is considering such an approach, the administrator is encouraged to consult with its legal counsel on this issue.

4. ESG Disclosure in the SIPP

In order to comply with the Regulation's ESG disclosure requirement, FSCO expects that by January 1, 2016, the administrator will have made a decision on whether or not to incorporate ESG factors into its investment policies and procedures, and will have documented its position in the plan's SIPP. Like all decisions of the administrator, this decision should be made with regard to its fiduciary duties. In making this decision, FSCO expects that the administrator will, after consultation, as appropriate in the context of the plan (such as with the plan's trustees, investment committee, and/or investment advisors):

- establish and document its own view or understanding on what is meant by ESG factors; and,
- consider whether or not it will incorporate ESG factors and document the basis for its decision.

An appropriate place for such documentation would be the minutes of the meeting(s) where the issue was discussed, or in an internal memorandum.

ESG Factors Not Incorporated

Where the administrator has decided not to incorporate ESG factors into its investment policies and procedures, a statement to that effect must be made in the SIPP. Administrators may also wish to include a brief explanation of their rationale in the SIPP itself, in the interest of transparency to members and beneficiaries.

ESG Factors Incorporated

Where the administrator has decided to incorporate ESG factors into its investment policies and procedures, then a statement to that effect must be made in the SIPP, as well as a description as to how those factors have been incorporated. The Regulation does not provide further details, however, FSCO expects the following information to be disclosed:

- Either a broad statement that the administrator incorporates all ESG factors, or an enumeration of ESG factors that are incorporated, such as a particular ESG category or categories (i.e., environmental, social, or governance) and/or specific factors within those categories (e.g., renewable energy, labour relations, shareholder rights) which form the focus of the program. Since the SIPP is an integral plan document and the

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administrator is responsible for ensuring compliance with the SIPP, the policies and procedures, including those pertaining to ESG, must be clearly drafted. A general reference to incorporating ESG factors will be interpreted by FSCO as including the broadest range of ESG factors.

- A brief explanation of the methodology used by the plan to incorporate ESG factors. The administrator is not required to provide information that would disclose any proprietary information concerning the plan's investment strategy or practices.
- A description of the scope of the application of ESG factors. The disclosure should indicate if ESG factors are applied to the entire pension fund, or only certain portions of the pension fund (e.g., such as certain asset classes, or internally managed assets rather than externally managed assets).

The administrator is responsible for ensuring compliance with the SIPP, not only by itself, but by its delegates.[2] Accordingly, the language concerning the incorporation of ESG factors to be included in the SIPP should be drafted in such a way that it can be complied with by the administrator and, where applicable, external investment managers. In this regard, the administrator may want to engage with its external managers in preparing its ESG disclosure language for the SIPP.

5. Member Statements

Effective July 1, 2016, the annual statements to members will be required to include specific *statements* concerning SIPPs, as prescribed in section 40 of the Regulation. Among these prescribed statements is the following:

> (v) a statement that the administrator of the pension plan must establish a statement of investment policies and procedures for the plan that contains,
>
> > (i) the investment policies and procedures in respect of the plan's portfolio of investments and loans, and
> >
> > (ii) information about whether environmental, social and governance factors are incorporated into the plan's investment policies and procedures and, if so, how those factors are incorporated.

Similar requirements have also been prescribed for biennial statements to former and retired members (see sections 40.1 and 40.2 of the Regulation).

As can be seen from the language above, the administrator is not required to make the same ESG disclosure as in the SIPP, but is only required to make reference that such disclosures can be found in the SIPP. Administrators are required to provide the SIPP to plan members, former members, retired members, and other stakeholders upon request[3].

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[2] See section 22(7) of the PBA, and section 79(1) of the Regulation (as of January 1, 2016). In addition, agents of the administrator have a fiduciary standard of care (PBA, s. 22(8)) and every person engaged in selecting an investment must ensure that the investment is selected in accordance with the criteria set out in the PBA and Regulation (PBA, s.62).

[3] See PBA, s. 29 and Regulation, s. 45(1)13 and s. 45(2)7.

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6. Expert Advice

Where the administrator does not believe it has sufficient knowledge on the topic of ESG factors, it would be prudent for it to seek advice from an external advisor. As in the selection of all advisors, the administrator is responsible for selecting a suitable advisor, i.e. one with relevant knowledge and expertise.

7. SIPP Policy Review

The SIPP is required to be reviewed on an annual basis. This will require the administrator to annually review the ESG disclosure contained in the SIPP.

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Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies and guidance notes can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

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1.0 Purpose

As a result of recent amendments to the Federal *Pension Benefits Standards Regulations, 1985* (PBSR) and to Regulation 909 (the Regulation) under the *Pension Benefits Act* (PBA), the requirements have changed for the statement of investment policies and procedures (SIPP) for plans where the members direct the investment of the assets in their accounts (i.e., member directed defined contribution (DC) plans and, combination benefit or hybrid plans with member directed accounts).

This guidance note sets out FSCO's expectations regarding the content of SIPPs for these types of plans in light of these changes; it does not apply to defined benefit (DB) plans, or to DC plans where the administrator directs the investment of the assets.

2.0 Background

2.1 SIPPs and the PBA

Under section 78(1) of the Regulation, the administrator of a pension plan is required to establish a SIPP for the plan that meets the requirements of the federal investment regulations as modified in sections 47.8 and 79 of the Regulation. A SIPP is a document that contains investment policies and procedures in respect of a plan's portfolio of investments and loans.

2.2 Federal Investment Regulations

The federal investment regulations (FIR) are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the Federal PBSR made under the *Pension Benefits Standards Act, 1985 (Canada)* as they may be amended from time to time. The FIR are incorporated by reference in sections 78 and 79 of the Regulation. The Regulation also modifies the application of the FIR with respect to Ontario plans.

Under the amendments to section 7.1 of the PBSR, which came into force on April 1, 2015, the SIPP established for a federally registered pension plan does not need to address the assets of a “member choice account”, as defined in the PBSR. A member choice account is essentially an account under a defined contribution (DC) plan or DC provision of a combination benefit or hybrid plan for which the member or other beneficiary is permitted to make the investment choices.

The Federal Government has instead introduced a series of disclosure requirements concerning investment options offered under the member choice accounts. These new disclosure requirements, however, will not apply to Ontario pension plans as they are not incorporated by reference into the PBA.

3.0 PBA Requirement for SIPPs for Member Directed DC Plans and Content Requirements

The Ontario requirement for the establishment of a SIPP is not contained in the FIR, but directly in section 78 of the Regulation; therefore, member directed DC plans are still required to establish a SIPP and the SIPP for other plans with member directed accounts must still address the investment of such accounts. However, the content requirements set out in section 7.1 of the PBSR no longer apply with respect to the investment of member directed accounts.

The SIPP for these plans must be consistent with the applicable portions of the FIR as modified in sections 47.8 and 79 of the Regulation. Where there is a conflict between the SIPP and the FIR as modified by sections 47.8 and 79 of the Regulation, the FIR as modified takes precedence.[1] The administrator should amend the SIPP to remove the conflict.

The SIPP must also include information as to whether environmental, social, and governance (ESG) factors are incorporated into the plan’s investment policies and procedures, and if so, how those factors are incorporated. Reference should be made to FSCO’s Investment Guidance Note #004: *Environmental, Social and Governance (ESG) Factors* for more information.

As the SIPP contains investment policies and procedures in respect of the plan’s portfolio of investments and loans, FSCO expects that the SIPP for the DC plan/provision will also contain the following information:

1. *The investment philosophy statement.* This includes investment principles, beliefs, and assumptions that help shape the DC plan/provision’s investment program, such as the administrator’s views on active and passive management, or the approximate number of

[1] Section 78 of the Regulation requires the SIPP to meet the requirements of the FIR as modified in sections 47.8 and 79 of the Regulation. Section 79 of the Regulation requires the assets of every pension plan to be invested in accordance with the FIR despite the provisions of the plan or an instrument governing the plan. Effective January 1, 2016, section 79 of the Regulation requires the assets of the plan to be invested in accordance with the FIR, as modified, and with the SIPP.

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investment options to be made available to plan members. This also includes indicating in general terms the type of investment products (e.g., mutual funds, target date funds, life cycle funds, government securities, etc.) that are appropriate given the stated investment principles, beliefs and assumptions.

2. *Permitted asset classes from which investment funds can be selected,* which should reflect the principles, beliefs, and assumptions set out in the investment philosophy statement.
3. *The default investment option for member accounts where no selection is made, and an explanation as to why it is appropriate given the plan membership*. For example, relevant factors in choosing a default option may include the interest rate environment and the usual length of time prior to the receipt of investment directions.
4. *The process for monitoring service providers.* The policy should specify, in general terms, the frequency and type of reporting that the administrator will require from its DC-related service providers, such as the record keeper, third party administrator, and custodian, where applicable. (Investment managers are discussed separately in item 5 below). For example, the policy may require quarterly reporting from the record keeper on fund performance, fund allocation, web-site usage, and other service-level statistics.
5. *The process for selecting, monitoring, and terminating investment managers and funds.* This may include internal authorizations, processes, and criteria to be followed in the selection, monitoring, and termination of investment managers and funds, as appropriate. This should include identifying the party responsible for assessing compliance by investment funds with applicable SIPP policies and procedures, and the frequency of assessing and reporting on compliance. In determining appropriate criteria to be considered in selecting investment options, Administrators may wish to refer to *CAPSA Guideline #3: Guidelines for Capital Accumulation Plans* (May 2004).
6. *Guidance concerning plan expenses and investment fees related to the DC plan/provision.* This should include indicating which expenses and fees will be paid by the employer and which will be borne by plan members; expectations or limits on total plan expenses and fees; and guidelines for monitoring expenses and fees.
7. *Related party transactions* –the policies and procedures pertaining to related party transactions permitted under section 17 of Schedule III to the PBSR and the criteria to be used to establish whether a transaction is nominal or immaterial to the plan under the related party rules.
8. *Information guidelines for plan members on investment options.* The policy should identify at a high level the guidelines on information to be provided to plan members concerning their investment options under the plan. Administrators may wish to refer to CAPSA Guidelines No. 3 and 8, and the new regulations on member choice accounts prescribed in section 7.3 of the PBSR.[2]

The SIPP does not necessarily need to address these items in the same order as they are presented above.

[2] Section 7.3 of the PBSR is not incorporated by reference into the Regulation, and, therefore, Ontario pension plans are not required to comply with this subsection. The requirements set out in section 7.3 may nevertheless serve as a useful guideline for administrators.

4.0 Other Important SIPP Requirements

The SIPP for a member directed DC plan (or which pertain to member directed accounts) is also subject to other regulatory requirements under the PBA, including those described below. This is meant as a summary only, and administrators should refer to the relevant sections of the PBA and the Regulation directly, and relevant FSCO policies for further information:

- Starting in 2016, administrators will need to file the SIPP with FSCO. The filing is to be done through the Pension Services Portal. (See section 78 of the Regulation.)
- Starting on January 1, 2016, the assets of the plan must be invested in accordance with the SIPP. Plan assets must also continue to be invested in accordance with the FIR, as modified by the Regulation. (See section 79(1) of the Regulation)
- Administrators must make their SIPPs available to plan members and other prescribed stakeholders upon request. (See section 29 of the PBA and section 45 of the Regulation)
- Effective July 1, 2016, administrators must include prescribed statements about the SIPP in annual statements to members, and in biennial statements to former and retired members, if applicable. (See sections 40, 40.1 and 40.2 of the Regulation.)

5.0 Assistance and Reference Materials

The SIPP is an integral plan document that addresses a wide range of technical topics including investments and funding, and which must meet regulatory requirements. As such, the preparation, review and revision of the SIPP will require a fairly high level of technical knowledge and expertise. If the administrator does not feel it possesses adequate knowledge and expertise, it has a fiduciary duty to seek external expert assistance in this regard.

In establishing or reviewing a SIPP, administrators and their advisors and consultants may wish to review the following materials for additional guidance and information:

- FSCO *Investment Guidance Note #002: Prudent Investment Practices for Derivatives.*
- FSCO *Investment Guidance Note #004: Environmental, Social and Governance (ESG) Factors.*
- CAPSA's *Guideline No. 3: Guidelines for Capital Accumulation Plans,* May 2004.
- CAPSA's *Guideline No. 6: Pension Plan Prudent Investment Practices Guideline* and *Self-Assessment Questionnaire on Prudent Investment Practices*, November 2011.
- CAPSA's *Guideline No. 8: Defined Contribution Plans Guideline*, March 2014.

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Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca*. All pension policies and guidance notes can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

This guidance note includes technical terms that are specific to the subject matter covered. When used for the first time, these terms are bolded and cross-referenced to a glossary at the end of the document.

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1.0 Purpose

An administrator of a pension plan (administrator) is responsible for investing the pension fund in accordance with the administrator's standard of care, in a prudent manner and in the best interests of the pension plan's beneficiaries. Prudent investing entails understanding, monitoring and mitigating risk. The purpose of this Guidance Note is to assist those administrators who have determined that derivatives are appropriate in the context of their particular plans and funds in developing appropriate policies and procedures relating to those investments and their associated risks.

This Guidance Note is intended to provide detailed guidance with respect to prudent investment practices related to derivatives. This Guidance Note is not an exhaustive checklist, but rather a starting point. Administrators should consider how this Guidance Note best applies to each plan, keeping in the plan's size, membership demographics, investment goals and objectives, and other relevant factors. Prudence may require some plans to have much more rigorous practices and procedures than others. Prudence may also lead the administrator to a determination that derivatives investments, or certain types of derivatives are inappropriate for a particular fund. It is the responsibility of the administrator to make these determinations.

This Guidance Note is also intended to assist administrators who indirectly invest in derivatives, for example, through a pooled fund or master trust arrangement that invests some of its assets in derivatives. See section 7.0 (Pooled Funds and Master Trusts) for more information on FSCO's expectations regarding pooled funds and master trusts.

While **repurchase agreements (repos)** are not generally considered to be derivatives, they do have similar risks associated with them as derivatives. As such, administrators should apply similar prudence, consideration and risk management processes and procedures to repos as are suggested for derivatives in this Guidance Note.

2.0 Background

A derivative is a financial contract whose value is derived from some **underlying** asset, index or financial rate. Derivatives are used as a **hedge** to reduce certain risks and account for a significant part of trading in global financial markets. They are flexible and can be combined with other instruments to create **synthetic exposures** and portfolios that have risk and return profiles similar to more traditional investments, potentially at a lower trading cost.

While derivatives can reduce risks, the specific nature and complexity of derivatives can also substantially increase risks across investment portfolios, depending on how they are used. Some of these risks include market risk, basis risk, liquidity risk, counterparty risk and operations and systems risks. For more information on these risks, refer to section 6.0 (Risk Monitoring).

Exchange-traded derivatives (ETD) are standardized and traded through an exchange which acts as a **central counterparty**. **Non-standard over-the-counter derivatives (non-standard OTC)** present the greatest challenges because they are tailored to the circumstances of the contracting counterparties, are more difficult to value, are less liquid, and do not benefit from some of the protections offered by a central counterparty.

Canadian provincial securities regulators and authorities in other jurisdictions are implementing **G20 commitments** to create a comprehensive regulatory regime for OTC derivatives. Administrators should be aware that they and/or their counterparties may be subject to specific regulatory requirements for registering, central clearing, risk mitigation techniques and trade reporting if they deal in OTC derivatives. As a consequence, some **standardized OTC derivatives (standard OTC)**, like the majority of Canadian interest rate swaps, are now centrally cleared, mainly through SwapClear in the UK.

Before the 2008 financial crisis, investor **risk tolerances** were generally high and derivatives were viewed as a way to target specific risks. The financial crisis revealed the extent of counterparty risk and deficient risk management practices. Investors in OTC derivatives who obtained insufficient **collateral** were left to find transactions to offset losses resulting from bankrupt counterparties.

It is now apparent that some investors did not understand the risks inherent in the complex OTC derivatives products they were purchasing and, in some cases, did not know the identities of their counterparties. The financial crisis highlighted the risks associated with a lack of management oversight and documentation, and the importance of taking a considered and comprehensive approach to the risks of derivatives.

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3.0 Prudence and the Pension Regulatory Framework

Section 22 of the PBA sets out the administrator's statutory standard of care in the administration of a pension plan and fund, including the requirement that an administrator "exercise the care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person" and to use "all relevant knowledge and skill that the administrator possesses or, by reason of the administrator's profession, business or calling, ought to possess." This fiduciary standard is often referred to as the **Prudent Person Rule.**

It is the administrator's duty to ensure that all investments, including derivatives, comply with all applicable statutory provisions and regulations, including the Prudent Person Rule. The Regulation and the Federal Investment Regulations (FIR) have few requirements related to specific types of investments, including derivatives.[1] The use of derivatives is judged primarily in terms of the overall context of the plan and the investment portfolio.

Prudence includes making decisions based on the consideration of sufficient and relevant information and documenting the decisions, the reasons for them and the factors considered. It includes minimizing the risk of large losses to a pension fund associated with a sizable exposure to a single counterparty, asset or class of assets, and considering the risks of using derivatives compared to other investments with the same potential benefits.

4.0 Documentation

Section 78 of the Regulation requires the administrator to establish a Statement of Investment Policies and Procedures (SIP&P) for the plan that meets the requirements of the FIR which include the "categories of investments and loans, including derivatives, options and futures."[2] The plan's SIP&P should be consistent with the pension fund's diversification, asset mix, liquidity and the value measurement of investments.

Administrators should also consider developing and documenting risk management practices (RMP) for pension fund investments. Sound RMP require written policies and procedures that:

- clearly delineate responsibility for managing risk;
- put in place adequate systems for measuring risk;
- create appropriately structured limits on risk taking;
- establish independent internal controls; and
- describe audit mechanisms and timely risk monitoring and reporting.

RMP policies and procedures should reflect the degree and complexity of the derivatives investment strategies employed by the plan and disclose the intended purpose, use and strategies involving derivatives in which the administrator or those with investment

[1] The FIR are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the Pension Benefits Standards Regulations, 1985 made under the Pension Benefits Standards Act, 1985 (Canada) as they may be amended from time to time. Section 79 of the Regulation provides that pension assets must be invested in accordance with the FIR (as modified in sections 47.8 and 79 of the Regulation).

[2] Section 7.1 (1)(a) of the FIR.

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responsibilities are permitted to engage (e.g. to modify asset allocations, adjust **duration**, create synthetic securities, hedge certain positions).

FSCO's expectations regarding Documentation include:

- Authorized use of derivatives is documented in the SIP&P and each category of derivative in which the pension fund is to invest is properly listed with a reasonable amount of specificity in the SIP&P. The proportion of the fair value of the portfolio that may be invested in derivatives, or put at risk through derivative investments, is clearly set out in the SIP&P.
- The extent to which assets of the plan may be pledged as collateral is clearly set out in the SIP&P. No assets are pledged except in accordance with the terms of the pension plan (including funding agreements) and the SIP&P.
- RMP documentation is established by the administrator that includes the following:
    - the uses and strategies to which the derivatives will be put in light of the Prudent Person Rule, the overall investment objectives, risk appetites and risk tolerances of the fund and the nature of the plan benefit liabilities, taking into consideration the funding and solvency of the plan and the ability of the plan to meet its financial obligations;
    - risk management considerations which include descriptions of main types of risks associated with derivative positions, risk measurement methodology, risk mitigation strategies, timely risk monitoring and reporting, and establishment of specific and unambiguous limits on derivative activities;
    - individuals or organizational units who are authorized to trade, settle, value and/or manage the risk created by derivatives positions, giving regard to segregation of responsibilities and management oversight;
    - independent internal controls, appropriately scaled audit mechanisms and compliance enforcement.
- RMP documentation and risk management processes are reviewed at least annually and updated promptly when statutory requirements or investment processes change.

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5.0 Risk Mitigation

Given the potential risks inherent in derivatives, a number of risk mitigation best practices are used by market participants to help reduce unnecessary risks. The practices described in section 5.1 and 5.2 below apply primarily to non-standard OTC derivatives. The practices described in section 5.3, 5.4 and 5.5 apply equally to ETD and all OTC derivatives.

These best practices apply whether the investment is done directly by the administrator or has been delegated to an external investment manager. In cases where external investment managers are using derivatives, appropriate operational due diligence should be performed to ensure that appropriate RMP are employed, including those set out below.

5.1 Pricing and Value Measurement of Derivatives

The pricing of standard OTC derivatives and ETD is reasonably transparent because prices are quoted on derivatives exchanges; however, it can be challenging to determine the fair pricing of non-standard OTC derivatives at contract inception because they are not traded through exchanges.

In non-standard OTC derivative transactions, each counterparty has the responsibility to review and evaluate the terms and conditions of the contract and to obtain such additional information or independent professional assistance as it may require.

Derivatives need to be valued regularly with the same frequency and assumptions as other portfolio holdings. The plan administrator should use independent value measurement methodology for non-standard OTC derivatives and should not rely on counterparties as the exclusive source of derivative values. In some cases, the valuation can be outsourced to a third party agent, such as the custodian or fund holder.

5.2 Netting Agreements

Counterparties to non-standard OTC derivatives typically enter into **netting** agreements that allow for netting on settlement or liquidation. There is a risk that incomplete or inadequate documentation could result in legal disputes, especially in the case of a default or insolvency of one of the parties.

Standardized documentation, such as the International Swaps and Derivatives Association (ISDA) Master Agreement, is used by most market participants when trading in non-standard OTC derivatives to help mitigate credit risk by ensuring the enforceability of netting. The ISDA Master Agreement sets out the standard legal and credit relationships between the parties, so the parties are not required to repeat standard terms in every transaction between them. Standardized documentation is also used for repos.

5.3 Collateral Requirements

Some derivatives require the posting of collateral to a counterparty as the price of the derivative changes over time. Generally, they also require the delivery of cash or securities at maturity or when the derivative is exercised.

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Some non-standard OTC derivatives have a minimum transfer amount indicating the degree of exposure permitted before one party will require additional collateral to be given. Terms are negotiated and documented in a credit support annex (CSA) to the master agreement. Adding a CSA allows the parties to specify the collateral that will be available in the event of a default.

Administrators should consider the collateral requirements appropriate for each derivative investment. It is important that administrators ensure that sufficient collateral is obtained in terms of nature, amount and quality, depending on the transaction. Terms and conditions regarding collateral should be properly documented.

Administrators should consider requirements imposed by regulators (including securities regulators), central counterparties and any other applicable entity. Specific requirements may relate to:

- acceptable types of collateral;
- the frequency of **exposure or mark to market valuation**;
- restrictions on re-hypothecation; and
- the segregation and holding of collateral.

Central counterparties that clear standard OTC derivatives often require collateral to be in the form of cash instead of the long-term financial assets in which pension funds typically invest (e.g. government bonds).

5.4 Limits on Derivative Activities

The pension fund's exposure to derivatives and repos should be subject to limits based on the intended use and strategies for derivatives and the risks associated with them.

These specific and unambiguous quantitative limits should be connected to the mark to market valuation of the position with a counterparty, the percentage of the fair value of the fund's investment assets (net of investment liabilities) put at risk, and the SIP&P.

Limits should be set at two levels: soft limits, where positions must be analyzed, and hard limits, where positions must be liquidated to comply with the quantitative limits that have been set.

5.5 Limits on Variable Compensation

Compensation practices for management and staff involved in derivative activities should be set so as to avoid undue risk-taking.

FSCO's expectations regarding Risk Mitigation include:

- Valuation of non-standard OTC derivatives are periodically provided by sources independent from counterparties. Value measurement can be outsourced to a third party where a contract specifies valuation procedures and the need for independent price sources.
- Appropriate legal documentation with appropriate collateral requirements is used with counterparties of non-standard OTC derivative trades and repos (e.g. master agreements, CSAs).

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- Appropriate legal advice is obtained and appropriate legal due diligence is completed, including consideration of the ability to contain potential losses (e.g. stop loss provisions, the ability to terminate the contract).
- Appropriate mechanisms exist (either in the documentation or by virtue of the nature of the investment) to permit the administrator or its agent to contain potential losses.
- Original documents are stored safely in compliance with FSCO's Policy A300-200 (Management and Retention of Pension Plan Records by the Administrator).
- Quantitative limits to derivatives exposures are set by the administrator.
- The administrator will not enter into non-standard OTC derivative or repo contracts with a counterparty or associated counterparties where the exposure or mark to market position of all contracts with the counterparty or associated counterparties is greater than 10 per cent of the fair value of the fund's investment assets (net of investment liabilities), or such other limit as may be prudent.
- Compensation policies are set so as to discourage excessive risk-taking.

6.0 Risk Monitoring

Derivatives are subject to the same risks as other investments. However, the lack of transparency and leverage effect of some derivatives result in traditional risks manifesting themselves differently, thereby requiring more precise assessment and more frequent monitoring.

6.1 Market Risk Leverage

Some derivatives expose the holders to market risk in ways that are disproportionate to any initial cash outlay. A minor fluctuation in the value of the underlying could cause a major fluctuation in the value of a derivative. Other derivatives are effective in reducing market risk exposures.

Accordingly, the plan's exposure to each source of market risk should be controlled and monitored in a comprehensive manner. At a minimum, limits should be established for the sensitivity of a fund's portfolio to both expected and unexpected changes in discrete risk factors such as interest rates, foreign exchange rates, equity and commodity prices. Leverage should also be carefully and frequently monitored and controlled to avoid undue risk to the pension fund.

6.2 Liquidity Risk

Market liquidity of the underlying can have a serious effect on cash and derivative positions. If there is insufficient market activity, it may be difficult to unwind a position quickly enough to avoid serious losses. The ability to provide cash to satisfy collateral requirements on derivatives positions must also be managed.

Liquidity controls for non-standard OTC derivatives include assessing the ability and willingness of a counterparty to unwind a contract, if and when necessary.

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6.3 Counterparty Risk

Counterparty risk monitoring encompasses a comprehensive credit assessment of each organization with which the pension plan is entering into non-standard OTC derivative contracts. This includes initial approval, assigning credit risk ratings, setting credit limits and ongoing reviews of all trading counterparties. All of these activities should be performed by persons who are independent of those engaging in transactions.

The pension fund's exposure to a specific counterparty and to associated counterparties should be subject to a hard limit based on the exposure or mark-to-market position of all contracts existing with this counterparty.

6.4 Basis Risk

Plan administrators should evaluate and monitor the effectiveness of hedging strategies against basis risk.

Basis risk is the risk that the prices of financial instruments in a hedging strategy will move in a way that reduces the effectiveness of the hedging strategy. Basis risk arises when an administrator uses a derivative to hedge against a risk exposure which differs from the risk exposure of the index on which the derivative contract is based.

For example, a longevity swap which results in a stream of payments based on current and future mortality tables issued by a particular actuarial association might not effectively hedge against plan member longevity where the longevity experience of the plan does not reasonably mirror the mortality tables. In this example, basis risk arises because the plan's demographics are not similar to that of the population on which the mortality tables are based.

6.5 Operations and Systems Risk

Deficiencies in information systems or internal controls could result in unexpected losses for a pension fund. Operating risks should be assessed through periodic reviews of procedures, data processing systems, contingency plans and other operating practices. The design of information systems should vary according to the scope and complexity of a fund's involvement in derivatives.

FSCO's expectations regarding Risk Monitoring include:

- Appropriate mechanisms are in place for precise and frequent monitoring of the risks associated with all investment positions, including derivatives.
- The fund's portfolio is monitored with a view to triggering the loss mitigation mechanisms, as appropriate.
- Initial approval and ongoing review of counterparties in non-standard OTC derivatives positions are performed by persons independent of those engaging in derivative transactions.
- Counterparties who suffer a credit rating downgrade by an independent credit rating agency are automatically reviewed.
- Ongoing monitoring is conducted to ensure that the exposure or mark-to-market position of all non-standard OTC derivative and repo contracts with a specific

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counterparty or associated counterparties does not exceed 10 per cent of the fair value of the fund's investment assets (net of investment liabilities), or such other limit as may be prudent in the circumstances.

- Ongoing monitoring is conducted to ensure that the percentage of the fair value of the fund's investment assets (net of investment liabilities) that is invested in derivatives does not exceed limits set out in the SIP&P.
- Scenario analysis and stress testing are carried out to determine the potential impact of derivatives and other positions.
- Reviews of procedures, data processing systems, contingency plans and other operating practices are performed at least once each year.

6.6 Stress Testing

Scenario testing and stress testing are useful tools for determining potential impacts of derivative positions on the pension fund. Simulated scenarios may consist of historical or hypothetical events or be based on probabilistic random variables models. These analyses allow the pension plan to assess the risks to which it is exposed, both in connection with its derivatives activities and the total value of the fund.

7.0 Pooled Funds and Master Trusts

Where a pension fund's assets are invested through a pooled fund or master trust arrangement, which in turn invests some of its assets in derivatives, it is still necessary for administrators to implement appropriate risk management practices and procedures.

An administrator investing in a pooled fund that is open for investment to unrelated entities may not be in a position to ensure that standards recommended in this Guidance Note are met by the pooled fund investment manager. In such a case, before deciding to invest in a pooled fund, administrators should:

- review available relevant information or disclosure regarding the proposed arrangement;
- consider whether the operation of the pooled fund, as described in its constitutional documents, meets the standards set out in this Guidance Note;
- consider the suitability of any investment manager of the pooled fund assets;
- consider any risks associated with the lack of control over the investments in the pooled fund;
- having considered the above factors, consider the percentage of the fund, if any, that it is prudent to invest in the pooled fund; and,
- obtain such independent advice or expertise as is prudent and reasonable.

If, after due consideration, the administrator decides to invest in the pooled fund, the administrator should carry out such supervision or monitoring of the investment as is prudent and reasonable.

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Where the investors in a master trust are all pension funds governed by pension plans that have related employers and sponsors (e.g. in the same corporate group), FSCO expects that the master trust, to the extent that it invests in derivatives, will be invested in accordance with this Guidance Note and will be required to do so under its constituting documents or through agreements entered into with the administrators of participating funds.

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8.0 Glossary

In this Guidance Note:

Central counterparty is an organization such as a clearing house, usually backed by a bank, which facilitates trading done in derivatives and equities markets by acting as an intermediary and bearing the credit risk of the transaction. If two parties deal with one another, the buyer bears the credit risk of the seller, and vice versa; however, if a central counterparty is used, the credit risk to both parties is that of the central counterparty, which is generally considerably lower. Central counterparties provide efficiency and stability to the financial markets in which they operate. The Canadian Derivatives Clearing Corporation is an example of a Canadian central counterparty which clears and settles derivatives transactions.

Collateral is property or other assets, including cash, that a party to a derivative contract posts to secure incurred losses as the price of a derivative changes following a price change in the underlying. The terms for the posting of collateral are typically agreed between the parties at the onset of the contract.

Duration is a measure of the sensitivity of the price of a fixed-income investment to a change in interest rates.

Exchange-traded derivative or **ETD** is a derivative whose pricing, clearing and settlement is conducted on specialized derivatives exchanges like the Montreal Exchange in Canada. These exchanges play the role of central counterparty. ETDs include options, futures, caps, floors, collars and forward contracts.

Exposure or mark to market valuation is the daily computation of gains and losses of the change in the market price of a derivative.

G20 commitments ensue from the resolve of the G20 Leaders in 2009 to a comprehensive reform agenda to improve transparency in the over-the-counter derivative markets, mitigate systemic risk and protect against market abuse.

Hedge is a position in place to reduce the risk of adverse price movements in an asset. A hedge consists of taking an offsetting position in a financial instrument, such as the use of a futures contract. Hedging may reduce a party's exposure to a market risk but introduce liquidity and counterparty risk that must be considered.

Netting is the process of offsetting amounts owed by each party to the other in a derivatives contract, especially in the case of a swap. Instead of each agreement leading to a stream of individual payments by each party to the other, all of the amounts are periodically netted together so that only one net payment is being made by one party to the second party.

Non-standard Over-the-counter derivative or **non-standard OTC** is a derivative that does not trade on an exchange. A non-standard OTC derivative is an agreement between counterparties and is subject to default risk. Non-standard OTC derivatives include swaps, options, swaptions (options to enter into swaps).

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Prudent Person Rule, as used in this Guidance Note, is the fiduciary standard set out in section 22 of the PBA, which, in part, requires individuals and entities with responsibility for managing the assets of the pension fund to do so in a careful, reasonable and professional manner having regard to the best interests of the pension fund beneficiaries. This rule focuses on behaviours and processes in decision making including the requirement that a decision must be based on proper consideration of adequate information and only relevant factors. The decision, the reasons for it and the factors that were considered must all be documented.

Repurchase agreement or **repo** is a contract in which the seller of a security agrees to repurchase it from the buyer at a (higher) set price, usually within a short period of time. Repos can be traded in much the same way as derivatives can be, either over the counter, or through an exchange (such as the Montreal Exchange in Canada) using a central counterparty (such as the Canadian Derivatives Clearing Corporation). Repurchase agreements are referred to as reverse repos or reverses from the buyer perspective.

Risk tolerances are the degree of variability in investment returns, or risks to the investment fund, that an administrator is prepared to tolerate for the plan. An administrator should have a clear understanding of the risk profile of investments and the level of risk that is prudent in the context of the particular plan and the pension fund's assets as a whole.

Standard Over-the-counter derivative or **standard OTC** is an OTC derivative for which provincial securities regulators have introduced mandatory central clearing requirements. Standard OTC are traded on exchanges or electronic trading platforms, are cleared through central counterparties and are reported to trade repositories.

Synthetic exposures are strategies that combine the use of cash and derivatives to create a position that has almost the same risk-reward attributes as a physical security, but with added advantages, such as cost, flexibility and liquidity.

Underlying is the asset, security, index or interest rate on which a derivative contract is based; the value of the derivative contract changes in response to changes in the price or level of the underlying asset, security, index or interest rate. There is a wide array of underlying exposures such as interest rates, security prices, commodity prices, foreign exchange rates, indexes of prices or rates, credit ratings, credit indexes and mortality rates.

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Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

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SECTION:	Investment Guidance Notes
INDEX NO.:	IGN-001
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), the Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, the PBA or Regulation govern.

Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. All pension policies and guidance notes can be accessed from the **Pensions** *section of the website through the* **Pension Policies** *link.*

This guidance note sets out FSCO's expectations of an administrator of a defined benefit pension plan (administrator) with respect to the investment of pension plan funds in buy-in annuities which constitute an investment held in an unallocated fund of a person authorized to carry on a life insurance business in Canada (Canadian life insurance companies) in respect of all or part of the pension entitlements associated with a specific group of members, former members or retired members (covered members).

Administrators may also invest pension plan funds in buy-in annuities issued by persons who are not Canadian life insurance companies (foreign insurance companies), however, such investments are subject to different treatment under the PBA and Regulation, and administrators should exercise additional due diligence when entering into such transactions (see Section 7.0 Foreign Insurance Companies below).

1.0 Structure of the Investment

Buy-in annuities are similar to traditional or "buy-out" annuities; however, instead of issuing individual certificates to covered members and paying pensions to them individually, the insurer makes periodic payments to the pension plan fund equal to the aggregate pension amount covered by the policy.

The buy-in annuity is an investment of the pension fund and covered members have no greater claim to such payments than to any other specific assets of the pension fund.

The responsibility for administering benefits remains with the administrator.

It is not necessary that a buy-in annuity cover every member of the plan, every member of a certain class of plan members or the entire benefit of every covered member. For example, a buy-in annuity might exclude certain groups of retired members, active members as a class, or the indexing component of the pension benefit.

If assets of the plan fund are invested in a buy-in annuity, the administrator nonetheless remains responsible for ensuring that all benefits covered by the buy-in annuity are paid from the plan fund, regardless of whether the insurer makes the required annuity payments.

2.0 Prudent Investing and Due Diligence

An administrator may only invest plan funds in a buy-in annuity issued by a Canadian life insurance company if the investment is permitted under the terms of the pension plan, the statement of investment policies and procedures and all applicable statutory requirements (including the prudent person rule in section 22 of the PBA and the Federal Investment Regulations, as defined in section 66(1) of the Regulation).

The purchase of a buy-in annuity is considered an investment of the pension plan. All decisions made with respect to buy-in annuities must be made by the administrator in accordance with its standard of care and its fiduciary obligation to invest the plan fund's assets in the best interests of the plan's beneficiaries.

2.1 Application of Section 43 of PBA

Buy-in annuities are not subject to section 43 of the PBA and administrators do not require the approval of the Superintendent of Financial Services to purchase buy-in annuities; however, if the buy-in annuity were converted to a buy-out annuity, in full or in part, while the plan was ongoing, section 43 of the PBA would apply and the conversion would have to comply with the PBA and Regulation, including the requirement to obtain the approval of the Superintendent of Financial Services, where applicable.

2.2 Pricing and Transaction Costs

The administrator should conduct appropriate due diligence when negotiating the pricing of buy-in annuities and should not rely solely on the pricing provided by a particular insurer. One method for determining fair pricing is to hold a competitive bidding process with multiple insurers submitting prices; however, at minimum, appropriate due diligence will include soliciting quotes from different insurers.

Administrators should consider the pricing of buy-in annuities compared to other similar investment options. Given the specialized nature of these products, it would be appropriate in most cases to retain independent expert advice.

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It is the responsibility of the administrator to consider the costs involved with any investments in buy-in annuities and to ensure that those costs are incurred prudently and in the best interests of the plan members. Such costs may include legal, actuarial, and consulting fees.

2.3 Counterparty Risk and Coverage

The administrator should consider the security of the investment including the counterparty risk (i.e., the risk that the insurer will not fulfil the terms of the buy-in annuity contract). The administrator should consider whether it is reasonable and appropriate in the circumstances to diversify the investment by entering into separate buy-in annuity contracts with multiple insurers.

The administrator should determine the extent of coverage available to the plan (e.g. through Assuris) in respect of the buy-in annuity in the event that the insurer becomes insolvent, and consider whether the coverage provides adequate protection for the plan fund. The administrator should consider what terms may need to be included in the buy-in annuity contract relating to any future change in coverage that may occur.

2.4 Contract Terms

It is the responsibility of the administrator to ensure that the terms of any buy-in annuity contract are clear and permit the administrator in all circumstances to administer benefits in accordance with the plan terms and fully comply with all applicable statutory requirements, as they may change from time to time. In particular, administrators should consider contractual terms related to portability options, early retirement provisions, pre-retirement death benefits, optional forms of payment, and pension division or lump sum transfer on breakdown of a spousal relationship. The administrator should also carefully consider the ability to modify or terminate the buy-in annuity contract.

An investment in a buy-in annuity must not result in members being treated inequitably on wind up of the pension plan. In other words, the terms of the buy-in annuity contract must not purport to provide covered members with greater benefit security than other beneficiaries of the plan. It is the responsibility of the administrator to ensure that the terms of the buy-in annuity contract permit liquidation, or partial liquidation, at the option of the administrator, in the event that the plan is wound up and there is a funding shortfall.

3.0 Plan Wind Up

The buy-in annuity contract should clearly specify the administrator's rights on a plan wind up to terminate the contract and the method to be used to determine the settlement value on termination, as well as any other options available to the administrator in respect of the buy-in annuity on wind up of the plan.

If a plan is wound up and there is no funding shortfall, the buy-in annuity may convert to buy-out annuities, in accordance with the approved wind up report, and the insurer may issue individual certificates to covered members and begin paying pensions to retired members directly. Members and former members may receive deferred annuities.[1]

[1] Any conversion to individual buy-out annuities is subject to a member's exercise of portability rights under section 73.

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If a plan is wound up and the benefits payable to covered members are subject to a reduction in accordance with the approved wind up report, the buy-in annuity may convert to buy-out annuities paying reduced amounts to the individual covered members.[2] The difference between the full value of the buy-in annuity and the aggregate value of the reduced buy-out annuities would be made available to the plan as a refund to the plan or a credit towards the purchase of additional buy-out annuities, in accordance with the approved wind up report.

4.0 Actuarial Funding Valuation Reports

An acceptable method of valuing a buy-in annuity to be included in the assets of an actuarial funding valuation report would be to set the asset value equal to the value of the pension benefits covered by the buy-in annuity (if the buy-in annuity provides an exact hedge to the covered pension benefits), calculated on both a going concern and solvency basis. This could result in the asset value of the buy-in annuity being different under the going concern and solvency valuations.

If the buy-in annuity does not exactly hedge the covered pension benefits, then the asset value of the buy-in annuity should be adjusted to reflect any differences. For example, in the event of a plan wind up, if the contract provides for a value to the plan that is different from the value calculated on a wind up basis (e.g. fees or expenses applied, portability options not provided, etc.), then it would not be appropriate to set the asset value of the buy-in annuity equal to the liabilities of the related pension benefits. The buy-in annuity could expose the plan to an additional funding shortfall due to the difference between the contracted value of the buy-in annuity and the liabilities of the covered pension benefits. In this situation, FSCO would expect the actuary to calculate this shortfall in each actuarial valuation funding report and determine its effect on the required funding for the plan. This may result in additional funding requirements for the sponsor in respect of the liabilities covered by the buy-in annuity.

If the going concern or solvency valuation uses an asset smoothing method, the value of the buy-in annuity should be excluded from the asset smoothing calculation. For clarity, the value of the buy-in annuity should be included in the determination of the going concern assets and liabilities and of the solvency assets and liabilities of the plan.

5.0 Financial Statements

For the purpose of filing financial statements for the pension fund or plan, measurement and disclosure of the buy-in annuity should comply with section 76 of the Regulation, generally accepted accounting principles and the disclosure expectations set out in FSCO Guidance Note FSGN-100 (Disclosure Expectations for Financial Statements Filed Pursuant to Regulation 909 s. 76).

The valuation techniques used in the fair value measurement of a buy-in annuity must comply with generally accepted accounting principles. Since the payments from a buy-in annuity are directly linked to the payments in respect of the covered pension benefits, FSCO would accept a value that is equal to the actuarial present value of the covered pension benefits, adjusted to the

[2] See footnote 1.

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extent that it does not provide for an exact hedge. The valuation techniques and inputs used to develop fair value measurement should be fully disclosed in the financial statements.

6.0 Pension Benefits Guarantee Fund

Because a buy-in annuity contract is an investment of the plan fund and does not affect the liabilities of the plan, every covered member of a buy-in annuity must be included in the calculation of the plan's Pension Benefits Guarantee Fund assessment base for those plans to which section 37 of the Regulation applies.

7.0 Foreign Insurance Companies

Should the administrator decide to invest in a buy-in annuity issued by a foreign insurance company, in addition to the guidance on prudent investing and due diligence (above), FSCO would expect the administrator to consider additional factors related to the risk of the investment. Some of these factors include:

- a consideration of the regulatory regime to which the foreign insurance company is subject;
- any applicable capital or solvency requirements;
- any coverage or guarantee fund available in the case of insurer insolvency;
- the legal ability of the foreign insurance company to enter into the contract;
- the enforceability of the contract in the foreign jurisdiction (and the cost and difficulty of enforcement); and,
- the exchange rate risk if the payments under the policy will be made in a currency other than Canadian dollars.

Investments in buy-in annuities issued by foreign insurance companies do not fall within the exceptions contained in Schedule III of the Federal Investments Regulations.[3] In particular, section 9 of Schedule III, the "10% rule," would apply to a buy-in annuity issued by a foreign insurance company.[4]

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[3] The FIR are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the "Pension Benefits Standards Regulations, 1985" made under the Pension Benefits Standards Act, 1985 (Canada) as they may be amended from time to time.
[4] The 10% rule would also apply to buy-in annuities issued by persons authorized to carry on life insurance business in Canada if the annuities were not investments in unallocated general funds of such persons.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Stakeholder Consultations - Final Documents

FSCO has held various consultations with its stakeholders in the pension community, as part of it's initiative to communicate and to broaden stakeholder engagement.

Actuarial Guidance Notes:

- Actuarial Guidance Note #1 Size: 93 kb
- Actuarial Guidance Note #2 Size: 238 kb
- Actuarial Guidance Note #3 Size: ## kb
- Actuarial Guidance Note #4 Size: ## kb

Financial Statements Guidance Notes:

- Financial Statements Guidance Note

Investment Guidance Notes:

- IGN-005 - Overview of Statements of Investment Policies and Procedures (SIPP) Requirements Size: ## kb
- IGN-004 - Environmental, Social and Governance (ESG) Factors Size: ## kb
- IGN-003 - Statements of Investment Policies and Procedures (SIPPs) for Member Directed Defined Contribution Plans Size: ## kb
- IGN-002 - Prudent Investment Practices for Derivatives Size: ## kb
- IGN-001 - Buy-In Annuities for Defined Benefit Plans Size: ## kb

Other:

- Risk-Based Regulation Framework Size: 1065 kb
- Consultation Policy on Administrator's Management of Inquiries and Complaints from Plan Beneficiaries Size: 252 kb
- Consultation Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries Size: ## kb
- Consultation Paper on FSCO's Proposed Solutions, Service Goals and Processes for Defined Benefit Pension Applications Size: ## kb
- Consultation Policy on Management and Retention of Pension Records by the Administrator Size: ## kb

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-001-Actuarial Assumptions for Filed Actuarial Valuation Reports
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Under the PBA and Regulation, the administrator of a pension plan that provides defined benefits is required to file, on either an annual or triennial basis, actuarial valuation reports to establish the funding requirements of the plan in accordance with the Regulation. The reports and certificates required under the PBA and Regulation must be prepared by an actuary, who must use methods and actuarial assumptions that are consistent with accepted actuarial practice.

The PBA provides authority for the Superintendent of the Financial Services Commission of Ontario (FSCO) to require the preparation of a new actuarial valuation report, where FSCO is of the opinion that the assumptions or methods used in the preparation of a report in respect of the plan are not consistent with accepted actuarial practice, or are inappropriate.

The Actuarial Standards Board of the Canadian Institute of Actuaries (CIA) introduced revisions to the CIA Standards of Practice – Practice-Specific Standards for Pension Plans, which became effective on December 31, 2010. FSCO is of the opinion that the application of some of these revisions may result in the use of assumptions which are not considered to be appropriate for an actuarial valuation report filed under the PBA and Regulation.

This Actuarial Guidance Note describes FSCO's expectations when an actuary selects assumptions that will be used in the preparation of an actuarial valuation report to be filed with FSCO for purposes of the PBA and Regulation.

In addition, the Note clarifies FSCO's expectations about the application of a new Educational Note issued by the CIA.

General

When FSCO is determining whether the actuarial assumptions used in a report filed in respect of a pension plan are appropriate, FSCO considers whether actuarial assumptions have been chosen with a level of prudence consistent with the plan's funding objectives, with due consideration to the underlying characteristics of the pension plan obligations.

FSCO closely monitors and reviews the going concern assumptions and methods selected for actuarial valuations to ensure that they are independently reasonable, are appropriate in aggregate, and incorporate margins where appropriate.

FSCO will consider, on a case by case basis, submissions from the actuary which provide support that the use of assumptions which vary from the expectations of FSCO as described in this policy, are appropriate for the pension plan.

1. Margins for Adverse Deviations

Section 3230.01 of the revised Standards of Practice provides that "*For a going concern valuation the actuary should ... select either best estimate assumptions or best estimate assumptions modified to incorporate margins for adverse deviations... to the extent, if any, required by law or by the terms of an appropriate engagement,...*".

In the case of a pension plan which commits the employer to provide members who retire from the plan with a fixed or ascertainable amount of pension[1], FSCO generally expects that the actuary preparing a report on the plan for filing under the PBA and Regulation will include appropriate margins for adverse deviations when choosing prudent economic and other actuarial assumptions. In selecting the actuarial assumptions and determining the appropriate margins to apply, the actuary should discuss with the plan administrator the plan's past and expected future experience and identify both the range of reasonable assumptions and their suitability, in the context of meeting the plan's funding objectives.

In the case of:

a) a multi-employer pension plan (MEPP) which is funded by fixed contributions pursuant to collective bargaining agreements, or
b) a jointly sponsored pension plan (JSPP) in which the employer or employer representatives and the members share responsibility for its funding and governance,

the actuary should discuss with the Board of Trustees or other entity responsible for the administration of the MEPP or JSPP whether it is appropriate to include margins for adverse deviations in the actuarial valuation, with due consideration to the interests of plan stakeholders and potential inequities among generations of plan members, their employers and other plan stakeholders.

[1] The employer obligations under most single employer defined benefit pension plans are of this nature.

2. Discount Rate Selection and the Investment Policy

In the determination of the going concern valuation discount rate, the CIA provides further guidance to actuaries in the Educational Note, *Determination of Best Estimate Discount Rates for Going Concern Funding Valuations.*

As the *best estimate* discount rate is largely driven by the investment policy of the pension plan, the actuary should, in developing the best estimate discount rate, discuss with the plan administrator whether the plan's investment policy reflects the plan's funding objectives, as well as the nature of the plan's liabilities, the demographic profile of the plan, the risk tolerances of the plan stakeholders, the investment objectives, and any other relevant factors. In the actuarial valuation report filed in respect of a plan, the actuary should provide comments on the potential risks related to meeting the plan's funding objectives, due to the investment policy adopted by the plan administrator.

3. Salary Growth Assumption

Previously, the Standards of Practice for pension plans explicitly required the actuary to include a salary growth assumption in the valuation of an earnings-related plan. This explicit requirement to include assumed future salary increases in a going concern valuation has been eliminated from the revised Standards of Practice for Pension Plans but is still a needed assumption under section 1700 of the General Standards of Practice.

FSCO expects that, for a final or best average earnings plan, the actuary will continue to include an assumption for future salary increases in the actuarial valuation report filed in respect of the plan.

4. Active Management

Section 3230.03 of the revised Standards of Practice states that the actuary may not anticipate any additional returns, *net of fees and expenses*, from an active investment management strategy except to the extent the actuary has reason to believe, based on relevant supporting data, that such additional returns will be consistently and reliably earned over the long term.

FSCO expects the guidance contained in the CIA Educational Note, *Determination of Best Estimate Discount Rates for Going Concern Funding Valuations*, to be followed in justifying any assumption for value added returns from active management contained in the actuarial valuation report filed in respect of the plan. FSCO may request, as necessary, additional information from the actuary, administrator, investment manager and/or plan sponsor for the justification of an assumption of additional returns from active management.

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SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-002
TITLE:	Determination of the Solvency Liability Adjustment -Regulation 909 ss. 1.3, 3, 13, 14 and 16
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (June 2012)
EFFECTIVE DATE:	May 1, 2012

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. All pension policies can be accessed from the Pensions section of the website through the Pension Policies link.

Purpose of Policy

The Regulation permits the use of a smoothing method in the solvency valuation in order to moderate short-term fluctuations in the market value of assets and the solvency liabilities. The "solvency liability adjustment" as defined in section 1.3 of the Regulation is determined using an interest rate that is the average of the market interest rates over the same period of time as the one used to adjust the market value of assets. The averaging period cannot exceed 5 years.

A question has arisen as to how the average interest rates should be determined in situations where there is a change in the Canadian Institute of Actuaries' standards of practice (the "CIA standards") during the averaging period. The purpose of this policy is to provide guidance for determining the average interest rates in those situations.

This policy applies to actuarial valuation reports with a valuation date on or after February 1, 2011 that are filed with FSCO after the effective date of this policy.

Application of CIA Standards

A report filed under the PBA in respect of a pension plan must meet the requirements of the PBA and the Regulation. Pursuant to section 16 of the Regulation, an actuary preparing an actuarial valuation report for filing under section 3, 13 or 14 of the PBA is required to use methods and assumptions that are consistent with accepted actuarial practice. Specifically, in calculating the solvency liability for a pension, deferred pension or ancillary benefit, the actuary is expected to:

- use the methods and assumptions described in section 3500 of the CIA standards, or
- to follow the guidance set out in the CIA Educational Notes on purchased annuities, depending on whether the benefit is assumed to be settled by a lump sum transfer or by a group annuity purchase.

In calculating the lump sum commuted value paid from a pension plan, the actuary is required to select economic and demographic assumptions in accordance with section 3500 of the CIA Standards as follows:

Valuation Date	Interest Rate Assumption	Mortality Assumption
On or before January 31, 2011	Assumptions depend on the reported rates for the applicable CANSIM series for the second calendar month preceding the month in which the valuation date falls	UP94 Table projected forward to the year 2020 using mortality projection scale AA (UP-94@2020)
On or after February 1, 2011	Assumptions depend on the reported rates for the applicable CANSIM series for the calendar month preceding the month in which the valuation date falls	UP-94 Table with generational projection using mortality project scale AA (UP-94 generational)

For the purposes of estimating the purchase costs for group annuities, the CIA, through the Committee on Pension Plan Financial Reporting, issues guidance to actuaries by way of Educational Notes and periodic supplements.

Note that the CIA standards for calculating pension commuted values and the actuarial basis for calculating group annuity purchase costs have been changed from time to time. The Appendix to this policy provides a sample of the CIA assumptions over the five years ending on January 1, 2012.

Acceptable Methodology

In reviewing an actuarial valuation report filed under the PBA in respect of a pension plan, FSCO staff will determine if the assumptions and methods used in the solvency valuation are appropriate for the plan. This policy describes an acceptable methodology for determining the solvency liability adjustment, illustrated by way of the following hypothetical plan situation:

- The plan provides only non-indexed benefits;
- The plan is expected to have $15 million in annuity settlements upon wind up;
- The valuation date of the report for filing under the PBA is January 1, 2012; and
- A five-year averaging period is adopted for calculating the solvency liability adjustment. In

particular, the average interest rates are calculated as the average of the interest rates determined at January 1, 2012 and the previous 4 anniversary dates.

Benefits to be settled by lump sum transfer

For the purpose of calculating the solvency liability adjustment in respect of benefits that are expected to be settled by lump sum transfer, FSCO accepts a method that applies the actuarial basis for pension commuted values described in section 3500 of the CIA standards effective on the valuation date as if it had become effective throughout the averaging period. On the basis of applying a one month lag from January 1, 2008 through to January 1, 2012, the average interest rates for the actuarial valuation as at January 1, 2012 would be determined as follows:

Valuation Date	Select Period Rate (i_{1-10})	Ultimate Period Rate(i_{10+})	Mortality Table
January 1, 2012	2.40%	3.90%	1994 Uninsured Pensioner Mortality Table with generational projection using mortality projection scale AA
January 1, 2011 [1]	3.60%	4.90%	
January 1, 2010 [1]	4.00%	5.50%	
January 1, 2009 [1]	3.00%	5.00%	
January 1, 2008 [1]	5.00%	5.20%	
5-year Average	**3.60%**	**4.90%**	

Benefits to be settled by group annuity purchase

For the purpose of calculating the solvency liability adjustment in respect of benefits that are expected to be settled by group annuity purchase, FSCO expects that the actuary will calculate the average interest rate using the interest rates for group annuity purchase published in the CIA Educational Notes that were applicable at the respective anniversary dates, with an adjustment to account for any change in the *base* mortality table. Suppose for the above hypothetical plan it has been determined that the appropriate adjustments for the change in mortality table from UP-94@2020 and UP-94@2015 to the UP-94 generational mortality table are 0.05% and 0.15%, respectively[2], the average interest rate for the actuarial valuation as at January 1, 2012 would be determined as follows:

Valuation Date	V39062 (1)	Interest Spread Adjustment (2)	Mortality Adjustment (3)	Annuity Proxy (1)+(2)+(3)	Mortality Table
January 1, 2012	2.41%	+ 0.90%	n/a	3.31%	1994 Uninsured Pensioner Mortality Table with generational projection using mortality projection scale AA
January 1, 2011	3.48%	+ 1.00%	+ 0.05%	4.53%	
January 1, 2010	4.09%	+ 0.40%	+ 0.05%	4.54%	
January 1, 2009	3.45%	+ 1.40%	+ 0.15%	5.00%	
January 1, 2008	4.10%	+ 0.40%	+ 0.15%	4.65%	
5-year Average				**4.41%**	

Based on the methodology described above, the average annual interest rates that would be used in conjunction with the UP-94 generational mortality tables to determine the solvency liability adjustment for the actuarial valuation performed as at January 1, 2012 are:

Benefits assumed to be settled though a lump sum transfer: 3.60% for 10 years, 4.90% thereafter

[1] FSCO will also accept a smoothing method which applies a 2-month lag to the pre-February 2011 interest rates

[2] As stated in the CIA Educational Notes, the adjustment for change in the mortality assumption will depend on the membership and characteristics of the plan.

Benefits assumed to be settled though an annuity purchase: 4.41%

Please note that this policy does not preclude the use of alternative smoothing methods that are appropriate for a pension plan. FSCO will consider, on a case by case basis, submissions from the actuary which provide support for the use of a smoothing method that is different from the one described in this policy.

Appendix – Sample Historical Actuarial Assumptions for Calculating Pension Commuted Values and Group Annuity Purchase Costs

	Commuted Value Basis			Annuity Proxy Basis	
Valuation Date	Select Period Interest Rate (i_{1-10})	Ultimate Period Interest Rate(i_{10+})	Mortality Table	Interest Rate (including interest spread adjustment)	Mortality Table
January 1, 2012(1)	2.40%	3.90%	UP94 Generational	3.31%	UP94 Generational
January 1, 2011(2)	3.70%	5.00%	UP94@2020	4.48%	UP94@2020
January 1, 2010(2)	3.70%	5.40%	UP94@2020	4.49%	UP94@2020
January 1, 2009(3)	3.50%	5.00%	UP94@2015	4.85%(4)	UP94@2015
January 1, 2008(3)	4.50%	5.00%	UP94@2015	4.50%(4)	UP94@2015

(1) CIA Commuted Value Basis revised on December 31, 2010
(2) CIA Commuted Value Basis effective April 1, 2009
(3) CIA Commuted Value Basis effective February 1, 2005
(4) Assuming a total premium greater than $15 million

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SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-003
TITLE:	Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit -Regulation 909 s. 5
APPROVED BY:	Superintendent of Financial Services
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Purpose

Under subsection 5(3) of the Regulation, where an employer provides a letter of credit (LOC) instead of making special payments with respect to a solvency deficiency,

"*the employer is required to make interest payments with respect to the solvency deficiency, calculated at the rate of interest described in subsection (2), unless the interest payments are included in the amount of the letter of credit.*"

This Actuarial Guidance Note describes FSCO's expectations with respect to the application of this subsection and clarifies how interest payments are to be determined.

Application of Interest

A LOC must relate to the scheduled special payments that are required with respect to a solvency deficiency. Where a solvency special payment is not secured by a LOC, the employer must make the solvency special payment by the scheduled due date.

If an employer obtains one or more LOCs to secure solvency special payments, interest on those payments must be paid in cash to the pension fund unless the aggregate amount of the LOCs is sufficient to cover the required interest payments in addition to securing the solvency special payments.

Interest Rates

The interest rates used to determine the interest amount required to be paid on solvency special payments secured by a LOC should be the interest rates used to determine the solvency deficiency in the most recent report filed under section 14 of the Regulation. Where different interest rates were applied to determine the solvency deficiency, an average interest rate (weighted by relevant solvency liabilities) should be used to determine the required interest payments.

Where a schedule of solvency special payments secured by a LOC is established in a cost certificate filed pursuant to FSCO Policy A400-100 with respect to an amendment effective after the valuation date of the last filed valuation report but prior to the valuation date of the next report that is required to be filed under section 14, the interest rate to use should be the same as that used to determine the incremental solvency special payments associated with the amendment.

FSCO may request a copy of the schedules used to calculate the interest payments.

Timing of Interest Payments

Interest should accumulate on the balance of unpaid solvency special payments on a monthly basis until the expiry date of the LOC. At the end of each month the LOC is in effect, if the total of the unpaid solvency special payments and accumulated interest exceeds the amount of the LOC, the employer is expected to pay the difference on that date. Alternatively, FSCO would accept the accumulated interest to be remitted to the pension fund on a date not later than the expiry date of the LOC (prior to any renewal). For clarity, interest must continue to accrue and is compounded on a monthly basis.

Where there is a prior year credit balance (PYCB), the employer may not apply the PYCB towards the required interest payments. This is in accordance with subsection 4(3) of the Regulation which provides that the PYCB may only be applied to reduce payments attributable to normal cost and special payments.

A detailed illustration is provided in the Appendix.

Appendix – Sample Plan Holding a Letter of Credit

For the purpose of illustrating the application of interest, the following plan scenario has been assumed:

- The plan has two solvency special payment schedules with amounts payable monthly in arrears.
- Schedule 1 was determined in a most recently filed report using a discount rate of 4.00% per annum and Schedule 2 was determined in an interim cost certificate at a discount rate of 3.00% per annum.
- Schedule 1 and Schedule 2 have required monthly solvency special payments of $2,000 and $1,000 respectively.
- The employer provides a LOC in the amount of $3,000 in January, increasing by $3,000 per month until the end of June. The LOC amount remains level at $18,000 from June until its expiry date of December 31.

The table below illustrates the required interest payments that must be made by the employer upon the expiry date of the LOC.

Month	**Schedule 1** Special payments covered by LOC	Interest* accrued to Dec 31 @ **4.00%**	**Schedule 2** Special payments covered by LOC	Interest* accrued to Dec 31 @ **3.00%**	Total special payments covered by LOC	Total Interest accrued to Dec 31
Jan	2,000.00	73.21	1,000.00	27.47	3,000.00	100.68
Feb	2,000.00	66.45	1,000.00	24.94	3,000.00	91.39
Mar	2,000.00	59.70	1,000.00	22.42	3,000.00	82.12
Apr	2,000.00	52.98	1,000.00	19.90	3,000.00	72.88
May	2,000.00	46.28	1,000.00	17.39	3,000.00	63.67
Jun	2,000.00	39.61	1,000.00	14.89	3,000.00	54.50
Jul	**	0.00	**	0.00	**	0.00
Aug	**	0.00	**	0.00	**	0.00
Sep	**	0.00	**	0.00	**	0.00
Oct	**	0.00	**	0.00	**	0.00
Nov	**	0.00	**	0.00	**	0.00
Dec	**	0.00	**	0.00	**	0.00
Total	12,000.00	338.23	6,000.00	127.01	18,000.00	465.24

* The interest rates above are annual effective rates. Therefore, interest has been calculated on a compound basis.

** The employer must resume making monthly special payments that are not covered by the LOC from July onward.

Total Unpaid Solvency Special Payments with interest to Dec. 31	18,465.24
Amount of LOC	<u>18,000.00</u>
Interest to be paid at December 31	465.24

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SECTION:	Actuarial Guidance Note
INDEX NO.:	AGN-004
TITLE:	Alternative Settlement Methods for Solvency Valuations
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Purpose

Under the PBA and Regulation, the administrator of a pension plan that provides defined benefits is required to file, on either an annual or triennial basis, actuarial valuation reports to establish the funding requirements of the plan in accordance with the Regulation. The reports and certificates required under the PBA and Regulation must be prepared by an actuary, who must use methods and actuarial assumptions that are consistent with accepted actuarial practice.

The PBA provides authority for the Superintendent of the Financial Services Commission of Ontario (FSCO) to require the preparation of a new actuarial valuation report if FSCO concludes that the methods or assumptions used in the preparation of a report in respect of the plan are not consistent with accepted actuarial practice, or are inappropriate.

The Actuarial Standards Board of the Canadian Institute of Actuaries (CIA) introduced revisions to subsections 3240 and 3260 of the CIA Standards of Practice – Practice-Specific Standards for Pension Plans (Standards of Practice), which became effective September 18, 2013. Concurrently, the CIA issued an educational note, Alternative Settlement Methods for Hypothetical Wind-Up and Solvency Valuations (Educational Note) prepared by the Committee on Pension Plan Financial Reporting (PPFRC). The Educational Note provides guidance to actuaries who decide to use alternative settlement methods for hypothetical wind-up and solvency valuations. FSCO is of the opinion that the use of some alternative settlement methods may not be appropriate for an actuarial valuation report filed under the PBA and Regulation.

This Actuarial Guidance Note describes FSCO's expectations when an actuary assumes an alternative settlement method in the preparation of an actuarial valuation report to be filed with FSCO for purposes of the PBA and Regulation. For clarity, the guidance note does not apply to actual wind-up situations, and FSCO would not accept the use of any alternative settlement methods for actual wind up situations.

General

When reviewing actuarial valuation reports filed with FSCO, FSCO considers whether actuarial methods and assumptions for going concern and solvency valuations have been chosen with a level of prudence consistent with the plan's funding objectives, with due consideration to the underlying characteristics of the pension plan obligations.

The Standards of Practice clarify that the assumption of alternative settlement methods for hypothetical wind-up and solvency valuations is limited to situations where it is anticipated that annuities could not be purchased due to group annuity capacity limitations or where it is permitted by law, regulatory policy or guideline. Furthermore, in situations where the plan's liabilities may exceed capacity of the group annuity market, the Standards of Practice permits the actuary to assume that benefits would be settled by the purchase of annuities regardless of any capacity limitations. This assumption would be accepted by FSCO.

In general, the actuary should assume benefits would be settled by the purchase of annuities when performing a hypothetical wind-up or solvency valuation. If an alternative settlement method is used, then the actuary should be prepared to justify and provide adequate support as to why it is not appropriate to value the benefits by assuming that they are settled by the purchase of annuities given that this is permitted by the Standards of Practice.

For the purpose of justifying the use of an alternative settlement method, the actuary may not rely solely on the capacity thresholds stated in the Educational Note (i.e. $500 million for non-indexed annuities and $200 million for indexed annuities) as these thresholds may change over time. It should be noted that statistics from the insurance industry (e.g. Life Insurance and Market Research Association, Canadian Life and Health Insurance Association) show that the Canadian group annuity market has exceeded $1 billion each year since 2007 except for one year. Actual annuity transactions that have taken place, input from insurance companies as well as any updates provided by the CIA to the Educational Note with respect to thresholds should also be considered in estimating the prevailing thresholds.

The Educational Note states that the use of an alternative settlement approach may result in liabilities either higher or lower than those produced by assuming the benefits would be settled through a single annuity purchase. FSCO expects that the actuary will exercise sound judgment when selecting the approach and to ensure that the method is reasonable, supportable and appropriate given the plan's circumstances.

If an alternative settlement method is used, FSCO may request, in addition to the disclosures required in the Standards of Practice and the Educational Note, other information or documentation in support of the rationale for the alternative settlement method assumed.

An alternative settlement method which contemplates an exercise of regulatory discretion or a change in legislation would be accepted by FSCO if the resulting liabilities are no less than the liabilities produced using the prevailing guidance issued by the PPFRC and assuming no capacity constraints. In all other situations, FSCO will consider, on a case by case basis, submissions from the actuary which provide support that the use of an alternative settlement method which varies from the expectations of FSCO as described in this Actuarial Guidance Note, is appropriate for the pension plan.

Alternative Settlement Methods

1. Purchase of a Series of Annuities

In the case where the actuary assumes that the liabilities would be settled through a series of purchases over a period of time, FSCO expects that the liabilities would not be less than the liabilities produced using the prevailing guidance issued by the PPFRC and assuming no capacity constraints.

The actuary should disclose the assumptions made with respect to estimating annuity purchases in the future in addition to justifying the provision for expenses over the duration of the annuity purchases.

2. Establishment of a Replicating Portfolio

Paragraph 3240.17 of the Standards of Practice states that "*the actuary may assume settlement by means of a replicating portfolio*" with the assumption that the "*replicating portfolio would provide for an appropriate level of security for the pension benefits covered*".

If the actuary is contemplating the use of a replicating portfolio as an alternative settlement method, FSCO would require that the actuary provide appropriate justification for the use of this method including the rationale for the method. The actuary's justification should comment on the relevant fixed income investment market capacity, and provide information about the credit and liquidity profile of the instruments included. In describing the margins for adverse deviations, the actuary should describe each of the key risks considered in setting the margin.

The use of a replicating portfolio is intended to apply only where it is believed that the group annuity capacity limitations will be exceeded. Therefore, the appropriate level of security of benefits covered that is provided by the replicating portfolio should be the same or similar to that of an annuity purchase, if there were no capacity limitations restricting the ability to purchase the annuities.

FSCO would require significant disclosures for a plan applying this alternative approach including but not limited to:

- the allocation of investments in the portfolio and justification of the allocation;
- the mortality experience applied to the expected benefit cash flows and justification if such experience does not reflect plan-specific experience;
- a justification of the level of expenses associated with establishing and maintaining the portfolio;
- the average duration of the liabilities to be settled and the average duration of the portfolio;
- the assumptions regarding the options elected by plan members; and,
- a description of the margins for adverse deviations to ensure a high probability that the pension benefit promises will be met. The actuary should use judgment when considering whether the margins are appropriate for the plan.

The Educational Note specifies that the portfolio would include "*a substantial allocation to high-quality fixed-income investments*". FSCO expects that to achieve a level of security commensurate with the prevailing guidance, a substantial allocation to fixed-income investments such as bonds issued or guaranteed by the Government of Canada or investment grade bonds issued or guaranteed by the government of a Canadian province would be required. FSCO would require that the actuary provide adequate disclosures with respect to the allocation and the underlying investments.

The Educational Note states that the "*actuary would provide meaningful disclosures regarding the benefit security implications of the settlement method based on either stochastic modelling or stress testing.*" FSCO would generally expect the disclosures to provide adequate information for FSCO to make an assessment of the level of benefit security provided.

3. <u>Lump Sum Payments to Members</u>

FSCO would not accept a method that assumes the settlement of deferred or immediate pension entitlements by lump sum payments, unless permitted by the legislation. For example, lump sum commuted values cannot be paid to retired members, unless specifically permitted by the legislation.

4. <u>Assuming Modifications to Benefit Terms</u>

The valuation should be performed in accordance with the terms of the pension plan at the valuation date. Therefore, unless the plan is amended, FSCO will not accept this alternative settlement method.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Active Pension Policies

Access to Information

- I150-800 - Member's Right to Information, Annual Statements, Termination Statements, Notices, PBA 1990, s. 25-30, 42, O. Reg. 909 s. 28, 39-46 Effective When Published
  Size: 126 kb

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- AGN-001 - Canadian Institute of Actuaries, Practice-Specific Standards for Pension Plans
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- AGN-003 - Determination of Interest Payments Where Solvency Special Payments Are Covered by Letters of Credit Size: ## kb Size: 306 kb
- AGN-004 - Alternative Settlement Methods for Solvency Valuations Size: ## kb Size: 152 kb
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- A300-450 - Administrator's Management of Inquiries and Complaints from Plan Beneficiaries Size: 44 kb
- A300-503 - Use of Superintendent Approved Pension Forms -PBA s. 113.2 Size: 171 kb
- A300-802 - Requirement to Provide Information to Members Size: ## kb Size: 260 kb
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Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Investment Guidance Notes
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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca*. All pension policies and guidance notes can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

1. Purpose

This guidance note provides background information and guidelines on **environmental, social and governance (ESG) factors**, to assist pension plan administrators in meeting the requirement of section 78(3) of Regulation 909 (the Regulation) under the Pension Benefits Act (PBA), which comes into force on January 1, 2016. Under section 78(3), a plan's statement of investment policies and procedures (SIPP) is required to include information as to whether environmental, social, and governance (ESG) factors are incorporated into the plan's investment policies and procedures and, if so, how those factors are incorporated.

2. Background on Relevant Legislation

a. PBA Requirements for Prudent Investing (Section 22)

A pension plan administrator (administrator) is responsible for investing the pension fund in accordance with the administrator's standard of care, in a prudent manner, and in the best interests of the pension plan's beneficiaries. Prudent investing entails understanding, monitoring and mitigating risk. It is the responsibility of the administrator to determine what prudence requires in the context of the plan and fund that it administers.

Accordingly, all investment decisions that are made by the administrator (or its delegates), including the decision whether to incorporate ESG factors, must be made in accordance with the administrator's fiduciary duties.

b. PBA Regulations

Under section 78(1) of the Regulation, the administrator is required to establish a SIPP for the plan. A SIPP is a document that contains investment policies and procedures in respect of a plan's portfolio of investments and loans. The content requirements of the SIPP reflect the federal investment regulations[1] as modified in sections 47.8 and 79 of the Regulation.

Section 78 of the Regulation has been amended, effective January 1, 2016, to add the following requirements:

- Administrators will be required to file their SIPPs, and subsequent amendments to their SIPPs, with FSCO; and
- SIPPs must include information as to whether ESG factors are incorporated into the plan's investment policies and procedures, and if so, how those factors are incorporated.

Under sections 40, 40.1, and 40.2 of the Regulation, effective July 1, 2016, administrators must include prescribed statements about the SIPP in annual statements to members, and in biennial statements to former and retired members.

The disclosure requirements set out in the Regulation are applicable to both defined benefit and defined contribution plans.

3. ESG Factors

The term "ESG factors" is not defined in the PBA or the Regulation. While there is no standard definition of ESG factors that has been accepted among the investment community, "ESG factors" can be described as a broad term that encompasses a wide range of environmental, social, and governance factors. Environmental factors relate to a company or industry's interactions with the physical environment, social factors concern the social impact of a company and/or industry on a community or society, and governance factors typically relate to how companies and/or countries are governed.

Approaches to incorporating ESG factors into investment policies and procedures differ among investors. The two approaches below could be considered opposite ends of the spectrum and are outlined for general guidance. A consideration of every possible and evolving approach is beyond the scope of this guidance note.

[1] The federal investment regulations (FIR) are defined by section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the *Pension Benefits Standards Regulations, 1985* (PBSR) made under the *Pension Benefits Standards Act, 1985* (Canada) as they may be amended from time to time. The FIR are incorporated by reference in sections 78 and 79 of the Regulation. The Regulation also modifies the application of the FIR with respect to Ontario plans.

One approach involves integrating ESG factors into fundamental investment analysis to the extent that they are relevant to investment performance. This approach is driven by the belief that effective research, analysis and management of ESG factors can play a part in assessing the valuation and future performance of an investment over the short, medium and long term. It involves the assessment of a wider range of risks and opportunities that may influence the investment performance of the pension fund, by looking at factors beyond those included in traditional financial analysis. It also recognizes the long-term nature of ESG factors, and the impact they may have on the sustainability and profitability of individual entities, or of an industry sector, in which the pension fund may invest. This approach sees ESG factors as among the many factors that may impact the investment performance of an asset, asset class, or the entire portfolio. While all such factors should be taken into account as part of an administrator's duty to invest prudently, it is up to the administrator as fiduciary to evaluate which factors are relevant and how to take them into account.

Another approach is to incorporate ESG factors into the investment process from an ethical or moral perspective, instead of from a financial perspective. For example, an investor may screen investments on social and environmental factors, such as employing ethical screens targeting certain industries. An administrator should be cautious to ensure that its approach to incorporating ESG factors does not conflict with its fiduciary duties, as may be the case with the use of ethical screens. The best interests of plan beneficiaries has traditionally been defined by the courts in terms of the beneficiaries' financial interests, with the result that there is a potential conflict with investing with other goals in mind, such as ethical or moral considerations. If the administrator is considering such an approach, the administrator is encouraged to consult with its legal counsel on this issue.

4. ESG Disclosure in the SIPP

In order to comply with the Regulation's ESG disclosure requirement, FSCO expects that by January 1, 2016, the administrator will have made a decision on whether or not to incorporate ESG factors into its investment policies and procedures, and will have documented its position in the plan's SIPP. Like all decisions of the administrator, this decision should be made with regard to its fiduciary duties. In making this decision, FSCO expects that the administrator will, after consultation that is appropriate in the context of the plan (such as with the plan's trustees, investment committee, and/or investment advisors):

- establish and document its own view or understanding on what is meant by ESG factors; and,
- consider whether it will incorporate ESG factors and document the basis for its decision.

An appropriate place for such documentation would be the minutes of the meeting(s) where the issue was discussed, or in an internal memorandum.

<u>ESG Factors Not Incorporated</u>

Where the administrator has decided not to incorporate ESG factors into its investment policies and procedures, a statement to that effect must be made in the SIPP. Administrators may also wish to include a brief explanation of their rationale in the SIPP itself, in the interest of transparency to members and beneficiaries.

<u>ESG Factors Incorporated</u>

Where the administrator has decided to incorporate ESG factors into its investment policies and procedures, then a statement to that effect must be made in the SIPP, as well as information on how those factors have been incorporated. The Regulation does not provide further details, however, FSCO expects the following information to be disclosed:

- Either a broad statement that the administrator incorporates all ESG factors, or an enumeration of ESG factors that are incorporated, such as a particular ESG category or categories (i.e., environmental, social, or governance) and/or specific factors within those categories (e.g., labour relations, shareholder rights) which form the focus of the administrator's approach to incorporating ESG factors. Since the SIPP is an important plan document and the administrator is responsible for ensuring compliance with the SIPP, the policies and procedures, including those pertaining to ESG, must be clearly drafted. A general reference to incorporating ESG factors will be interpreted by FSCO as including the broadest range of ESG factors.
- A brief explanation of the approach taken by the plan to incorporate ESG factors.
- A description of the scope of the application of ESG factors. The disclosure should indicate if ESG factors are considered across the entire pension fund, or only certain portions of the pension fund (e.g., such as certain asset classes, or internally managed assets rather than externally managed assets).

The administrator is responsible for ensuring compliance with the SIPP, not only by itself, but by its delegates.[2] Accordingly, the language concerning the incorporation of ESG factors to be included in the SIPP should be drafted in such a way that it can be complied with by the administrator and, where applicable, external investment managers. In this regard, the administrator may want to engage with its external managers in preparing its ESG disclosure language for the SIPP.

5. Member Statements

Effective July 1, 2016, the annual statements to members will be required to include specific *statements* concerning SIPPs, as prescribed in section 40 of the Regulation. Among these prescribed statements is the following:

> (v) a statement that the administrator of the pension plan must establish a statement of investment policies and procedures for the plan that contains,
>
> > (i) the investment policies and procedures in respect of the plan’s portfolio of investments and loans, and
> >
> > (ii) information about whether environmental, social and governance factors are incorporated into the plan’s investment policies and procedures and, if so, how those factors are incorporated.

[2] See section 22(7) of the PBA, and section 79(1) of the Regulation (as of January 1, 2016). In addition, agents of the administrator have a fiduciary standard of care (PBA, s. 22(8)) and every person engaged in selecting an investment must ensure that the investment is selected in accordance with the criteria set out in the PBA and the Regulation (PBA, s.62).

Similar requirements have also been prescribed for biennial statements to former and retired members (see sections 40.1 and 40.2 of the Regulation).

As can be seen from the language above, the administrator is not required to make the same ESG disclosure as in the SIPP, but is only required to indicate that such disclosures can be found in the SIPP. Administrators are required to provide the SIPP to plan members, former members, retired members, and other stakeholders upon request.[3]

6. Expert Advice

Where the administrator does not believe it has sufficient knowledge on the topic of ESG factors, it would be prudent for it to seek advice from an external advisor. As in the selection of all advisors, the administrator is responsible for selecting a suitable advisor, i.e. one with relevant knowledge and expertise.

[3] See PBA, s. 29 and Regulation, s. 45(1)13 and s. 45(2)7.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

Ontario

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Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies and guidance notes can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

1.0 Purpose

As a result of recent amendments to the federal *Pension Benefits Standards Regulations, 1985* (PBSR) and to Regulation 909 (the Regulation) under the *Pension Benefits Act* (PBA), the requirements have changed for the statement of investment policies and procedures (SIPP) for plans where the members direct the investment of the assets in their accounts (i.e., member-directed defined contribution (DC) plans and combination benefit or hybrid plans with member-directed accounts).

This guidance note sets out FSCO's expectations regarding the content of SIPPs for these types of plans in light of these changes; it does not apply to defined benefit (DB) plans, or to DC plans where the administrator directs the investment of the assets.

2.0 Background

2.1 SIPPs and the PBA

Under section 78(1) of the Regulation, the administrator of a pension plan (administrator) is required to establish a SIPP for the plan. A SIPP is a document that contains investment policies and procedures in respect of a plan's portfolio of investments and loans. The content requirements of the SIPP reflect the federal investment regulations as modified in sections 47.8 and 79 of the Regulation.

Under section 22 of the PBA, an administrator is responsible for administering and investing the pension fund in accordance with the administrator's standard of care, in a prudent manner, and in the best interests of the pension plan's beneficiaries. It is the responsibility of the administrator to determine what prudence requires in the context of the plan and fund that it administers. The administrator must determine the investment policies and procedures to be set out in the SIPP, implement a review and approval process, and monitor compliance with the SIPP, all in accordance with the administrator's fiduciary duties.

The administrator should document the rationale for key investment policies and procedures, although this does not necessarily have to be documented in the SIPP itself.

2.2 Federal Investment Regulations

The federal investment regulations (FIR) are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the Federal PBSR made under the *Pension Benefits Standards Act, 1985 (Canada)* as they may be amended from time to time. The FIR are incorporated by reference in sections 78 and 79 of the Regulation. The Regulation also modifies the application of the FIR with respect to Ontario plans.

Under the amendments to section 7.1 of the PBSR, which came into force on April 1, 2015, the SIPP established for a federally registered pension plan does not need to address the assets of a "member choice account", as defined in the PBSR. A member choice account is essentially an account under a DC plan or DC provision of a combination benefit or hybrid plan for which the member or other beneficiary is permitted to make the investment choices.

The Federal Government has instead introduced a series of disclosure requirements concerning investment options offered under the member choice accounts. These new disclosure requirements, however, will not apply to Ontario pension plans as they are not incorporated by reference into the PBA.

3.0 PBA Content Requirements for SIPPs of Member-Directed DC Plans

The Ontario requirement for the establishment of a SIPP is not contained in the FIR, but directly in section 78 of the Regulation; therefore, member-directed DC plans are still required to establish a SIPP and the SIPP for other plans with member-directed accounts must still address the investment of such accounts. However, the content requirements set out in section 7.1 of the PBSR no longer apply with respect to the investment of member-directed accounts.

The SIPP for these plans must be consistent with the applicable portions of the FIR as modified in sections 47.8 and 79 of the Regulation. Where there is a conflict between the SIPP and the FIR as modified in sections 47.8 and 79 of the Regulation, the FIR as modified takes precedence.[1] The administrator should amend the SIPP to eliminate the conflict.

[1] Section 78 of the Regulation requires the SIPP to meet the requirements of the FIR as modified in sections 47.8 and 79 of the Regulation. Section 79 of the Regulation requires the assets of every pension plan to be invested in accordance with the FIR despite the provisions of the plan or an instrument governing the plan. Effective January 1, 2016, section 79 of the Regulation requires the assets of the plan to be invested in accordance with the FIR, as modified, and with the SIPP.

The SIPP must also include information as to whether environmental, social, and governance (ESG) factors are incorporated into the plan's investment policies and procedures, and if so, how those factors are incorporated. Reference should be made to FSCO *Investment Guidance Note 004: Environmental, Social and Governance (ESG) Factors* for more information.

4.0 Other Content for SIPPs for Member-Directed DC Plans

As the SIPP contains the investment policies and procedures in respect of the plan's portfolio of investments and loans, and the SIPP must be developed in accordance with the administrator's standard of care under section 22 of the PBA, FSCO expects that the administrator will give due consideration to including the following information in the SIPP:

1. *General investment principles.* This includes investment principles and assumptions that helped shape the DC plan/provision's investment program. While these may vary from plan to plan, examples include the administrator's views on active and passive management, the use of life cycle or target date funds, and the approximate number of investment options to be made available to plan members.
2. *Permitted asset classes from which investment funds can be selected.* The SIPP should identify from which asset classes investment funds may be selected. If the plan is exclusively employing life cycle or target date funds, then it may indicate so instead of specifying permitted asset classes.
3. *The default investment option for member accounts where no selection is made.* The default option should be appropriate given relevant factors, such as demographics of the plan membership and the interest rate environment. If the plan does not have a default option, the SIPP should outline what happens if a member does not make an investment choice.
4. *Selecting, monitoring, and terminating investment managers and funds.* This should include the processes and criteria to be followed in the selection, monitoring, and termination of investment managers and funds, as deemed prudent by the administrator given the nature of the plan. In determining appropriate criteria to be considered in selecting investment managers and funds, administrators may wish to refer to *CAPSA Guideline No. 3: Guidelines for Capital Accumulation Plans* (May 2004). The SIPP should also identify the party responsible (i.e., the administrator or its agent) for measuring investment performance, and assessing compliance by investment funds with applicable SIPP policies and procedures, and the frequency of reporting on both to the administrator.
5. *Plan expenses and investment fees related to the DC plan/provision.* This should include indicating which categories of expenses and fees will be paid by the employer and which will be borne by plan members; expectations, ranges, or limits on total plan expenses and fees; and guidelines for monitoring expenses and fees.
6. *Related party transactions.* The SIPP should document the policies and procedures pertaining to related party transactions permitted under section 17 of Schedule III to the PBSR and the criteria to be used to establish whether a transaction is nominal or immaterial to the plan under the related party rules. As fiduciaries of the plan, administrators are also required to avoid or

manage other conflicts of interest that may arise.[2] Administrators may wish to address the broader topic of conflicts of interest in the SIPP or other policy document.

7. *Information guidelines for plan members on investment options.* The policy should identify at a high level the categories of information to be provided to plan members concerning their investment choices under the plan (e.g., educational information or tools to be provided to members, descriptions of available investment options, any timing requirements that apply to the making of an investment choice, etc.). Administrators may wish to refer to CAPSA Guidelines *No. 3: Guidelines for Capital Accumulation Plans* and *No. 8*: *Defined Contribution Plans Guideline*, and the new regulations on member choice accounts prescribed in section 7.3 of the PBSR.[3]

If any of the items described above are set out in a separate policy or procedure document, such document may be incorporated by reference into the SIPP. If the administrator chooses to incorporate by reference any other policy or procedure document, the document will form part of the SIPP and, therefore, must be filed pursuant to section 78 of Regulation 909. (Alternatively, the administrator can simply include relevant excerpts from the policy or procedure in the SIPP.)

5.0 Other Important PBA SIPP Requirements

The SIPP for a member-directed DC plan (or which pertains to member-directed accounts) is also subject to other regulatory requirements under the PBA, including those described below. This is meant as a summary only, and administrators should refer to the relevant sections of the PBA, the Regulation, and relevant FSCO policies directly for further information.

- Starting in 2016, administrators will need to file the SIPP with FSCO. The filing is to be done through the Pension Services Portal (see section 78 of the Regulation).
- Starting on January 1, 2016, the assets of the plan must be invested in accordance with the SIPP (see section 79(1) of the Regulation). Plan assets must also continue to be invested in accordance with the FIR, as modified by the Regulation.
- Administrators must make their SIPPs available to plan members and other prescribed stakeholders upon request (see section 29 of the PBA and section 45 of the Regulation).
- Effective July 1, 2016, administrators must include prescribed statements about the SIPP in annual statements to members, and in biennial statements to former and retired members, if applicable (see sections 40, 40.1 and 40.2 of the Regulation).

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[2] Related party transactions are just one subset of the potential conflicts that plan administrators may face. Related party transactions have been singled out in this guidance note in deference to the requirements for SIPPs for other types of plans under section 7.1(1) of the PBSR.

[3] Section 7.3 of the PBSR (which is not yet in force) is not incorporated by reference into the Regulation, and, therefore, Ontario pension plans are not required to comply with this subsection. The requirements set out in section 7.3 may nevertheless serve as a useful guideline for administrators.

6.0 Assistance and Reference Materials

The SIPP is a plan document that addresses a wide range of technical topics and which must meet regulatory requirements. As such, the preparation, review and revision of the SIPP will require a fairly high level of technical knowledge and expertise. If the administrator does not feel it possesses adequate knowledge and expertise, it has a fiduciary duty to seek external expert assistance in this regard.

In establishing or reviewing a SIPP, administrators and their advisors may wish to review the following materials for additional guidance and information:

- FSCO *Investment Guidance Note 002: Prudent Investment Practices for Derivatives.*
- FSCO *Investment Guidance Note 004: Environmental, Social and Governance (ESG) Factors.*
- CAPSA's *Guideline No. 3: Guidelines for Capital Accumulation Plans,* May 2004.
- CAPSA's *Guideline No. 6: Pension Plan Prudent Investment Practices Guideline* and *Self-Assessment Questionnaire on Prudent Investment Practices*, November 2011.
- CAPSA's *Guideline No. 8: Defined Contribution Plans Guideline*, March 2014.

7.0 Review of SIPP

SIPPs for member-directed DC plans are not subject to the annual review requirements of section 7.2 of the PBSR. Nevertheless, in keeping with the standard of care under section 22 of the PBA, the administrator should review the SIPP when certain triggering events occur, such as major plan events (e.g., wind up, downsizing or asset transfer), material changes in the plan's investment principles, changes in key service providers (e.g., DC plan provider, key managers), or changes to relevant legislation.

Even where there are no specific triggering events, the administrator should ensure that the SIPP is periodically reviewed in order to ensure it remains relevant given changes in prudent investment practices or the external environment (e.g., economic trends).

Any time the SIPP is amended, the SIPP amendment (or the amended SIPP in its entirety) must be filed with FSCO within 60 days of the amendment, as per section 78 of the Regulation.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Investment Guidance Notes
INDEX NO.:	IGN-001
TITLE:	Buy-In Annuities for Defined Benefit Plans
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (February 2015)
EFFECTIVE DATE:	February 2015

Note: Where this guidance note conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), the Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, the PBA or Regulation govern.

Note: The electronic version of this guidance note, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. All pension policies and guidance notes can be accessed from the **Pensions** *section of the website through the* **Pension Policies** *link.*

This guidance note sets out FSCO's expectations of an administrator of a defined benefit pension plan (administrator) with respect to the investment of pension plan funds in buy-in annuities which constitute an investment held in an unallocated general fund of a person authorized to carry on a life insurance business in Canada in respect of all or part of the pension entitlements associated with a specific group of members, former members or retired members (covered members).

The purchase of a buy-in annuity is considered an investment of the pension plan. All decisions made with respect to buy-in annuities must be made by the administrator in accordance with its standard of care and its fiduciary obligation to invest the plan fund's assets in the best interests of the plan's beneficiaries.

1.0 Structure of the Investment

Buy-in annuities are similar to "buy-out" annuities; however, instead of issuing individual certificates to covered members and paying pensions to them individually, the insurer makes periodic payments to the pension plan fund equal to the aggregate pension amount covered by the policy.

The buy-in annuity is an investment of the pension fund and covered members have no greater claim to such payments than to any other specific assets of the pension fund. The responsibility for administering benefits remains with the administrator.

It is not necessary that a buy-in annuity cover every member of the plan, every member of a certain class of plan members or the entire benefit of every covered member. For example, a buy-in annuity might exclude certain groups of retired members, active members as a class, or the indexing component of the pension benefit.

If assets of the plan fund are invested in a buy-in annuity, the administrator nonetheless remains responsible for ensuring that all benefits covered by the buy-in annuity are paid from the plan fund, regardless of whether the insurer makes the required annuity payments.

1.1 Application of Section 43 of PBA

Buy-in annuities are not subject to section 43 of the PBA and administrators do not require the approval of the Superintendent of Financial Services to purchase buy-in annuities; however, if the buy-in annuity were converted to a buy-out annuity, in full or in part, while the plan was ongoing, section 43 of the PBA would apply and the conversion would have to comply with the PBA and Regulation, including the requirement to obtain the approval of the Superintendent of Financial Services, where applicable.[1]

2.0 Prudent Investing and Due Diligence

2.1 Authority to Invest

An administrator may only invest plan funds in a buy-in annuity if the investment is permitted under the terms of the pension plan, the statement of investment policies and procedures and all applicable statutory requirements (including the prudent person rule in section 22 of the PBA and the Federal Investment Regulations (FIR), as defined in section 66(1) of the Regulation).[2] The plan's statement of investment policies and procedures should explicitly permit investment in buy-in annuities at the time any such investment is made.

2.2 Pricing and Transaction Costs

The administrator should conduct appropriate due diligence when negotiating the pricing of buy-in annuities and should not rely solely on the pricing provided by a particular insurer. One method for determining fair pricing is to hold a competitive bidding process with multiple insurers submitting prices; however, at minimum, appropriate due diligence with respect to pricing and transaction costs will include soliciting quotes from different insurers.

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[1] In addition, section 43 of the PBA only permits the purchase of buy-out annuities from a corporation authorized to undertake life insurance in Canada.
[2] The FIR are defined in section 66 of the Regulation as sections 6, 7, 7.1 and 7.2 and Schedule III to the "Pension Benefits Standards Regulations, 1985" made under the Pension Benefits Standards Act, 1985 (Canada), as they may be amended from time to time.

Administrators should consider the pricing of buy-in annuities compared to other similar investment options. Given the specialized nature of these products, it would be appropriate in most cases to retain independent expert advice.

It is the responsibility of the administrator to consider the costs involved with any investment in buy-in annuities and to ensure that those costs are incurred prudently and in the best interests of the plan members. Such costs may include legal, actuarial, and consulting fees.

2.3 Counterparty Risk and Coverage

The administrator should consider the security of the investment including the counterparty risk (i.e., the risk that the insurer will not fulfil the terms of the buy-in annuity contract). The administrator should consider the overall financial health of the insurer, which may involve assessing factors such as the insurer's corporate governance practices, credit ratings and any applicable regulatory requirements including capital or solvency requirements.

The administrator should determine the extent of coverage available to the plan (e.g. through Assuris) in respect of the buy-in annuity in the event that the insurer becomes insolvent, and consider whether the coverage provides adequate protection for the plan fund. The administrator should consider what terms may need to be included in the buy-in annuity contract relating to any future change in coverage that may occur.

The administrator should consider whether it is reasonable and appropriate in the circumstances to diversify the investment by entering into separate buy-in annuity contracts with multiple insurers.

2.4 Contract Terms

It is the responsibility of the administrator to ensure that the terms of any buy-in annuity contract are clear and permit the administrator in all circumstances to administer benefits in accordance with the plan terms and fully comply with all applicable statutory requirements, as they may change from time to time. In particular, administrators should consider contractual terms related to portability options, early retirement provisions, pre-retirement death benefits, optional forms of payment, and pension division or lump sum transfer on breakdown of a spousal relationship. The administrator should also carefully consider the ability to modify or terminate the buy-in annuity contract.[3]

An investment in a buy-in annuity must not result in members being treated inequitably on wind up of the pension plan. In other words, the terms of the buy-in annuity contract must not purport to provide covered members with greater benefit security than other beneficiaries of the plan. It is the responsibility of the administrator to ensure that the terms of the buy-in annuity contract permit liquidation, or partial liquidation, at the option of the administrator, in the event that the plan is wound up and there is a funding shortfall.

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[3] As with all contracts, the administrator should consider the legal ability of the counterparty to enter into the buy-in annuity contract and the enforceability of the contract (including the cost and difficulty of enforcement).

3.0 Plan Wind Up

The buy-in annuity contract should clearly specify the administrator's rights on a plan wind up to terminate the contract and the method to be used to determine the settlement value on termination, as well as any other options available to the administrator in respect of the buy-in annuity on wind up of the plan.

If a plan is wound up and there is no funding shortfall, the buy-in annuity may convert to buy-out annuities, in accordance with the approved wind up report, and the insurer may issue individual certificates to covered members and begin paying pensions to retired members directly. Members and former members may receive deferred annuities.[4]

If a plan is wound up and the benefits payable to covered members are subject to a reduction in accordance with the approved wind up report, the buy-in annuity may convert to buy-out annuities paying reduced amounts to the individual covered members.[5] The difference between the full value of the buy-in annuity and the aggregate value of the reduced buy-out annuities would be made available to the plan as a refund to the plan or a credit towards the purchase of additional buy-out annuities, in accordance with the approved wind up report.

4.0 Actuarial Funding Valuation Reports

An acceptable method of valuing a buy-in annuity to be included in the assets of an actuarial funding valuation report would be to set the asset value equal to the value of the pension benefits covered by the buy-in annuity (if the buy-in annuity provides an exact hedge to the covered pension benefits), calculated on both a going concern and solvency basis. This could result in the asset value of the buy-in annuity being different under the going concern and solvency valuations.

If the buy-in annuity does not exactly hedge the covered pension benefits, then the asset value of the buy-in annuity should be adjusted to reflect any differences. For example, in performing a solvency valuation, if the contract provides for a value available to the plan on wind up that is different from the liabilities calculated on a wind up basis in accordance with the PBA and Regulation (e.g. due to fees or expenses applied, portability options not provided, early retirement options not provided, etc.), then it would not be appropriate to set the asset value of the buy-in annuity equal to the wind up liabilities of the related pension benefits. The buy-in annuity could expose the plan to an additional funding shortfall due to the difference between the contracted value of the buy-in annuity and the wind up liabilities of the covered pension benefits. In this situation, FSCO would expect the actuary to calculate this shortfall in each actuarial funding valuation report and determine its effect on the required funding for the plan. This may result in additional funding requirements for the sponsor in respect of the liabilities covered by the buy-in annuity.

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[4] Any conversion to individual buy-out annuities is subject to a member's exercise of portability rights under section 73. The administrator's decision to convert to buy-out annuities or to exercise another option must be made in accordance with the administrator's fiduciary duties. Therefore, the administrator must conduct appropriate due diligence at this time including with respect to counterparty risk, Assuris or similar coverage and pricing of annuities.

[5] See footnote 4.

For clarity, the value of the buy-in annuity should be included in the determination of the going concern assets and liabilities and of the solvency assets and liabilities of the plan. Accordingly, the value of the buy-in annuity should be included for purposes of determining the transfer ratio and the maximum amount of a letter of credit, where applicable. If the going concern or solvency valuation uses an asset smoothing method, the value of the buy-in annuity should be excluded from the asset smoothing calculation.

FSCO will consider, on a case by case basis, submissions from the plan actuary in support of the use of a valuation method that is different from the one described in this guidance note.

5.0 Financial Statements

For the purpose of filing financial statements for the pension fund or plan, measurement and disclosure of the buy-in annuity should comply with section 76 of the Regulation, generally accepted accounting principles and the disclosure expectations set out in FSCO Guidance Note FSGN-100 (Disclosure Expectations for Financial Statements Filed Pursuant to Regulation 909 s. 76).

The valuation techniques used in the fair value measurement of a buy-in annuity must comply with generally accepted accounting principles. Since the payments from a buy-in annuity are directly linked to the payments in respect of the covered pension benefits, FSCO would accept a value that is equal to the actuarial present value of the covered pension benefits, adjusted to the extent that it does not provide for an exact hedge. The valuation techniques and inputs used to develop fair value measurement should be fully disclosed in the financial statements.

6.0 Pension Benefits Guarantee Fund

Because a buy-in annuity is an investment of the plan fund and does not affect the liabilities of the plan, every Ontario covered member of a buy-in annuity must be included in the calculation of the plan's Pension Benefits Guarantee Fund assessment base for those plans to which section 37 of the Regulation applies.

7.0 Foreign Buy-in Annuity Transactions

Under certain circumstances, an administrator may determine that it is prudent (and in accordance with all applicable laws including, but not limited to, insurance law) to invest plan funds in a foreign buy-in annuity (i.e., a buy-in annuity that is purchased from a person that is not authorized to carry on a life insurance business in Canada). Prior to purchasing a foreign buy-in annuity, an administrator should conduct additional due diligence and consider other factors, such as:

- a consideration of the regulatory regime to which the foreign buy-in annuity and the issuing insurer are subject;
- any capital or solvency requirements applicable to the insurer;
- any coverage or guarantee fund available in the case of insurer insolvency;
- the legal ability of the insurer to enter into the contract;

- the enforceability of the buy-in annuity contract in any foreign jurisdiction whose laws apply to the contract (and the cost and difficulty of enforcement);
- the exchange rate risk if the payments under the buy-in annuity contract will be made in a currency other than Canadian dollars; and,
- differences in the application of the PBA and Regulation, and the FIR to a foreign buy-in annuity.

Foreign buy-in annuity transactions are not exempt from the application of section 9 in Schedule III of the FIR (the 10 per cent rule).

RISK-BASED REGULATION

Framework Document

Financial Services Commission of Ontario
September, 2011

Table of Contents

Executive Summary

This document describes a broad-based framework by the Financial Services Commission of Ontario (FSCO) for the risk-based regulation of pension plans in Ontario. The purpose of introducing this framework is to improve FSCO's overall effectiveness in its monitoring of key pension risks, and to ensure appropriate regulatory response is taken by FSCO to address risk situations, thereby better protecting the interests of pension plan beneficiaries. It also serves in part to address the Ontario Expert Commission on Pensions' recommendations in regard to FSCO, which are contained in a report entitled *A Fine Balance – Safe Pensions, Affordable Plans, Fair Rules*.

Our proposed framework is grounded on the following five principles:

- **Proactive** – We will take proactive measures to promote compliance and to reduce risks to plan beneficiaries;
- **Focused** – We will focus our attention on those plans posing the most serious risks to the security of plan beneficiaries' benefits;
- **Proportionate** – Our regulatory response will be proportionate to the risks identified, with due regard to the probability and impact of risk, and we will intervene on a specific basis only when necessary;
- **Consistent** – We will apply our approach consistently and in a way that minimizes uncertainty about our likely response; and
- **Informed** – Our assessment of risk and regulatory response will be informed by the evidence gathered from appropriate sources.

In addition, our approach is building on existing risk-based processes that have proven to be effective. The risk-based approach as proposed in this document will apply to any Ontario registered pension plan that provides either defined benefit (DB) or defined contribution (DC) benefits, or both.

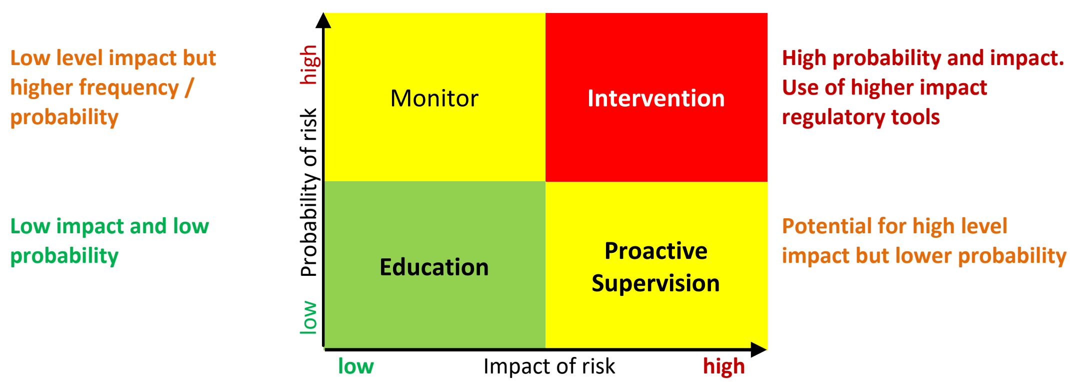
The core of the framework is a Regulatory Response Model, which includes a trigger mechanism based on readily available information and supported by a plan specific assessment process to identify plans posing the greatest risks. Both the likelihood and impact of risk are taken into account in the assessment process. As well, a certain degree of judgment will be required depending on the nature of the risks being assessed.

In designing the trigger mechanism and assessment process, we intend to focus initially on five risk areas, namely:

- funding risk,
- investment risk,
- administration risk,
- governance risk, and
- sponsor/industry risk.

If a plan is selected for review by the trigger mechanism, a risk assessment on the plan will be performed to determine if there are any significant issues that require follow up. We would look carefully at the circumstances of the plan before deciding on the appropriate regulatory actions to take. In some cases, the regulatory actions may include prosecution under the Pension Benefits Act.

The following chart depicts the Regulatory Response Model that FSCO will use internally to guide the regulatory actions taken for different plan situations:



The proposed framework is a significant change to the way in which FSCO regulates. The full implementation of the framework will take time and flexibility will need to be built into transition plans as implementation is phased in. We plan to carry out over the next three years the following activities:

1. Enhance existing risk-based processes - integrating the monitoring and review of funding and investment risks; adding other risk factors (e.g., late filings, stakeholder complaints) to the trigger mechanism; strengthening site examinations.
2. Enhance stakeholders' understanding of FSCO's risk-based approach.
3. Establish a quality control and maintenance process.

Introduction

1.1 Background

Over the past decade pension regulators around the world have been moving towards risk-based regulation. This trend has been sparked by a desire to address funding issues, as well as to promote good governance and risk management practices, in recognition that pure compliance approaches are limited. As an initial step, FSCO has instituted processes addressing funding and investment risk.

The Ontario Expert Commission on Pensions recommended in its report *A Fine Balance – Safe Pensions, Affordable Plans, Fair Rules* that FSCO should:

- Develop a program of proactive monitoring, auditing, inspections and investigations directed especially at plans whose profiles, sponsors' profiles or sectoral location suggest that they may be at risk of failure or of significant under-funding.
- Expand and update its existing systems for monitoring risks, ensure that these systems are designed and administered by expert staff, and supplement them with other strategies for detecting plans at risk.
- Be empowered to undertake remedial measures based on the results of its proactive monitoring.

Furthermore, FSCO's assessment is that:

- Current pension regulatory programs at FSCO may not identify all key risks inherent in pension plans and may not adequately protect the interests of pension plan beneficiaries. FSCO pension staff can be allocated more effectively to address pension plan risks.
- Through the expansion and enhancement of its existing risk-based monitoring programs, FSCO could better monitor primary pension risks, and ensure appropriate steps are taken to address non-compliance and risk taking without proper risk governance, thereby better protecting the interests of pension plan beneficiaries.
- With access to consolidated data and information collected from stakeholders and other available sources, and the provision of sufficient regulatory authority and resources, FSCO would be equipped to address non-compliance and to mitigate potential risk to pension plans and their beneficiaries in a more timely, effective and efficient manner.

A project to enhance risk-based regulation was established by FSCO in 2009, in response to the Ontario Expert Commission on Pensions Report that recommended, inter alia, developing a program of proactive monitoring of pension plans and updating systems and processes to detect plans at risk.

The Framework as proposed in this document builds on the existing risk monitoring programs that have proven to be effective and considers a broader universe of pension plan risks including those related to administration, governance and sponsor related risks.

The Framework provides for a base level of regulation across all pension plans including monitoring of key risk indicators, improved dialogue with pension stakeholders, and promotion of best practices. Above this base level, the Framework directs staff to those plans that are exposed to or exhibit greatest risks. It is expected that this approach would help FSCO more effectively monitor and manage the risk of pension plan failure and optimizes its use of regulatory resources.

The Framework presented herein is based on consideration of the pension plan environment in Ontario, the current regulatory activities of FSCO's Pension Division, as well as leading practices in risk-based regulation that have been adopted by The Pensions Regulator in the United Kingdom, the Australian Prudential Regulation Authority, the De Nederlansche Bank in the Netherlands, and the Office of the Superintendent of Financial Institutions of Canada.

1.2 Objectives

The objectives for FSCO's risk-based regulation of pensions are set out below:

- Regulation should enhance the security of plan beneficiaries' benefits.
- Regulation should reduce the risk of situations which may lead to calls on the Pension Benefits Guarantee Fund (PBGF).[1]
- Regulation should ensure compliance with the law, in particular ensuring FSCO discharges its responsibilities set out in the Pension Benefits Act.
- Regulation should encourage sponsors and plan administrators to adopt good governance, risk management and business practices.

These objectives are broadly consistent with those observed at peer regulators. The risks that are addressed on the basis of the above objectives are defined by the Risk Universe contained within the Framework.

[1] It should be noted, however, that we do not regard our objective of reducing the risk of situations which may lead to calls on the PBGF as meaning that this risk should, or could, be reduced to zero. As the causes of calls on the PBGF are very diverse, particularly those related to employer insolvency, it is not possible for the regulator to achieve this outcome.

1.3 Design Principles

In designing the Framework, a number of key principles have been considered. These design principles assist in creating a framework that is consistent with the risk-based regulation objectives and recognize FSCO's current staff, activities and plans. The key principles are as follows:

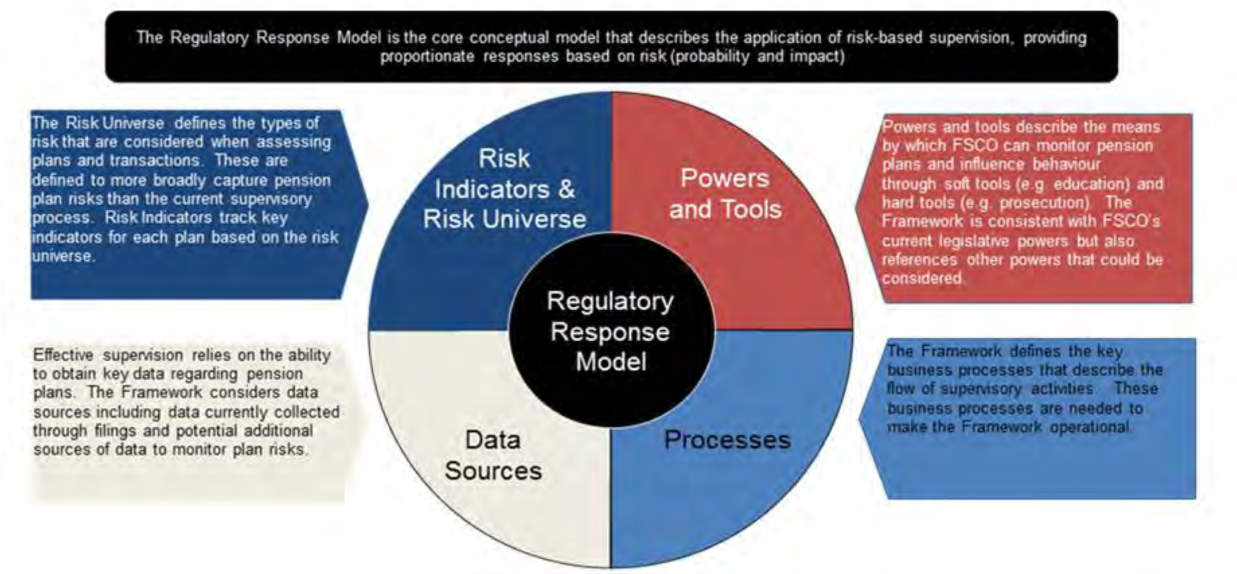
- **Proactive** – The Framework should entail proactive measures to promote compliance and to reduce risks to plan beneficiaries, recognizing that prevention is better than cure.
- **Focused** – The Framework should encourage a focus on the appropriate risk areas, minimize side effects, and ensure staff is targeted towards plans and areas of higher risk.
- **Proportionate** – The Framework should enable FSCO to plan its regulatory activities proportionate to the risk involved. This includes use of high impact regulatory tools towards areas of higher risk and intervention only when necessary.
- **Consistent** – The approach applied within the Framework should be consistent and in a way that minimizes uncertainty about our likely response.
- **Informed** – Risk assessment and our regulatory response should be informed by the evidence and due attention should be paid to the plan's existing governance/risk management practices as well as emerging risks.
- **Transparent** – In order to enhance stakeholders' understanding of FSCO's expectations, the regulatory processes established within the Framework should be clearly communicated to all internal and external bodies that are affected by the processes.

In addition, FSCO already has some risk-based monitoring processes that have proven to be effective and these would be built upon. Furthermore, in developing and implementing the framework, FSCO recognizes the need to balance the extent of its regulatory activities with the administrative burdens put on the plan sponsors.

2. The Proposed Framework

The following chart depicts the component parts of the Framework. The key elements of the Framework are described more fully in the balance of this document.

Figure 2.1



2.1 Regulatory Response Model

The Regulatory Response Model, illustrated by the diagrams in this section (Figures 2.2 – 2.4), lies at the core of the Framework. The diagrams summarize our approach to prioritizing regulatory work according to risk. Both the probability and the impact of risk are taken into account in determining FSCO's level of response in specific cases.

The Framework envisages that the model will be used to assess plan and transaction risks on an ongoing basis. Plans and transactions will be classified into one of four risk quadrants after a detailed review that involves a certain level of professional judgments. Consideration of the risk universe and related risk indicators, as well as any risk mitigation measures implemented by the plan, would be made in determining the quadrant into which a plan or transaction falls. Assignment of a plan or transaction to a quadrant is an internal means used to guide the effective allocation of staff resources and the regulatory actions taken by FSCO.

The model provides for a base level of regulation across all pension plans including a focus on industry education, promotion of best practices and monitoring of risk indicators. Above this base level, the model directs staff to those plans that are exposed to or exhibit greater risks. It is expected that this approach would help FSCO more effectively manage the risk of pension plan failure and optimize the use of regulatory resources.

Figure 2.2

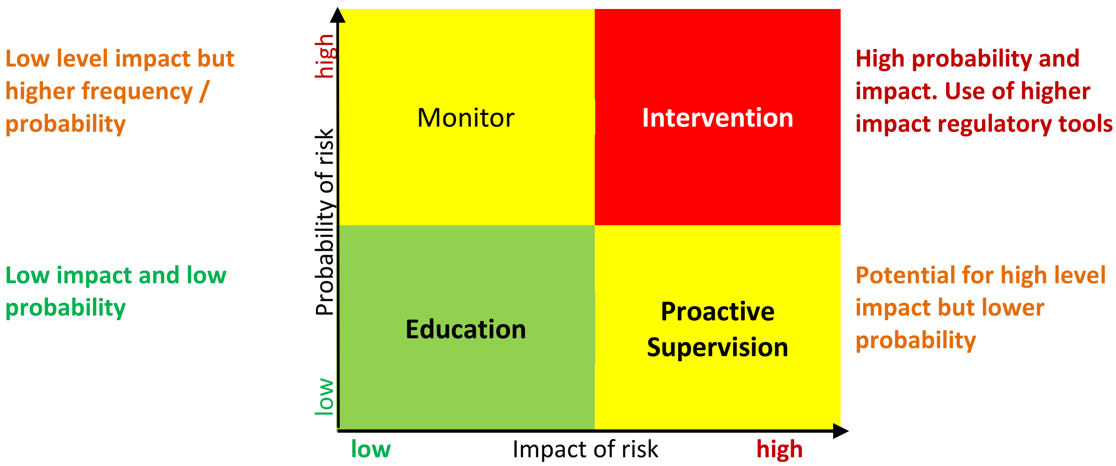
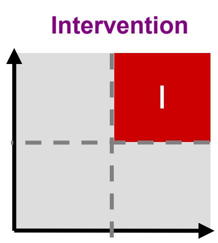
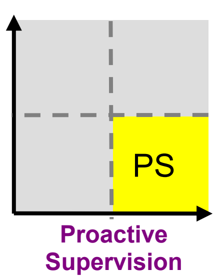


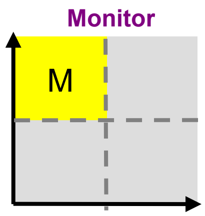
Figure 2.3

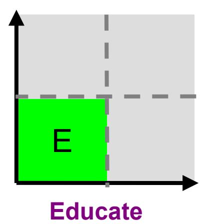




Examples of Plans / Issues	Potential Regulatory Responses
Intervention: High Impact, High Probability High risk events/transactions (e.g. failure to remit contributions over extended period of time, major corporate restructurings affecting large number of plan members) Chronic significant underfunding, especially in collective bargained plans with periodic benefit improvements Significant member complaints about plan administration or benefit entitlements Significantly underfunded plans carrying excessive investment risks Plans with significant sponsor risk (e.g. CCAA)	**Intervention: High Impact, High Probability** Regular interactions and/or meetings with plan administrator, sponsor, plan advisors, etc.) Take proactive measures to mitigate risks Keep FSCO Management abreast of the issues and corresponding regulatory actions taken Site examinations Action or legal proceedings pursuant to PBA
Proactive Supervision: High Impact, Low Probability Very large plans may fall into this category due to the potential for adverse impact on a large number of members, or very high impact on the PBGF in the event of employer insolvency Plans where there are early signs of high impact events occurring	**Proactive Supervision: High Impact, Low Probability** Ongoing monitoring Included in periodic management reporting, particularly if impact can be very large Ongoing media monitoring of plan and sponsor Possible interactions with plan Consider for site examinations

Figure 2.4





Examples of Plans / Issues	Potential Regulatory Responses
<u>Monitor: Low Impact, High Probability</u> Smaller plans with clear risk indicators (e.g. small plan but significant solvency issue, contribution issues etc.). Issues can be either significant individually or in combination. Larger plan but issue itself is not a large impact, e.g. consistently late filings, although consideration should be given to whether issue relates to other larger risk, especially in combination with other indicators (e.g. late filings plus large number of member complaints).	**<u>Monitor: Low Impact, High Probability</u>** Continue to monitor and flag if identified risks persist or additional risk indicators present Enhanced review may be appropriate Communication with plan administrator may be warranted, e.g. to bring awareness of the issue, request explanation
<u>Educate: Low Impact, Low Probability</u> Plans other than very large plans with little or no risk indicators present Many IPPs and DC plans will fall in this category (although IPPs and DC plans with significant risks or issues may fall into other categories)	**<u>Educate: Low Impact, Low Probability</u>** No specific communications to individual plans required Provide general education/communications to plan administrators and advisors, with a view to enhancing understanding of pension administration, governance principles and PBA requirements, e.g.: FSCO reports and industry sessions Guidance notes / best practices

2.2 Risk Universe

The proposed risk universe is intended to capture broadly the risks inherent in pension plans. Risk indicators for key risks will be developed and tracked for all plans. They are used as guidance when applying the Regulatory Response Model and in performing more detailed risk assessments. While it describes the various risks that could potentially be considered, judgment will be applied to determine what risks to review in specific cases and to what extent.

It is recognized that some of the risks will be more challenging to assess than others. In some cases, the tools or information to make meaningful assessments of specific risks are not currently available. Therefore, more emphasis will be given to those risks in the universe for which meaningful and relevant assessments can be made.

The Framework envisages that detailed risk assessments will be performed primarily on plans identified as being exposed to or exhibiting potentially higher risks. However, detailed risk assessments will also be performed on other plans periodically as part of the quality control process to ensure that the Framework remains effective.

The risk universe focuses on risks within pension plans. The following risk universe categorization will be used:

- Funding Risk
- Investment Risk
- Administration Risk
- Governance Risk
- Sponsor/Industry Risk

Definitions and examples of risk considerations for each category are set out in Table 2.1 below, which are meant to be illustrative only. Modifications may be necessary in certain cases to reflect the particular circumstances of the plan and other risk considerations that may arise. In addition, the assessment of risks would take into account the risk management practices, if any, that have been implemented by the plan administrator.

Table 2.1

Risk Area	Example Inherent Risk Considerations
Funding Risk *The risk to member benefits posed by shortfalls in plan funding*	• Appropriateness of actuarial assumptions and methods used in valuations • Plan solvency per actuarial reports and internal (FSCO) estimates • Timeframe for plan recovery • Late or unremitted contributions
Investment Risk *The risk of exposure to changes in the value of plan assets that support the plan liabilities*	Market Risk (*exposure to changes in market prices*) • Volatility of investment products • Complexity and liquidity of investments Matching Risk (*risk of mismatch between assets and liabilities*) • Difference in average duration between assets and liabilities • Classes of investments held vs. liabilities for active / retired members Credit Risk (*risk of counterparty failing to meet obligations*) • Credit quality of assets
Administration Risk *The risk associated with inefficient or insufficiently effective processes or organization in the administration of the plan*	• Benefit processing (accuracy, timeliness and communication) • Complex plan arrangements • Recordkeeping procedures • Errors / complaints: Frequency and response effectiveness • Late filings / errors in filings • Multi-jurisdictional plans • Regulatory compliance ***Note: Some aspects can only be assessed through plan examination***

Table 2.1

Risk Area	Example Inherent Risk Considerations
Governance Risk *The risk associated with lack of or poor governance practices*	• Existence of code of conduct / policies and procedures • Use of qualified outsourced providers and oversight by the plan administrator • Existence of oversight / monitoring / supervision policies and evidence that policies are followed (i.e. internal controls) • Information, performance measures and risk management processes ***Note: Some aspects can only be assessed through plan examination***
Sponsor/Industry Risk *The risk of sponsor insolvency or potential adverse financial impact due to industry-wide events*	• Continuity / financial strength of pension plan sponsor • Business outlook of Industry sector; industry reports • Mergers / acquisitions /Downsizing

2.3 Risk Indicators

The Framework recommends that risk indicators be developed consistent with the risk universe. When developing risk indicators, consideration should be given to the following:

- FSCO's ability to obtain, track and report on the risk indicator;
- The ability to leverage current processes and information tracked by FSCO;
- The relative importance of the risk indicator in identifying plans at risk;
- The total number of risk indicators – including consideration that too many indicators can reduce the usefulness of the indicator concept as it can be difficult to assess which indicators are relevant for which plan.

The Framework recommends that a tool be developed to present the risk indicators through taking quantifiable / measurable risk-based metrics and presenting these in an appropriate format. The appropriate format will be one that can be supported by FSCO's IT system and that presents the indicators clearly and concisely (e.g. on one page / screen, such as a dashboard format).

The primary purpose of the risk indicator tool is to provide an initial pre-screening to establish a preliminary assessment within our Regulatory Response Model. The tool will highlight potential key risk areas for further analysis and will be used to prioritize our regulatory activities. It will also support staff in the next level of review within the Framework.

The risk indicator tool will likely include indicators that can be automated and others where manual input is required. For example, funding risk and investment risk indicators can build on the data collected in the AIS and IIS filings and for which we have already established some risk-based monitoring processes. These existing processes can be used (perhaps with modifications) to provide the risk indicator ratings in an automated fashion. Other indicators, such as sponsor specific risks, may be identified through manual processes such as media searches or other sources.

The risk indicator tool can be implemented initially based on information currently available in our database. Over time, the risk indicators to include in the tool will be refined based on availability of information as well as our experience with each indicator's effectiveness in satisfying the main purpose of the tool. Prior to their application, we will perform tests on the risk indicators to determine if they provide the desired results within the Framework.

Indicators to consider for initial implementation are shown in Table 2.2 below.

Table 2.2

Risk Category	Risk Indicator	Potential Rating Method
Funding	Flags based on AIS data	System rule based on AIS process (e.g. plan solvency, actuarial assumptions, actuarial gains/losses, demographics, etc.)
	Late or unremitted Contributions	System rule based on frequency, tardiness and size of late contributions
Investment	Flags based on IIS data	System rule based on IIS process (e.g. regulatory breach, investment performance, asset/liability mismatch, etc.)
Administration	Late Filings	System rule based on frequency and lateness of late filings
	Complaints	System rule based on number (relative to plan size) and severity of complaints
	Non-compliance	Manual input
	Complexity of plan structure	Flag based on existing data
	Multijurisdictional plan	Flag based on existing data
	Benefits processing	Manual input based on plan examination results
Governance	Plan type	Flag based on existing data
	Audit Report	Manual input based on issues identified in audit report
	Policies and procedures	Manual input including plan examination results
Sponsor/Industry	Industry outlook	Manual input
	Mergers/acquisitions/downsizing	Manual input
	Sponsor insolvency	Manual input

2.4 Detailed Risk Assessments

As discussed earlier, detailed risk assessments are performed for plans or transactions based on the results of the risk indicator tool, as well as other plans on a selective basis. Such risk assessments are expected to provide the following outcomes:

- Full evaluation of the risks faced by a pension plan, taking into account the plan's specific circumstances (nature of liabilities, sponsor's financial strength, governance model, risk sharing arrangement, etc.) and any risk management practices the plan has in place;
- Classification of pension plans that are subject to detailed risk assessment into different risk quadrants within the Risk Response Model;
- Tracking of how risks are changing over time, including identification of emerging risks;
- Identification of plans whose risk profiles have changed over time.

Results of risk assessments could be used to provide direction and focus to the plan examination process. They would also allow for *ex-post* reviews of the risk assessment process and risk universe, assisting in future improvements to the regulatory approach.

Detailed risk assessments would be used as a tool to guide regulatory actions taken by FSCO. While there will be some structure in performing detailed risk assessments, they will be customized as needed to fit the particular circumstances of the plan or transaction being reviewed. It does not result in a standardized report.

In performing a detailed risk assessment, the elements from the risk universe will be prioritized based on what is deemed most relevant as well as the availability and quality of information. It is unlikely that all elements of the risk universe would be considered in any particular case.

It is intended that material concerns and issues arising from the detailed risk assessments would be communicated and shared with the plan administrator and, if relevant, other stakeholders as well. This provides an opportunity for the administrator to address identified concerns and issues through constructive dialogue. Further regulatory action, if any, would be guided by the outcome of such a process. It is believed that this approach would improve the transparency of the regulatory process.

Please see Appendix for illustrations of what a detailed risk assessment might entail.

2.5 Regulatory Powers and Tools

Regulatory tools are generally set out in legislation but can also include actions taken by the regulator to influence through moral suasion (e.g. stakeholder communication, educational material, guidance on industry best practices).

Regulatory powers and tools assist the regulator in performing its regulatory duties and influencing the actions of the regulated entities. These include powers and tools which:

- Enable the regulator to monitor plans to help identify plans that are at higher risk, for example through providing early warning signals.
- Help the regulator change the behavior of plan administrators and sponsors, which can include educational tools such as best practice guidance as well as deterrence tools that deal with known instances of non-compliance.

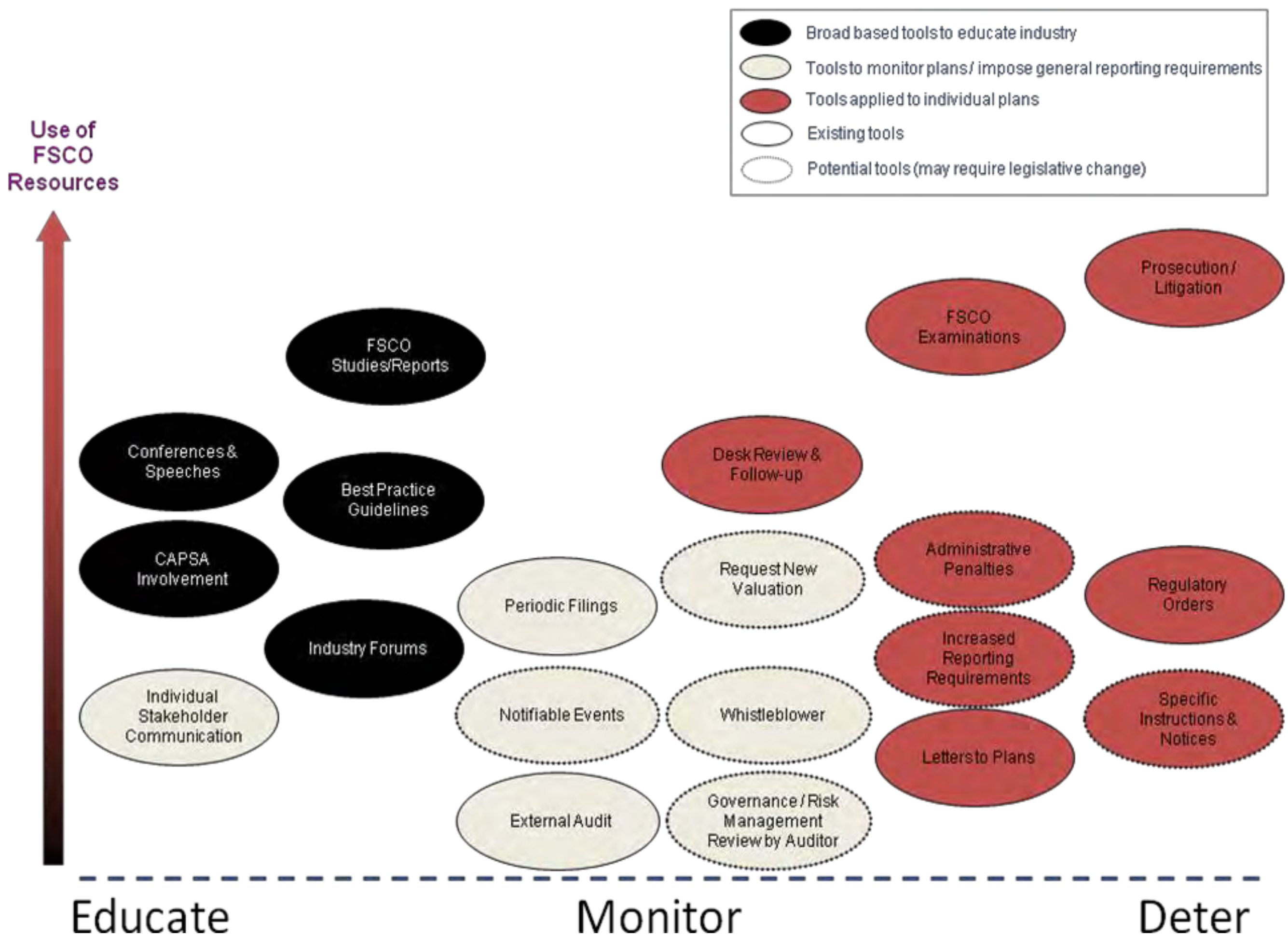
Powers which enable the regulator to monitor plans, particularly when the regulator indicates the reasons for monitoring and the risks being monitored, may also influence the behaviour of administrators since administrators know that their plans are being monitored.

The Framework is generally designed to be consistent with the powers of FSCO under the current Pension Benefits Act and regulations.

In reviewing the Framework and processes used by peer regulators in other jurisdictions, it was noted that some have other powers and tools available to them that FSCO does not have. Some of these powers and tools are mentioned in this document and may be recommended for future legislative reform. **Note, however, that FSCO does not have any authority to make legislative changes,** and therefore they are presented herein primarily for informational purposes.

The following diagram provides an overview of key regulatory tools for risk-based regulation. The proportionate nature of the tools is illustrated through the categories: Educate Monitor and Deter. For illustrative purposes, included are certain tools that currently do not exist and would require legislative change to bring about.

Figure 2.5



The use of many of the regulatory powers and tools will require coordination between the regulatory functions and other functions such as policy, legal, and enforcement.

2.6 Data Sources

The data obtained by FSCO through plan filings is broadly consistent with those of leading risk-based peer regulators. As such the Framework does not recommend wholesale changes to plan filings although certain enhancements are discussed in this document.

The Framework also recommends that additional information could be collected outside the plan filings to assist with monitoring risks within the broader risk universe. As well, should FSCO obtain legal powers to collect additional information, such information can be used within the Framework.

This section considers three categories of data source enhancement:

A. Existing data that can be used in an enhanced manner.
B. New data to consider collecting absent legislative change
C. New data that may be provided pursuant to legislative change

A. <u>Existing Data That Can Be Used In an Enhanced Manner</u>

This includes information that is currently collected or available in some form, which can, for example, be used to enhance the risk indicator tool including:

- **Complaint information.** A process is currently being implemented to track complaint information and to categorize by severity. Metrics for tracking complaint information can be used to facilitate risk indicator reporting.
- **Unremitted contributions**. Plan trustees notify FSCO when required contributions are not made.
- **Late Filings and Applications.** Late filings are tracked in the system and can form part of the risk indicator reporting. Tracking of late applications may require enhancement to be used effectively as a risk indicator.
- **Examinations.** Examinations can be used to obtain additional information on plans, particularly in risk areas where little information is available on plan filings (e.g. administration and governance). Key results of examinations can be made available within the system.
- **Audit Reports.** FSCO receives audited financial statements for pension plans where an audit is required. The audit results, including disclosures in the notes in financial statements, can be used in the risk assessment process.

B. New Data to Consider Collecting Absent Legislative Change

Industry and Sponsor Intelligence. The Framework recommends that an intelligence process be established to monitor industry and sponsor risks.

- **Industry risks.** Examples of data that can be monitored for industry risks include forward looking (e.g. research reports on industry) and backward looking information (e.g. past insolvency rates by industry). Availability of data and cost considerations may impact the choice of sources of industry risk data.
- **Sponsor risks.** Risks for certain specific sponsors can be monitored. It would be impractical to actively monitor all sponsors, and accordingly FSCO would focus on the sponsors of plans that have been designated as high risk through a detailed risk assessment. Examples of data sources include news alerts related to sponsors (e.g. news aggregators such as Google news alerts and RSS feeds, subscription services such as Dow Jones Factiva). As well, where sponsors are public companies with issued debt, credit ratings are typically readily available and these can be monitored. In certain circumstances, for example when funding shortfalls are significant and there are concerns about sponsor viability, FSCO may wish to acquire credit reports for privately held companies.

External Scans and Monitoring for Emerging Trends and Risks. This would include information that would be used to refine and enhance the approach to risk-based regulation. A number of sources may be used in combination, including ongoing interaction with the industry; participation in forums and communication with peer regulators; and scanning external information and reports.

Additional Data Concerning Plans and Service Providers. While FSCO often obtains and records information identifying service providers to plans, FSCO could consider requiring this information to be provided, for example via AIRs. This would allow FSCO to record, for all plans, the details of who provides investment advice and actuarial services, allowing this data to be analyzed if required (e.g. if FSCO wanted to know what plans a particular investment firm advises). This type of information should normally be available to the plan administrator as part of its governance process of monitoring and overseeing its service providers.

C. Potential New Data Pursuant to Legislative Changes

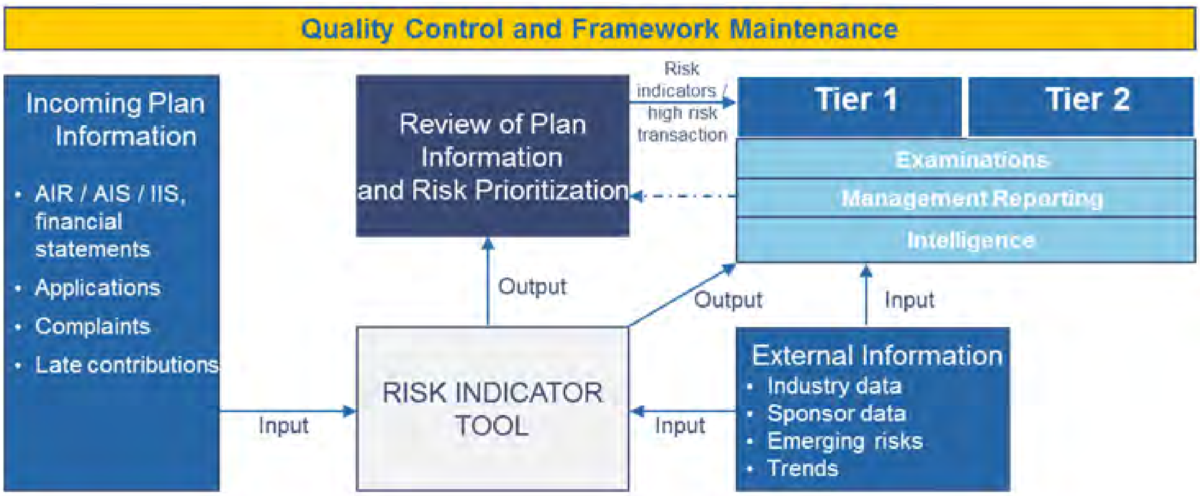
There are a number of areas where peer regulators obtain information on pension plans outside the regular filing process that FSCO could introduce, and which may require legislative change. Examples of such new data include:

- **Notifiable events**. These are predefined significant events that require reporting by plan administrators / sponsors, such as breaches of bank covenants, senior management convictions, sponsors moving outside the jurisdiction, and can be used as early warning signals of potential problems.
- **Whistleblower reports**. These are reports of legislative breaches made by sponsors, administrators or plan advisors. Whistleblower obligations can be set out under the law.
- **Governance / Risk Management Information**. Other jurisdictions require pension plans to provide details of their governance arrangements or require external audits of risk management processes.
- **Other information that could be subject to an external assurance process**. FSCO could require disclosure of information such as related party transactions, conflicts of interest, and investment holdings outside quantitative limits, and could explore whether this could be provided through an external assurance process.

2.7 Process Overview

The following chart provides an overview of the regulatory process flow.

Figure 2.6



A key component of the risk monitoring process is a Risk Indicator Tool (RIT) that uses incoming plan information as input. Initially, the RIT will use information from existing FSCO data such as the Annual Information Return (AIR), Actuarial Information Summary (AIS), Investment Information Summary (IIS), late filing information, plan size, plan type, late or unremitted contributions, plan demographics, whether collectively bargained, multi-jurisdictional, frequency and severity of complaints, as well as complexity of plan structure.

Inputs to this tool will be automated to the extent practical. Based on pre-defined algorithms, the RIT presents the outcome as a priority list that ranks the plans based on the risk scores calculated by the RIT.

A Tier 1 plan risk review would be performed[2] in accordance with the order set out in the priority list generated from the RIT. The purpose of Tier 1 review is to validate the results from the RIT and to provide a preliminary assessment of the plan's exposure to risks in terms of probability and impact. Based on the results of risk assessment, the reviewer would assign the plan into one of the four risk quadrants of the Regulatory Response Model as described in Section 2.1. The outcome of Tier 1 review is used to guide FSCO staff as to what type of regulatory response should be undertaken.

A plan that has been assessed as being exposed to or exhibiting significant risks and assigned to the upper-right quadrant would be subject to a Tier 2 review. Based on the judgment of the Tier 1 reviewers, some plans in the "moderate risk" category (i.e., lower-right or upper-left quadrant) could also be subject to a Tier 2 review.

Where a Tier 2 review is required, a detailed risk assessment would be performed to confirm the plan's risk classification. If the risk classification is confirmed, the specific plan will be case-managed by a dedicated team of FSCO staff consisting of a case manager, front-line pension officers as well as actuarial, investment, legal and/or other professional support. The role of the case management team is to conduct on-going monitoring of high risk plans, which may include recommending approval of specific applications by the Superintendent, periodic risk assessments, interactions with plan administrators and their advisors as well as regulatory interventions, if warranted.

- Additional Tier 2 activities may include:
  - On site examinations of pension plans linked to the risk assessment process.
  - Management reporting on risk-based activities such as those relating to high risk plans, trends and significant issues.
  - An Intelligence process that includes review news feeds and general industry data, as well as monitoring of internal data such as results of on-site examinations and risk assessments for trends and issues. The acquired information is used to identify any emerging risk factors that are relevant to pension risk monitoring.

[2] Applications that require Superintendent's approval (e.g., wind-ups, asset transfers etc.) are routinely subject to a standard review for legislative and regulatory compliance, which forms part of the Tier 1 review process. If material non-compliance is identified in a plan situation, the issue may be escalated to a Tier 2 review.

The Framework operates with ten key business processes that can be described as follows:

Table 2.3

Business Process	Summary Definition
Incoming Plan Information	The receipt of plan information (filings, applications, complaints etc.), the initial review for completeness and routing to the appropriate person / group
Intelligence	Review of external information (e.g. media reports) and internal information (e.g. outputs from risk assessments), and filtering to determine relevant information to disseminate
Risk Indicator Tool	The process by which risk indicators are determined and kept current, and any changes made to the screening process
Routine Review	The review of routine applications, filings, complaints, approval/rejection of applications, and identification of higher risk items.
Tier 1 Review	Review to assess risk related to a plan or transaction, in terms of probability and impact as well as legislative and regulatory compliance, and to assign the plan or transaction into one of the four quadrants of the Regulatory Response Model.
Tier 2 Review	Consists of: • Detailed risk assessment • Process by which high risk applications / plans / issues are case managed.
Examinations	On site examinations of pension plans linked to the risk assessment process.
Management Reporting	Oversight by senior management through reporting on developments relating to higher risk plans / issues, trends and key performance indicators
Quality Control and Framework Maintenance	Oversight of methodology of risk-based regulation including ensuring it is applied appropriately and consistently through quality control processes and it is revised and updated appropriately
Education and Engagement	Providing education internally and externally on the risk-based regulation approach, including communication of expectations to stakeholders and soliciting their feedback and input

3. Medium Term Strategy

The proposed Framework is a significant change to the way in which FSCO regulates pension plans. The full implementation of the Framework will take time, and flexibility will need to be built into transition plans as implementation is phased in.

To transition to the new Framework, the principal activities FSCO plans to carry out over the next three years are:

- Enhance existing risk-based processes, including integrating the monitoring and review of funding and investment risks, applying risk indicators such as late filings and stakeholder complaints for risk monitoring, and strengthening on-site examinations with focus on administration and governance risks.
- Enhance stakeholders' understanding of FSCO's risk-based approach through ongoing engagement including education and communication.
- Establish quality control and maintenance process that includes the oversight and update of the risk-based methodology and application.

3.1 Framework Transition

FSCO will streamline its existing risk-based processes by integrating the monitoring and review of funding and investment risks. Focus will be placed on, but not limited to, the review of appropriateness of actuarial assumptions and methods, contributions remittance, asset mix policy in relation to the liabilities of the plan, and the measurement of fund performance relative to appropriate benchmarks.

In addition to the AIR, FSCO will introduce and implement e-filings of the IIS, PBGF and AIS to facilitate the collection of data necessary for risk monitoring. It will use other evidence such as late filings, stakeholder complaints, and news alerts, for risk monitoring and assessment.

Well governed pension plans are likely to be better administered, have greater awareness of financial risk, and to better represent the interests of plan members. FSCO intends to strengthen its on-site examinations by placing focus on identifying instances of poor governance and administration, and working with the administrators to address the shortcomings related to their plans.

At the same time, FSCO will take steps to promote, on an industry-wide basis, the knowledge and understanding of the governance requirements for pension plans (e.g., information session on CAPSA governance guidelines, best practices of well-governed plans).

3.2 Stakeholder Education and Engagement

A key element of risk-based regulation is the communication of the regulator's expectations to stakeholders, including plan administrators, sponsors and their advisors, and plan beneficiaries through ongoing engagement including education and communication.

There are two elements of education and communication:

- Education and communication of the changes to the regulatory approach as FSCO expands its application of risk-based regulation.
- On-going communication of the outcome of risk-based regulation as it is applied.

Extensive consultations with stakeholders and the industry will be required during the period of transition. Consultation activities could include:

- Working collaboratively with stakeholders and the industry to design and develop a comprehensive risk-based regulation framework.
- Providing information about the risk-based regulatory approach and how it is to be applied to pension plans.
- Communication with a broader public audience to ensure that the regulatory approach and its limitations are properly understood.

Ways in which ongoing education and communication may be achieved include:

- Providing periodic reports on the outcome of risk-based activities to industry on regulated areas. Currently, FSCO provides annual reports on funding and investment monitoring activities. This will be expanded to include other risk monitoring activities.
- Providing reports on the application of risk-based regulation in general including aggregate risk profiles, common issues, cases escalated to enforcement, the use of regulatory tools, PBGF claims information, etc.
- Identifying areas of potential concern within the pension system, performing thematic reviews and reporting to the industry on the results.
- Providing guidance to pension administrators and sponsors on a variety of areas, especially in regard to plan governance. This may be performed in conjunction with other pensions regulators (e.g. through CAPSA) or through FSCO initiatives.
- Engaging in industry forums, conferences, and speaking engagements.
- Encouraging a customer service approach to contact with pension plans which may include more personal interaction (e.g. face to face meetings, telephone calls) in place of written correspondence.

- Providing regular updates through website postings, news releases, webinars, email newsletters on regulatory and policy developments, including key issues, emerging trends, enforcement actions taken by FSCO.
- Broadening the potential scope of on-site examinations, and ensuring linkage between examination of plans and outputs from the risk assessment process.

3.3 Quality Control and Framework Maintenance

A key element of effective application of the Framework is recognizing that:

- Its implementation is subject to human judgment and hence its application can vary.
- Staff training to ensure common understanding of the risk-based regulatory approach and its application is essential.
- Quality control procedures need to be put in place to ensure appropriate and consistent application.
- Update of the Framework will be needed as the industry practices change, new risks emerge and priority of existing risks changes.

It is expected that the Quality Control and Framework Maintenance process will include the following activities:

- Setting benchmarks or key performance indicators to monitor and measure the effectiveness of risk indicators in identifying higher risk plans, and modifying them as appropriate.
- Maintaining the Framework including periodically revisiting and updating the methodology, risk definitions and assessment criteria.
- Coordinating the identification of emerging or increasing risks and developing approaches to address those risks (e.g. identifying areas for thematic reviews, providing guidance / training / updates to colleagues, recommending changes to the application of the Framework).
- Ensuring, through leading initiatives or coordination / participation with others, appropriate communication and education to the industry regarding the risk-based approach and regulatory expectations.
- Liaison with relevant IT groups to ensure that the system of risk-based regulation is appropriately supported by technology.
- Maintaining network of strategic relationships within FSCO, the industry, national and international regulatory bodies.
- Reporting to senior management on the status and effectiveness of risk-based regulation.

These measures will be implemented once the Framework has become operational and as we learn more about the risk profile of the pension plan universe.

Appendix - Illustrations of Detailed Risk Assessment

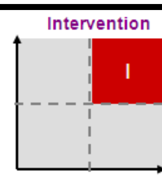
For the purposes of this Appendix, we have assumed that a risk indicator tool with pre-defined algorithms presents the outcome of various risk indicators in a “traffic light” format, as shown in Section 2.7 (illustrative only and subject to change).

Based on the output from the risk indicator tool, a Tier 1 review is performed to assign a plan into one of the four quadrants of the Regulatory Response Model shown in Section 2.1. If the plan is classified in the upper-right quadrant, it will be subject to a Tier 2 review. In addition, there may be situations where a Tier 2 review is warranted even for plans classified in the other quadrants. In the Tier 2 review process, a detailed risk assessment (DRA) would be performed to confirm the risk classification and to guide FSCO in determining the appropriate regulatory actions.

As part of the DRA process, FSCO may seek additional information to better assess the risks to the pension plan. Request may be made directly to the administrator or the employer, but the information gathering process would be broad and dependent on the specific situation.

It should be noted that these examples have been provided purely for illustrative purposes and any resemblance to an existing registered pension plan is coincidental.

<u>Example 1 – Plan A:</u> Suppose the risk indicator tool presented the following results for Plan A and that the Tier 1 review process assigned Plan A to the upper right quadrant.

Plan A	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Solvency ratio 65%
Late contributions		
IIS Flags		Performance below benchmark, A/L mismatch
Late filings		History of late filings of IIS and FS
Complaints		
Non-compliance		
Complexity of plan		
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		BC, AB, ON and QC
Policies and procedures	N/A	
Industry outlook		Auto parts manufacturing
Mergers / acquisitions	N/A	
Sponsor insolvency		Media alerts on potential CCAA

<u>Detailed Risk Assessment</u>

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

Key Plan Data:

Benefit type	Collectively bargained career average plan					
Membership profile	Number	Avg Age / Service		Avg Salary / Pension		
- Active	350	46 / 16		$45,800 / $5,400		
- Retired	90	72		$4,700		
- Other	130	41		$2,000		
Market value of assets	$12,533,000					
Financials as of Dec 31, 2009	**Going-concern**			**Solvency**		
Actuarial value of assets	14,417,000			12,363,000		
Plan liabilities:						
- Active	9,161,000	63%		12,996,000	67%	
- Retired	4,244,000	29%		4,887,000	25%	
- Other	1,158,000	8%		1,626,000	8%	
- Total	14,563,000	100%		19,509,000	100%	
Surplus (Deficit)	(146,000)			(7,146,000)		
Contribution requirements	Year 1		Year 2		Year 3	
- Total normal cost	665,000		665,000		665,000	
- Special payments	911,000		790,000		667,000	

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	**Analysis / Commentary**
1. Funding Risk	
a) Actuarial basis	The actuarial basis used for both the going-concern and solvency valuations are reasonable
b) Plan size vs. Sponsor size	The solvency liability of $19.5 million represents approximately 2% of the sponsoring company's assets. And the deficit of $7.1 million represents 0.7% of the company's assets. The $7.1 million deficit does not appear to be a material amount relative to the company's recent cash flow and revenue figures. However, due to the deterioration in business conditions, this may be an issue in the near future.

Risk Area	Analysis / Commentary
c) Sponsor size vs. Contribution requirements	The normal cost represents 4.2% of the company's active payroll while the special payment represents 5.7% of payroll, for a total of close to 10%. However, the annual contribution requirement does not appear to be a material amount relative to the company's recent cash flow and revenue figures.
d) Other	The plan sponsor is a subsidiary of an US-based parent. There does not seem to be any evidence that the parent company is in difficulty at this time. The US parent is a public company and has a very large market capitalization. It is not known at this time if any parent company guarantee exists should the Canadian subsidiary experience financial difficulty. FSCO should inquire into this matter further.
2. Investment Risk	The pension fund has an asset mix target of 60% equity/40% fixed income and its actual asset mix is reasonably close to this. The assets are managed by Manager ABC in diversified pooled funds. It is invested in a traditional manner without the use of leverage or esoteric strategies.
a) Matching risk - Asset mix vs. Demographics	The current asset mix does not exhibit a material mismatch. Take action if necessary to ensure investment policy is reviewed in the event of material plan changes (e.g. windup or partial windup). Monitor to ensure plan does not take on undue risk to try and close the windup deficit.
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc.
a) Errors / complaints	Levels of member complaints and resolution efforts are acceptable.
b) Multi-jurisdictional plans	Multi-jurisdictional plan with members in BC, AB, ON and QC.
c) Late filings / errors in filings	There is a history of requests for filing extensions for the financial statements and IIS. As well, there have been some instances of errors in filings, although it appears that all of these have been resolved.
d) Regulatory compliance	No issues have been found.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk.
a) Use of qualified outsourced providers and oversight by the plan	No known issues with respect to the service providers engaged by the administrator.
b) Incidence and nature of legislative breaches	No known breaches.

Risk Area	Analysis / Commentary
5. Sponsor/Industry Risk	
a) Continuity / financial strength of pension plan sponsor	Due to media alerts on potential CCAA application, there are major concerns about the financial strength of the plan sponsor. Therefore, proactive monitoring is called for along with direct interaction/dialogue with the administrator/sponsor to ensure that funding requirements are met promptly and that investment of pension fund is prudent in the circumstances.
b) Business outlook of Industry sector; industry reports	Plan sponsor's business is in the auto sector. Outlook has improved since financial crisis in 2008. However, there continue to be concerns about the economic recovery in general and the auto sector in particular. The big 3 US automakers seem to have favourable outlooks going forward – which would be a direct benefit to the auto sector.
c) General economic environment	Still have concerns about housing and employment situation, especially in the US. This likely will have direct impact on sponsor's business.
d) Mergers / acquisitions	No specific information about M&A activity, although this is viewed as a distinct possibility.
e) Incidence and nature of litigation against plan and sponsor	No media reports of any legal actions.
6. Other Matters	
a) PBGF coverage	Most if not all of the benefits provided are covered by the PBGF – members' accrued pensions are typically under the coverage limit. No benefit improvements within the last 3 years.

Conclusions and Actions

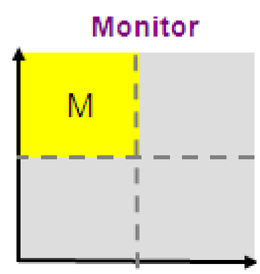
There is a risk of sponsor insolvency which would leave the plan with a windup deficit of approximately $7 million as of the last valuation date, December 31, 2009. The plan is significantly underfunded on a solvency basis with a solvency funded ratio of approximately 65%. However, because of the level of pensions, Ontario members would have most, if not all, of their pensions covered by the PBGF. The PBGF is exposed to a modest claim. There would be a risk to non-Ontario members of a 35% reduction in their benefits should the plan windup without any additional contributions by the sponsor.

Since the plan sponsor is up to date in remitting required contributions to the fund, the emphasis for FSCO is to ensure that the sponsor continue to make the required contributions to the plan in a timely manner and to take further action should contributions become delinquent. Of course, the actuarial valuation basis on which the contributions are based must be appropriate.

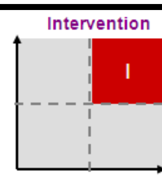
Staff should also engage in dialogue with the administrator and employer to better understand the company business situation and to also communicate our concerns and remind the sponsor of his obligations under the PBA. Staff should also determine if possible whether the parent company intends to stand behind the pension obligations of the plan sponsor (its subsidiary).

The investments should also be closely monitored to ensure that no undue risks are taken by the sponsor in an attempt to eliminate the deficiency.

Reclassify to the “Monitor” quadrant of the Regulatory Response Model:



<u>Example 2 – Plan B:</u> Suppose the risk indicator tool presented the following results for Plan B and that the Tier 1 review process assigned Plan B to the upper right quadrant.

Plan B	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Solvency ratio 65%, very large solvency deficiency, excluded benefits
Late contributions		
IIS Flags		Performance concerns, derivatives, alternative investments
Late filings		
Complaints		
Non-compliance		
Complexity of plan		Public sector plan, fairly complex employees from many employers
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		
Policies and procedures	N/A	
Industry outlook		
Mergers / acquisitions	N/A	
Sponsor insolvency		

<u>Detailed Risk Assessment</u>

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

Key Plan Data:

Plan type	Large public sector plan.		
Benefit type	Collectively bargained final average plan, fully indexed		
Membership profile	Number	Avg Age / Service	Avg Salary / Pension
- Active	25,000	45 / 11.0	$55,000
- Retired	15,000	72	$13,000
- Other	4,000	46	$2,800
Market value of assets	$47.8 billion		

Financials as of December 31, 2009	**Going-concern**		**Solvency**	
Actuarial value of assets	$6.7 B		5.9B	
Plan liabilities:				
- Active	3.9 B	57%	$3.6 B	57%
- Retired	2.7 B	40%	2.6 B	41%
- Other	0.2 B	3%	0.1B	2%
- Total	$6.8 B	100%	$6.3 B	100%
Surplus (Deficit)	$(0.1) B		$(0.4) B	

Contribution requirements	Year 1	Year 2	Year 3
- Total normal cost	275,000,000	287,000,000	300,000,000
- Special payments	3,000,000	13,000,000	14,000,000

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The actuarial basis used for the going-concern valuation is on the aggressive end of the range. For the solvency valuation, they have excluded indexing benefits (excluded benefits from the solvency liabilities are $2.6 B). Additionally due to the large plan size and indexed pensions, the estimated annuity purchase price for pensions and deferred pensions have been estimated to be the same as for a lump sum commuted value calculation – this may be inappropriate (although there is no definitive standard or practice how these should be valued).
b) Plan size vs. Sponsor size	For this plan, the participating employers are in the public sector and are large relative to the plan size.

Risk Area	Analysis / Commentary
c) Sponsor size vs. Contribution requirements	The employer required contributions represent approximately 8% to 8.5% of payroll. Members are required to contribute an equal amount. Given the nature of the employers, there is no significant risk of an inability by employers to make the required contributions.
d) Demographics	The plan is comprised of a diverse mix of members in terms of earnings and service.
e) Other	Given that the participating employers are in the public sector, there is a very low probability of a plan windup. For the same reason, there is a low probability that the employers will be unable to make the minimum required contributions under the PBA. We do not have information about the impact on the plan if a participating employer ceases its participation. FSCO should research this.
2. Investment Risk	The pension fund investments are considered very sophisticated, including allocations to real estate, infrastructure and private equity. The initial system screen indicated a potential risk situation due to performance issues, use of derivatives and investment in alternative asset classes. The level of complexity, volatility and potential liquidity are valid concerns for this plan. The current information we collect through financial statements and the IIS do not allow us to assess this plan very effectively due to the varied asset classes as well as the difficulty in determining appropriate benchmarks for the non-traditional investments (e.g. infrastructure or private equity). The plan does have qualified investment professionals on staff and has in place systems and processes for monitoring and assessing its investments. As well, the plan itself is audited annually and prepares a report which includes investment performance statistics and benchmark statistics. The annual audit includes an assessment of their internal controls and risk management processes and systems. Although the asset mix is on the aggressive side (relative to the plan demographics) and the plan uses derivatives and other sophisticated financial instruments, they have on staff investment professionals and have established documented procedures for managing and monitoring their investments. As such, they appear to follow prudent investment and risk management practices.

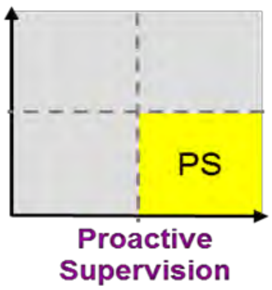
Risk Area	Analysis / Commentary
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc. Nevertheless, the fact that an organization exists with plan administration as one of its primary purposes suggests that the administration risk is low for this plan. The plan maintains a website through which it can communicate with its members and with other stakeholders.
a) Errors / complaints	Levels of member complaints and resolution efforts are acceptable.
b) Late filings / errors in filings	No material issues noted.
c) Regulatory compliance	No issues have been noted.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk. However, they have a well-developed framework for plan governance and have documented its governance structure and processes. The board of directors has representation from both the employers and the members. The plan's governance appears to be functioning effectively.
5. Sponsor/Industry Risk	There is a very low probability of any issues related to sponsor risk (or employer risk in this case) given that the participating employers are all public sector entities.

Conclusions and Actions

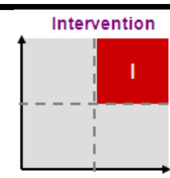
This plan was initially assigned to the upper right quadrant by the Tier 1 review process. The primary reasons were the low transfer ratio, very large windup deficiency, complexity of the plan and investment related concerns.

The detailed risk assessment undertaken in the Tier 2 review process indicates that there is a very low probability of plan failure and that the issues related to plan complexity and investments are being managed effectively by the plan administrator. Nevertheless, due to the large number of plan members and the high profile nature of the plan, any significant negative event affecting the plan would potentially cause a concern and affect a large number of individuals. Therefore, it would be prudent to re-classify this plan to be in the "Proactive Supervision" quadrant and take steps to be aware of issues concerning the plan on a timely basis.

The plan is currently in full compliance with the PBA and FSCO should focus on being up-to-date about the plan's circumstances through regular periodic monitoring efforts.



Example 3 – Plan C: In this example, a pension plan is being terminated and there is an application to wind-up the plan. The risk indicator tool and Tier 1 review classifies this as a high risk transaction to be reviewed in Tier 2.

Plan C	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Transfer ratio 55%, large solvency deficiency of $130 million
Late contributions		Contributions are up-to-date
IIS Flags	N/A	
Late filings	N/A	
Complaints		
Non-compliance	N/A	
Complexity of plan		Moderate complexity, different classes of employees get different benefits
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		
Policies and procedures	N/A	
Industry outlook		Steel industry, currently in down cycle
Mergers / acquisitions	N/A	
Sponsor insolvency		

Detailed Risk Assessment

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

The plan sponsor's business is in the steel industry. The industry appears to be at a low point in the business cycle with media reports of shrinking global demand and a poor outlook over the next 12 – 18 months. The company is also undergoing a major restructuring effort which includes a significant downsizing. As part of its restructuring plan, the company is winding up the pension plan. The windup report as at December 31, 2010 provides the following information:

Key Plan Data:

Plan type	Single employer		
Benefit type	Collectively bargained flat benefit plan with generous early retirement provisions		
Membership profile	Number	Avg Age / Service	Avg Salary / Pension
- Active	800	45 / 16.3	$16,800
- Retired	500	61	$24,800
- Other	100	47	$3,300
Market value of assets	$170.0 million		

Financials as of December 31, 2010	**Going-concern**	**Wind-Up**	
Actuarial value of assets	Not relevant	169.8 M (net of expenses)	
Plan liabilities:			
- Active	n/a	$150.2 M	47%
- Retired	n/a	156.0 M	49%
- Other	n/a	10.9 M	4%
- Total	n/a	317.1 M	100%
Surplus (Deficit)	n/a	$(147.3) M	
Contribution requirements - Special payments over 5 years	30.1 M per year		

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The windup basis is in accordance with prescribed requirements.
b) Plan size vs. Sponsor size	The windup deficit of $147.3 million is a significant amount for the sponsor, especially given the current business difficulties.
c) Sponsor size vs. Contribution requirements	The minimum amount if funded over 5 years is $30.1 million per year. Under normal business conditions, it appears that a $30.1 million cash contribution requirement would be manageable. The normal cost from the prior valuation was $3.5 million. Given the difficulties faced by the sponsor and also the business conditions faced by the steel industry, there is a significant funding risk of the sponsor not making the required contributions or not being able to fully fund the deficit within 5 years.
2. Investment Risk	The pension fund investments are broadly diversified and managed by investment professionals. There are significant allocations to equities, both domestic and foreign, which represent approximately 70% of the total portfolio. Due to the windup, there is a significant mismatch risk between how the liabilities are determined versus the assets backing them. Going-concern scenarios are irrelevant and the focus should be on windup and how to fully fund the windup deficit.
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc. Given that a windup is intended, some review of benefit processing accuracy and recordkeeping practices would be advisable. There have been no unusual levels of member complaints logged and plan filings have been received on time.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk. The activities to finish the windup and settle benefits will likely be delegated to a service provider.
5. Sponsor/Industry Risk	There is a possibility that the plan sponsor could become insolvent before fully funding the windup deficit.
6. Other Risks	
a) PBGF Coverage	The average pension to retired members is more than double the amount covered by the PBGF and the average accrued pension for active members is about 40% higher than the PBGF covered amount. Therefore if the sponsor does not fully fund the windup deficit then there could be a large reduction to members' pensions. In addition, there is a large potential exposure for the PBGF.

Conclusions and Actions

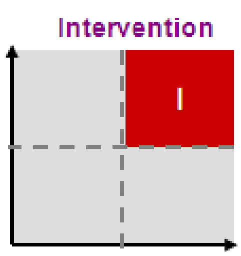
This transaction was initially flagged as a "high risk" transaction by the risk indicator tool and Tier 1 review process. The primary reasons were the low wind up funded ratio, very large windup deficit, and the negative business/industry outlook.

The plan is significantly underfunded on a windup basis with a windup funded ratio of approximately 54%. There is a risk of sponsor insolvency which would leave the plan with a windup deficit of approximately $147 million as of December 31, 2010. Furthermore, the level of pensions indicates that members would be at risk of substantial reductions since a significant percentage of their pensions exceed the PBGF limit.

Of concern is the investment risk (primarily matching risk) and FSCO should take whatever measures it can to minimize the investment risk in the plan. This includes discussions with the administrator about restructuring the investment portfolio to more closely match the liabilities of the plan.

Another risk that FSCO can try to manage is the funding risk associated with late or unremitted contributions. FSCO should ensure that the sponsor continues to make the required contributions to the plan for funding the windup deficit within the prescribed timelines. Prompt action should be undertaken if non-compliance is identified.

The "high risk" classification for this transaction is confirmed. A dedicated team is established to manage the wind up of the plan.



SECTION:	Administrator
INDEX NO.:	A300-450
TITLE:	Administrator's Management of Inquiries and Complaints from Plan Beneficiaries - PBA ss. 22 and 29 - Regulation 909 s.45
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (April 2011)
EFFECTIVE DATE:	April 15, 2011

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

The purpose of this policy is to clarify the responsibilities of the administrator of a pension plan (administrator) in responding to inquiries and complaints from plan beneficiaries (members, retired members, former members, surviving spouses, dependants, former spouses, and other person(s) who have an entitlement under the plan). The policy also provides the administrator with specific guidance on how to effectively manage inquiries and complaints from plan beneficiaries.

This policy is not intended to create additional rights, obligations or responsibilities for those involved in the administration of the pension plan and pension fund, or for the recipients of pension entitlements, beyond those required under the PBA and Regulation, or by the common law.

Responsibilities of the Administrator

The administrator is responsible for the oversight, management and administration of the pension plan, and the administration and investment of the pension fund. Both the PBA and the common law impose a duty on the administrator to ensure that the pension plan and pension fund operate in accordance with the requirements of the law and in the best interests of plan beneficiaries. As a result, the administrator is ultimately accountable to plan beneficiaries.

In accordance with section 22 of the PBA, the administrator has a duty of care and owes fiduciary duties to plan beneficiaries. Examples of the administrator's responsibilities to plan beneficiaries include:

- correctly paying benefit entitlements to plan beneficiaries when they are due;
- disclosing information about the pension plan, as it pertains to plan beneficiaries, within legislated timeframes; and
- responding to plan beneficiaries' inquiries and complaints.

As a fiduciary, the administrator is expected to observe high standards of integrity and honesty, and to act in good faith and in the best interests of plan beneficiaries. For example, when the administrator reviews a plan beneficiary's inquiry or complaint about the pension plan, the terms of the plan should be interpreted in a fair and impartial manner. (For additional information about the administrator's fiduciary duties owed to plan beneficiaries, visit the website of the Canadian Association of Pension Supervisory Authorities (www.capsa-acor.org) to access Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire.)

When dealing with plan beneficiaries' inquiries and complaints, the administrator needs to be knowledgeable about the legislation that applies to registered pension plans. Such legislation may include, but is not limited to:

- the PBA and Regulation;
- the pension standards legislation of any other applicable jurisdiction (for multi-jurisdictional pension plans);
- the Income Tax Act (Canada);
- the Employment Standards Act, 2000;
- the Labour Relations Act, 1995;
- the Family Law Act;
- the Workplace Safety and Insurance Act, 1997; and
- the Freedom of Information and Protection of Privacy Act.

If the administrator does not have the necessary knowledge to deal with plan beneficiaries' inquiries or complaints, some or all of these responsibilities may be delegated to those individuals or third-party service providers (service providers) who have the required knowledge. However, these delegates are subject to appropriate ongoing oversight by the administrator.

The administrator should also consider how plan records will be managed and maintained in order to have them readily available when dealing with plan beneficiaries' inquiries and complaints. For guidance on prudent record keeping practices, see FSCO policy A300-200 (Management and Retention of Pension Plan Records by the Administrator).

In cases where the pension plan forms part of a collective bargaining agreement (or where plan beneficiaries have union representation, even though the pension plan may not be collectively bargained), the administrator may be required to inform the collective bargaining agent about certain complaints from plan beneficiaries. For these situations, the terms of the collective bargaining agreement would generally specify the union's involvement with respect to these complaints.

For multi-employer pension plans, participating employers have an important role in the inquiries and complaint process. Participating employers must provide the administrator with information that is required to address plan beneficiaries' inquiries and complaints to enable the administrator to comply with the terms of the pension plan, the PBA and Regulation.

Communicating with Plan Beneficiaries

The PBA and Regulation require the administrator to inform plan beneficiaries about their entitlements under the plan, and to provide information about the plan provisions that apply to them through various pension statements, notices or other documents (e.g., annual pension statements, member booklets, ad hoc notices about plan amendments, etc.).

The administrator is also responsible for informing plan beneficiaries about their rights and obligations regarding the pension plan. This includes their right to know what pension plan information they are entitled to receive (e.g., pension statements, etc.), when and how often they are entitled to receive that information (e.g., how often they will receive pension statements, copies of plan records, etc.), and where they may access that information (e.g., where they can inspect plan records, etc.).

In addition to any legislated requirements, it would be appropriate for the administrator, as a governance matter relating to communications, to make the following information readily available to plan beneficiaries:

- Who plan beneficiaries should contact for inquiries and complaints (e.g., name of specific individuals/positions, call centre contact information and the relevant telephone numbers, fax numbers, e-mail addresses, mailing addresses, etc.).
- The type of supporting information that needs to be included with each inquiry or complaint.
- How plan beneficiaries should submit their inquiries or complaints (e.g., in writing).
- The expected timeframe for receiving a response from the plan administrator.
- Where plan beneficiaries may inspect the plan records that are listed under section 45 of the Regulation (e.g., plan texts, plan amendments, trust agreements, prescribed filings, etc.).
- The administrator's internal dispute resolution process (if one exists) for situations where a plan beneficiary disagrees with the administrator's response and other options that may be available to him or her (e.g., how to request further consideration by the administrator's review panel (if any), directing the individual to FSCO, etc.).
- The plan beneficiary's right to make a submission to FSCO in cases where a complaint cannot be resolved by the administrator. (Note: FSCO reviews each complaint on a case-by-case basis and determines whether the complaint can be resolved. Submissions by both the plan beneficiary and administrator will be considered before FSCO makes a determination about whether the administrator's actions are in compliance with the PBA, Regulation and FSCO's published policies. The administrator should consider advising plan beneficiaries of the information that is available on FSCO's website under General Information About Inquiries and Complaints for Pension Plan Beneficiaries.)

The information that is listed above can be built into any of the statements or records that are required to be provided to plan beneficiaries, or it can be made available on the administrator's website, newsletters, bulletin boards, etc. The administrator should determine the best method of communicating this information to plan beneficiaries, to ensure that this information is readily available to anyone who has an inquiry or complaint, and that plan beneficiaries know how their inquiries and complaints will be handled by the administrator.

Policy on Managing Inquiries and Complaints

It may be helpful for the administrator to develop and implement a written policy on how to manage inquiries and complaints from plan beneficiaries. The administrator can start by establishing a timeframe for reviewing current processes and procedures, and for developing and implementing the policy.

If the administrator already has such a policy in place (or once the policy is in place) a timeframe should be developed for the periodic review of the existing document to determine if there is any relevant information that needs to be updated (e.g., contact information, etc.) or if additional information needs to be included.

The process for managing inquiries and complaints may be different. Inquiries are typically requests for information and do not involve a dispute or disagreement. Inquiries can generally be handled quickly. On the other hand, complaints typically arise from situations where there is a disagreement between the administrator and the plan beneficiary. The administrator may require additional time and resources to address complaints. Note that a plan beneficiary's inquiry may turn into a complaint if the administrator does not handle the inquiry appropriately or if the plan beneficiary is dissatisfied with the administrator's response.

When developing the policy, the administrator should determine the content for this document based on what is most appropriate for the pension plan. The content will vary from plan to plan, depending on the number, frequency and complexity of inquiries and complaints that are generally handled by the administrator. In addition, the content will depend on whether inquiries and complaints are handled in-house or by service providers. FSCO recommends that the policy clarify (among other things) the roles and responsibilities of those individuals or service providers who are entrusted with this task, and that it be written in plain language. FSCO developed a tool called Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries that administrators may wish to refer to when developing the policy.

The administrator of a pension plan that receives large volume of inquiries may find it useful to separate different processes under different policy documents (i.e., separate documents for handling inquiries, complaints, communication requirements, training requirements, etc.). The administrator of a pension plan that seldom receives inquiries or complaints may find that the entire process for managing inquiries and complaints can be contained in a couple of pages. The length of the policy is not important. What is important is that the policy (or policies) clearly sets out everyone's roles and responsibilities and the processes that must be followed.

In FSCO's view, the policy will contribute towards:

- consistency and efficiency in the management of inquiries and complaints;
- consistency and timeliness in the responses that are provided to plan beneficiaries;
- identification of specific areas of plan administration that require improvement (e.g., by keeping track of the frequency of inquiries or complaints relating to a particular issue, etc.);
- improvement of communications with plan beneficiaries (e.g., by managing plan beneficiaries' expectations with respect to response times, etc.); and
- clarification of the administrator's fiduciary obligations.

Delegation of the Administrator's Duties

The administrator may delegate the responsibility of responding to inquiries and complaints from plan beneficiaries to a service provider. However, the administrator must continue to supervise the work of the service provider, and ensure that inquiries and complaints from plan beneficiaries are being processed in accordance with the requirements of the PBA, Regulation, terms of the pension plan, and any other applicable legislation. It should be noted that the service provider is subject to the same standard of care that is imposed on the administrator under section 22 of the PBA.

The delegation should be made in writing and clearly specify the duties of the service provider. The agreement between the administrator and service provider should address (among other things), privacy concerns and any limitations on using plan beneficiaries' information for any reason other than benefit administration. The agreement should also provide instructions on how inquiries and complaints need to be processed on behalf of the administrator. (Note: The administrator needs to ensure that plan beneficiaries are notified of any arrangements with the service provider, and give proper authorization for the release of personal information, in accordance with applicable privacy legislation.)

If the service provider has its own policy on the management of inquiries and complaints, it may be adopted if the administrator is satisfied that it complies with the requirements of the PBA, Regulation, terms of the pension plan and any other applicable legislation.

It is important for the administrator to be aware of plan beneficiaries' issues, even though they are handled by the service provider. The administrator is ultimately responsible for the final decisions that are made with respect to those issues, and any subsequent actions that may have to be taken, as directed by FSCO, the Financial Services Tribunal or the courts. Therefore, the administrator should establish policies and procedures to ensure that such information is made available by the service provider. As a general practice, staff in FSCO's Pension Division will copy the administrator on correspondence between FSCO and the service provider.

Timing of Responses to Inquiries and Complaints

The administrator should respond to plan beneficiaries' inquiries or complaints within a reasonable period of time. For the majority of inquiries and complaints, FSCO expects the administrator to provide a response within 30 days of receiving the written inquiry or complaint. If the administrator is unable to respond within the 30 days, plan beneficiaries should be notified of the reason for the delay and an anticipated date for when the response will be provided.

When responding to plan beneficiaries' requests for access to plan records under section 29 of the PBA, section 45(5) of the Regulation requires the administrator to comply with these requests within 30 days after receiving each written request. Plan beneficiaries are entitled to have access to plan records that are listed in section 45(1) of the Regulation that apply to them. Plan members are entitled to access these records once in a calendar year.

Guideline for Developing a Written Policy on Managing Inquiries and Complaints from Plan Beneficiaries

Plan administrators are encouraged to develop a written policy to document their process for managing inquiries and complaints from plan beneficiaries. The content of the policy will vary from plan to plan, depending on the number, frequency and complexity of inquiries and complaints that are generally handled by the plan administrator. The content will also depend on whether inquiries and complaints will be handled in-house or by third-party service provider(s).

The plan administrator should determine the policy's content based on what is most appropriate for the pension plan (e.g., different details or levels of tracking for inquiries versus complaints, etc.). Note that all processes do not have to be contained under one policy document (i.e., separate documents for handling inquiries, complaints, communication requirements, training requirements, etc.). In addition, the policy (or policies) should be reviewed periodically to determine if information needs to be updated or if additional information should be included. See FSCO policy A300-450 (Administrator's Management of Inquiries and Complaints from Plan Beneficiaries) for information about the plan administrator's responsibilities when dealing with inquiries and complaints from plan beneficiaries.

When the plan administrator is developing the policy, the list of key items below should be considered.

Participants and their Responsibilities

Identify:

- All individuals who are responsible for handling inquiries and complaints from plan beneficiaries (e.g., names, titles, specific roles, etc.).
- The responsibilities of all individuals who are entrusted with this task (e.g., their fiduciary obligations, delegated responsibilities, confidentiality requirements, etc.).

Processes or Procedures

Develop:

- The process for logging and tracking inquiries and complaints that are received from plan beneficiaries. Include information about:
    - the form in which they were received (e.g., letter, e-mail, telephone, in person, etc.);
    - the category or type of inquiries or complaints (e.g., pension calculation, plan provisions, marriage breakdown, etc.); and
    - any difference(s) in the tracking of inquiries versus complaints.

  (Note: This information is useful for identifying training requirements and areas of improvement, determining how to properly allocate resources, and measuring against performance targets.)

- The procedure for acknowledging receipt of inquiries or complaints based on the form in which they were received (e.g., by letter, e-mail, telephone, in person, etc.).
- The procedure for responding to plan beneficiaries based on the form in which the inquiries or complaints were received (e.g., by letter, e-mail, telephone, in person, etc.).
- The procedure that sets out the information that should be included in letters to plan beneficiaries, such as:
  - the date when the inquiry or complaint was received;
  - the date when a response will be provided;
  - a summary of the issue;
  - the conclusion based on a review of the issue;
  - who to contact for questions; and
  - what options are available if plan beneficiaries disagree with the response.
- The procedure for handling confidential or sensitive information.
- The procedure for documenting verbal inquiries or complaints.
- The timelines for providing an acknowledgment and response to inquiries or complaints. Include information about any difference(s) in response times based on the form in which they were received, such as:
  - in writing (by letter, e-mail, fax, memo, etc.); or
  - verbally (by telephone, in person, etc.).
- The procedure for contacting plan beneficiaries' collective bargaining agent(s), if applicable.
- The follow-up process if a response cannot be provided to the plan beneficiary within the initial deadline (e.g., provide a reason for the delay and the anticipated response date, etc.).
- The internal approval process (e.g., required sign-offs before the response is sent to plan beneficiaries) (if applicable).
- The internal dispute resolution process (if applicable).
- The procedure for dealing with conflicts of interest.
- The procedure for dealing with plan beneficiaries who have mental or physical disabilities.
- The procedure for reporting to senior level staff and/or to appropriate governance oversight bodies (e.g., pension committee) concerning the volume and type of complaints, and the action(s) that was/were taken to address or resolve the complaints.

Communication Requirements

Determine:

- Information about the inquiries and complaints process that needs to be communicated to plan beneficiaries (e.g., contact information, instructions to plan beneficiaries, etc.) and how that information will be communicated to them (e.g., company website, pension statements, etc.).
- How often the plan administrator should communicate with plan beneficiaries (e.g., whenever there is a change in contact information or administrative processes, etc.).
- If the plan beneficiary's collective bargaining agent must be contacted (where applicable).

Skills and Knowledge Requirements

Specify:

- Training and education requirements for those individuals who are responsible for responding to plan beneficiaries' inquiries and complaints.
- Requirements for continuing education and ongoing training.
- Performance targets and how those targets will be monitored (e.g., measuring response times, volume and frequency of complaints, etc.).

Educational and Instructional Information

Specify:

- Information about plan beneficiaries' rights and obligations under the pension plan (e.g., plan beneficiaries' rights to information, what information is needed from plan beneficiaries to process their pension entitlements, etc.).
- Information about where records relating to plan beneficiaries' inquiries or complaints will be kept and for how long.
- Information concerning the disclosure of conflicts of interest.
- Instructions for when an inquiry or complaint should be escalated to senior level staff and/or to any other governance oversight body (if applicable).
- Information about other guides or procedures that should be followed by those individuals who are responsible for managing inquiries and complaints.

Delegated Responsibilities (if applicable)

Specify:

- The delegated responsibilities of the third party service providers (service providers) and how they will be supervised by the plan administrator.
- Instructions to the service providers about which type of issues should be brought to the plan administrator's attention and when this should occur.
- Instructions for complying with the policy on managing plan beneficiaries' inquiries and complaints.
- The plan documents that must be provided to the service providers and when those documents should be provided to them (i.e., to ensure that the service providers have accurate and current information about the pension plan).

Monitoring Requirements

Monitor:

- The processes and regular reporting requirements.
- The performance of individuals or service providers that have been delegated tasks (if applicable).
- Whether the service providers have met the terms of the contract (if applicable).
- How often the process will be reviewed to determine:
    - if those individuals who are responsible for this job are adhering to the policy;
    - whether the contact information is up-to-date; and
    - if any improvements to the process are necessary.

Track:

- The number of inquiries and complaints that were received and identify any significant complaints (e.g., by volume and/or topic).
- The resolution of complaints.
- The number of inquiries or complaints that were escalated to senior level staff and/or to any governance oversight body.
- The timelines for addressing inquiries or complaints, and if responses were provided in a timely manner.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Procedures – Applications
INDEX NO.:	P510-403
TITLE:	Process for Reviewing Defined Benefit Pension Plan Applications and Service Targets
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (June 2010)
UPDATED:	July 2, 2010 [references updated - December 2014]

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. All pension policies can be accessed from the Pensions section of the website through the Pension Policies link.

Following extensive consultations, FSCO has developed two processes for reviewing and approving defined benefit (DB) pension plan applications, depending on whether an application is determined to be complete and compliant, or incomplete and/or non-compliant. The purpose of this policy is to explain these processes and set out the steps for each.

For the purpose of this policy, a complete application is an application that has no missing documents or information. A compliant application is an application that complies with all legislative and policy requirements.

The highlights of the new processes are:

- FSCO will strive to review and approve **complete and compliant** applications in accordance with its service targets.

- If an application is incomplete and/or non-compliant, an applicant will have one opportunity to address any completeness and/or compliance issues. If an application remains incomplete and/or non-compliant, a meeting or conference call may be held to discuss outstanding issues. If the application remains incomplete and/or non-compliant, FSCO will issue a Notice of Intended Decision (NOID) to refuse the application. The applicant may apply to the Financial Services Tribunal for a hearing on the NOID.

- If an objection to an application is raised by any person who has an interest in the application while it is being reviewed by FSCO, the applicant will have 30 days to respond to the objection. The person who raised the objection will then have 30 days to reply, and may be invited to attend any meetings about the application. FSCO's service targets will be suspended until the objection is resolved.

- If there is a prior transaction related to the application, FSCO will not delay processing the application if the prior transaction does not significantly affect its review. If the prior transaction does significantly affect the application, FSCO may refuse to process the application until the outstanding transaction is resolved.

Process for Complete and Compliant DB Applications

The process consists of the following steps:

1. The applicant submits a pension plan application. Only one copy is required unless the application requires a trust law analysis (for example, application for surplus withdrawal), in which case two copies are required.

2. FSCO reviews the application to ensure it is complete and compliant, including ensuring that all supporting documents have been filed.

3. If the application is found to be complete and compliant, FSCO will approve it by letter or in a NOID.

Process for Incomplete and/or Non-compliant DB Applications

The process consists of the following steps:

1. The applicant submits a pension plan application. Only one copy is required unless the application requires a trust law analysis (for example, application for surplus withdrawal), in which case two copies are required.

2. FSCO reviews the application to ensure it is complete and compliant, including ensuring that all supporting documents have been filed.

3. If the application is found to be incomplete and/or non-compliant, FSCO sends a compliance and/or completeness letter to the applicant (and other parties, if required) with a copy to the administrator. The letter will specify that the applicant has 60 days to respond to the completeness and/or compliance issues.

4. The applicant responds to FSCO's completeness and/or compliance letter.

5. FSCO reviews the application again to ensure it is complete and/or compliant, including ensuring that all supporting documents have been filed. If the application is complete and compliant, FSCO approves it by a letter or in a NOID.

6. If the application remains incomplete and/or non-compliant, FSCO may call a meeting or hold a conference call with the applicant (including other parties, if affected) to discuss completeness and/or compliance issues and to set out a timeline for resolving the issues.

7. If step 6 took place, FSCO sends the applicant a second completeness and/or compliance letter that summarizes the issues that were discussed at the meeting or conference call, and sets out the agreed-upon steps that will be taken to address these issues.

8. If steps 6 and 7 took place, the applicant responds to FSCO's second completeness and/or compliance letter in accordance with the agreed timeline.

9. If steps 6 through 8 took place, FSCO reviews the application for completeness and/or compliance, including ensuring that all supporting documents have been filed. If the application is complete and compliant as described above, FSCO approves it by a letter or in a NOID. If the application remains incomplete and/or non-compliant, FSCO issues a NOID to refuse the application.

Objections

If at any time during this process an objection is raised by a person who has an interest in the application, the applicant is given 30 days to respond to the objections. The person who raised the objection is then given 30 days to reply. In addition, the person who raised the objection may be invited to attend any meetings about the application. FSCO's service targets will be suspended until the objection is resolved.

Where an objection is raised by a person who has an interest in the application, FSCO will review the application for completeness and compliance and make a decision. The person who raised the objection will be advised of FSCO's decision and what further actions are open to him or her.

Service Targets

FSCO will strive to review and approve complete and compliant DB pension plan applications in accordance with the service targets, posted on the FSCO website (Defined Benefit Application Processes and Service Targets).

FSCO publishes performance results on an annual basis.

Financial Services Commission of Ontario
Commission des services financiers de l=Ontario

Ontario

SECTION:	Administrator
INDEX NO.:	A300-200
TITLE:	Management and Retention of Pension Plan Records by the Administrator - PBA ss. 19, 22 and 23 - Regulation 909 s. 45
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO Website (June 2010)
EFFECTIVE DATE:	June 30, 2010 [references updated – March 2011]

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca*. All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Pension plans, by their very nature, have long term time horizons. It is therefore imperative that the records related to a pension plan and the pension fund of the pension plan be managed and retained for a long period of time.

The main purpose of this policy is to discuss the long term commitments and responsibilities of the administrator of a pension plan (administrator) in the management of pension plan records and to provide guidance for prudent records management and retention practices. The obligations of other pension stakeholders in the management and retention of records are also briefly addressed in this policy.

This policy has a broad application that covers all sizes and types of pension plans (e.g., defined benefit pension plans, defined contribution pension plans, multi-employer pension pensions, etc.). Therefore, certain information and guidance contained in this policy may not be applicable to all pension plans.

In this policy, the term ―plan beneficiaries" includes members, retired members, former members, surviving spouses, dependents, former spouses, estates, and other person(s) who have an entitlement under the plan (unless indicated otherwise).

This policy is organized under the following sections:

1. Responsibilities of the Administrator

Section 19 of the PBA requires the administrator to administer the pension plan and pension fund in accordance with the PBA, Regulation and filed documents.

Section 22 of the PBA imposes a duty on the administrator to exercise the care, diligence and skill in the administration and investment of a pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. Section 22 also requires the administrator, in the administration of the pension plan and in the administration and investment of the pension fund, to use all relevant knowledge and skill that the administrator possesses or, by reason of the administrator's profession, business or calling, ought to possess.

Compliance with sections 19 and 22 of the PBA cannot realistically be achieved if plan records (that are discussed below) are missing or inaccurate. Without complete and accurate records, the administrator may not be able to meet its primary obligation to plan beneficiaries — to pay pension benefits in the correct amounts when payments become due. The administrator should therefore implement and maintain prudent record keeping practices.

FSCO recognizes that inadequate record keeping practices may have resulted in the loss of important plan records for some administrators. In such cases, administrators may be able to obtain copies of plan records that have been filed with FSCO through a written request under section 30 of the PBA. However, FSCO does not maintain records about individual plan members. To prevent or minimize loss of important records, FSCO strongly recommends that all administrators make it a priority to establish a formal and comprehensive written records management and retention policy. Such a policy should set out appropriate practices and procedures that address for example, how plan records are to be managed, how long records are to be retained and the individuals who are responsible for these records.

The remainder of this policy discusses in detail the rationale for prudent records management and retention practices, and provides guidance on how such practices can be implemented. This policy is not intended to prevent administrators from establishing more extensive records management and retention practices if that would be appropriate for their particular plans.

2. Plan Records and Retention Periods

Plan records include any documents related to the pension plan and pension fund (this includes documents in paper, electronic or any other format) that have been created or received by, or for the administrator, in connection with the operation of the pension plan and pension fund. These records generally include, but are not limited to, the following:

- documents that create and support the pension plan and pension fund;
- documents that pertain to the operation of the pension plan and pension fund;
- documents that pertain to the investment of the pension fund; and
- documents that pertain to individual plan beneficiaries.

Terminologies and retention periods for plan records may vary from plan to plan, and they may also change over time. However, for the purpose of determining retention periods, plan records generally fall under one of the following three categories:

a) Plan records that pertain to legislated requirements.
b) Plan records that pertain to individual plan beneficiaries and payment of their pension entitlements.
c) All other plan records that pertain to the day-to-day operation of the pension plan and pension fund.

Plan records that fall under categories (a) and (b) are critical to the proper administration of the pension plan and pension fund, because they are essential to the determination of pension entitlements and for regulatory submissions.

The following information may assist administrators in determining under which of the three categories a particular plan record falls. Retention periods for plan records will vary depending on the category. A Sample Retention Schedule for Pension Plan Records tool is available to administrators on FSCO's website and may be used as a guide in developing a records management and retention policy.

2.1 Plan Records that Pertain to Legislated Requirements

Plan records that fall under this category include all records that create and support the pension plan and pension fund. Some of these documents are listed under section 45 of the Regulation. For example, this includes:

- pension plan documents/texts and all amendments related to the current pension plan and predecessor pension plan(s), if any;
- documents that must be filed in support of an application for plan registration or amendments to the current pension plan and predecessor pension plan(s), if any (e.g., trust agreements, insurance contracts, collective bargaining agreements, member booklets, etc.);
- documents that set out the employer's or previous employer's responsibilities with respect to the pension plan(s);
- documents that delegate the administration of the pension plan or pension fund;
- copies of filings, reports or statements that are required to be filed with FSCO (e.g., annual information returns, pension fund financial statements, actuarial valuation reports, etc.);
- copies of correspondence between the administrator, the administrator's third-party service provider(s) and FSCO staff (excluding correspondence concerning individual plan beneficiaries);
- the parts of an agreement that pertain to the purchase or sale of a business or other assets of a business that relate to the pension plan; and
- copies of any statements of investment policies and procedures.

Neither the PBA nor the Regulation limit the retention period for the above plan records. These records must always be made available to those who are eligible to inspect the records under section 29 of the PBA.

2.2 Plan Records that Pertain to Individual Plan Beneficiaries and Payment of their Pension Entitlements

Plan records that pertain to individual plan beneficiaries should be retained as long as they have an entitlement under the pension plan. This may include information related to plan enrolment, beneficiary designations, pension statements, court documents related to breakdown of a spousal relationship, etc. (See Sample Retention Schedule for Pension Plan Records for examples of individual plan records.)

Once a plan member has terminated his or her employment or plan membership, and has elected to transfer his or her entitlement out of the pension plan, all plan records that pertain to the plan member do not necessarily have to be kept. However, it is important for the administrator to retain at least a summary of the terminated member's plan records that will provide confirmation that his or her entitlement under the plan has been settled. The summary for a terminated member should include, as a minimum, the following information:

- the employee's name or identifying employee or social insurance number;
- the plan membership entry date;
- the termination date;
- the vested status as of the termination date;
- evidence of the disclosure made to the member at termination;
- any options that were elected by the member; and
- the payment amount and date it was made, including any evidence that substantiates the payment information (e.g., bank statements, a receipt that shows the transferred amount and destination, the name of the financial institution, a receipt for cash payment, the date when the cheque was cleared, or any other forms of evidence).

The summary information that is retained must be sufficient to clearly identify the recipient of the payment, the exact amount that was paid to him or her, and date when the payment was made.

Similarly, when final payment has been made from the pension plan to a plan beneficiary, the administrator should retain at least a summary of the plan records relating to the beneficiary. The summary for the plan beneficiary should include, as a minimum, the following information:

- the plan beneficiary's name, employee number or social insurance number (as applicable);
- the plan membership entry date (as applicable)
- the retirement date (as applicable);
- the retired member's date of death;
- the date of death of the retired member's spouse or his or her designated beneficiary (as applicable);
- the pension amount that was paid to the retired member, his or her spouse, designated beneficiary or estate (as applicable), including any evidence that substantiates the payment information (e.g., payment stubs, T4A statements, or any other forms of evidence);
- the date(s) when payment(s) commenced and terminated, if periodic payments were made; and
- the date payment was made and the amount of the payment, if a lump-sum payment was made.

The summary information that is retained must be sufficient to clearly identify the recipient of the payment(s), the exact amount(s) paid to him or her, and the dates when the payment(s) commenced and terminated.

It is important for the administrator to retain the records pertaining to individual members (or at least the summary of their records), because it is not uncommon for former members of the plan to come forward at the time of their retirement (which may be long after their termination) to make claims for payment of their pension entitlements. After the death of a former or retired member, such a claim may be made by the former or retired member's beneficiaries or estate. Therefore, it is important for the administrator to have sufficient documentation to be able to verify the payment status of former and retired members' entitlements, in order to avoid duplication of the payment.

In addition, in situations where a member's entitlement to a stated amount of pension benefit is challenged, the administrator may be required to provide historical information in order to verify benefit calculations. This could include any information relevant to the benefit calculation (e.g., a member's period(s) of employment service, plan membership and/or union membership, employment earnings, pension plan contributions, plan provisions or any other documents that applied during the member's period of plan membership).

In cases where it is optional for an employee to join the plan, the administrator should retain a copy of the election form or notice that was signed by the employee, as it provides evidence of his or her decision to join or not to join the plan. The administrator should also retain a copy of the employee's plan enrolment form as evidence of the employee's plan entry date. (This is particularly important in cases where the employee joins the plan some time after he or she first became eligible to join under an optional membership arrangement.)

The administrator should consider communicating with members on an ongoing basis, to remind them of their obligations to notify the administrator whenever there is a change in their spousal relationship, beneficiary designation or mailing address. Such reminders can be built into the members' annual statements of benefits and termination statements.

By educating members of their obligations regarding their entitlements under the plan, the administrator may be able to avoid the delays and costs associated with finding missing former members and dealing with conflicting spousal or beneficiary information after a member's death. The administrator may also wish to consider communicating with other plan beneficiaries about their obligations regarding their entitlements under the plan.

In order to have an effective communication process between the administrator and plan beneficiaries, it is important for individuals to be able to easily update their personal and plan-related information. For example, a sponsoring employer's website may be used as one of the resources to serve this purpose (i.e., provided that personal information can be entered under a secured site).

2.3 All Other Plan Records that Pertain to the Day-to-Day Operation of the Pension Plan and Pension Fund

Plan records that fall under this category generally tend to be plan-specific (e.g., minutes of board meetings, investment manager's reports, etc.) and do not have to be filed with FSCO. The administrator should review and identify plan records that may fall under this category and make a decision about the retention period for these records. When deciding on the retention period, the administrator should consider, as part of its decision making process, whether the records will be required for purposes of determining pension entitlements and for making regulatory submissions.

3. Electronic Records

FSCO recognizes that it may not be practical, due to storage limitations, to retain all plan records in paper format. All three categories of records mentioned above may be stored and retained electronically, provided that they meet certain legal requirements as explained below. Electronic records encompass any documents or data that are stored and retained on a computer or any other electronic equipment (e.g., word processing applications, databases, spreadsheets, electronic mail, multimedia, web pages from the Intranet/Internet, etc.). When the records management and retention policy is being developed, the administrator should ensure that electronic records are treated with equal importance as paper records.

Plan records in category (a) (i.e., records that pertain to legislated requirements) may be stored electronically, provided that imaged documents can be certified as true copies of the original paper documents. Imaged documents should be reliable, authentic and have sufficient integrity to be legally admissible in court. For information on the validity and legality of electronic records in court, refer to the Evidence Act (www.e-laws.gov.on.ca) and the

Canada Evidence Act (www.justice.gc.ca). The administrator may also wish to refer to the national standard that is published by the Canadian General Standards Board, entitled Electronic Records as Documentary Evidence (CAN/CGSB-72.34-2005) (www.tpsgc-pwgsc.gc.ca/cgsb/).

Plan records in category (b) (i.e., records that pertain to individual plan beneficiaries and payment of their entitlements) may also be stored electronically as long as the administrator is able to reproduce or generate the information that is provided to plan beneficiaries (including any responses). For additional information, refer to FSCO policy A300-806 (Electronic Communications Between Plan Administrators and Plan Beneficiaries) and the Canadian Association of Pension Supervisory Authorities Guideline No.2 (Electronic Communication in the Pension Industry) (www.capsa-acor.org/).

If the administrator decides to manage and retain records electronically, the administrator must ensure that adequate backup systems exist. The administrator must also ensure that electronic records will always be accessible upon request by regulatory bodies or plan beneficiaries, despite future changes in technology.

4. Retention of Plan Records After the Wind Up of the Pension Plan

In the event of a full wind up of the pension plan, the pension fund of the pension plan will continue to be subject to the PBA and Regulation until such time as all assets of the pension fund have been disbursed in accordance with section 76 of the PBA. However, the pension plan may also remain subject to the PBA and Regulation in cases where the administrator's obligations to those who are affected by the wind up have not been satisfied due to errors in the wind up report (e.g., missing members, incorrect calculations, etc.). Therefore, the administrator may remain responsible for the records long after the wind up date of the pension plan.

5. Importance of Appropriate Records Management and Retention Practices

Current and historic plan records are often required for purposes of determining a member's pension entitlement and for regulatory filing and reporting. For example:

- As the primary source of information about the pension plan, the administrator is responsible for answering or obtaining answers to plan-related questions from plan beneficiaries and any other parties with respect to their interests in the pension plan. Members rely on the information that is provided by the administrator when making decisions about their entitlements.

- It is essential for the administrator to maintain accurate and complete plan records, to ensure that correct payments are made to those who are entitled to them.

- In situations where an individual's entitlement to a stated amount of pension benefit is challenged, the administrator may be required to provide historical information in order to verify the benefit calculations.

- In situations where a former member of the plan claims that he or she did not receive his or her pension entitlement, the administrator may be required to provide proof of payment.

- Certain applications that must be filed with the Superintendent of Financial Services (Superintendent) require the filing of plan documents from the inception of the pension plan (and relevant documents from any prior plans, if applicable). These documents may be required in support of the applicant's assertion that the application satisfies the requirements of the PBA and Regulation.

- Accurate and complete records are a necessary source of information for regulatory filings (e.g., actuarial valuation reports, annual information returns, financial statements, etc.).

- The administrator may be responsible for reproducing excerpts from old plan documents in disclosure notices that are required to be distributed to plan beneficiaries (e.g., proof of surplus ownership for surplus sharing agreement notices, etc.).

Inadequate records management and retention practices may lead to incomplete, inaccurate and therefore unreliable plan records, which may result in additional costs and delays for the plan sponsor and plan beneficiaries. In addition, recreating records from other sources is difficult, time consuming and sometimes impossible. If information that is required to be filed in support of an application or to meet compliance requirements is missing, the Superintendent may not be able to approve or consent to the application.

Appropriate records management and retention practices are therefore essential for meeting the administrator's standard of care and other obligations to plan beneficiaries, and for protecting the integrity and accuracy of the information that is used in the administration of the pension plan and pension fund. These practices may also contribute towards operating efficiencies and reduce litigation risks.

6. Developing a Written Policy on Records Management and Retention

Plan records may be maintained by the administrator, by an external third-party service provider, or a combination of both. Plan records must be maintained in order for the administrator to fulfil various obligations with respect to the pension plan and pension fund. Therefore, FSCO recommends that the administrator develop a formal and comprehensive written records management and retention policy that will encourage consistent standards and contribute towards efficient management and control of the records. The development of a such a policy is also recommended by the Canadian Association of Pension Supervisory Authorities under Guideline No. 3 (Guidelines for Capital Accumulation Plans) and Guideline No. 4 (Pension Plan Governance Guidelines and Self-Assessment Questionnaire) (www.capsa-acor.org/).

FSCO recognizes that records management and retention policies will vary from plan to plan, depending on the complexity of each pension plan. The administrator should determine the policy's content, based on what is most appropriate for the pension plan. However, as a minimum, the following items should be considered and addressed in the policy:

- the types of documents that must be retained and their retention period;
- where the documents will be stored;
- the form in which the documents will be stored;
- how the documents can be accessed;
- how private and confidential documents will be treated;
- the details of any delegations related to management of the documents;
- the individuals (or positions) that are responsible for managing the documents;
- the individuals who may access the documents;
- training requirements for those who are responsible for the documents;
- contractual agreements with service provider(s);
- whether there will be an audit of record keeping processes;
- the process for maintaining a back-up of the records;
- the process for monitoring the documents;
- the process for notifying members of the prudence of retaining their individual plan records; and
- the process for disposing of the documents at the end of their retention period (including the process for the proper disposal of personal and confidential records).

The administrator should monitor how well the plan records are being managed and the accuracy of those records. The administrator must be satisfied that those who are responsible for the plan records are complying with the policy.

7. Transferring the Administrator's Record Keeping Responsibilities to Other Parties

As described below, there may be circumstances where the administrator's responsibilities may be transferred to a different person or entity.

7.1 Sale of the Employer's Business

In the event that the employer's business is sold, the administrator of the seller's plan may remain responsible for the plan records with respect to benefits that have accrued up to the date of the sale unless this administrator can demonstrate that the responsibility has been transferred to the administrator of the purchaser's plan. The purchase and sale agreement should clearly identify the entity (or entities) that will be responsible for the administration of both accrued and future pension entitlements and the plan records related to those entitlements. Specifically, where the purchaser assumes responsibility for the accrued benefits under the seller's plan, the purchase and sale agreement should stipulate that the seller must provide the purchaser with general plan records from the inception of the plan to the date of sale, along with records that pertain to current and former members of the seller's plan. The administrator of the purchaser's plan must have access to those records in order to satisfy, for example, section 45(1)3 of the Regulation which requires the administrator to provide the provisions of any previous plan to those who are entitled to view the plan documents.

7.2 Insurance Company as Administrator

Section 8(1)(d) of the PBA specifies that in order for an insurance company to be the named administrator of a pension plan, all pension benefits must be guaranteed by the insurance company. In situations where an insurance company is the administrator, the insurance company would be responsible for the plan records.

7.3 Insolvency of a Plan Sponsor

In the event that the plan sponsor becomes insolvent, the entity that is acting as the administrator would become responsible for the plan records.

Insolvency can cover a broad range of situations from creditor protection under the Companies' Creditors Arrangement Act to bankruptcy under the Bankruptcy and Insolvency Act. If the employer is the administrator and has not been relieved of administrative functions, the employer (as administrator) remains responsible for the management and retention of the records. If a new administrator is appointed by the Superintendent, the appointed administrator must take over this responsibility. There is no distinction in the PBA between the "administrator" and the "appointed administrator". Consequently, all administrators are held to the same standard of care under section 22 of the PBA, and must administer the pension plan and pension fund in accordance with section 19 of the PBA.

FSCO recognizes the special challenges faced by appointed administrators, especially in cases where they take over pension plans with missing records. However, if an individual files a claim for an entitlement under the plan, the appointed administrator would be required to review and investigate this individual's claim, as would be required of the previous administrator. The appointed administrator may have to take extra steps to verify and locate plan records. Therefore, the response time to plan beneficiaries may be slower than under normal circumstances.

The appointed administrator may access plan documents that are filed with FSCO by making a written request under section 30 of the PBA.

8. Other Legislation Applicable to Retention of Records Under a Pension Plan

Other legislation that may be applicable to retention of records by a pension plan may also specify retention periods for employee records. They include, but are not limited to, the Income Tax Act (Canada), the Employment Standards Act, 2000, the Workplace Safety and Insurance Act, 1997, the Personal Health Information Protection Act, 2004, and the Freedom of Information and Protection of Privacy Act. Some legislation may permit or require the destruction of records after a specified period of time. However, even though other legislation may not require the retention of plan records, it does not mean it overrules the administrator's obligations under the PBA and Regulation, as these records are required to ensure proper administration of the plan. The administrator may be asked at any time to verify whether pension benefits were paid to plan beneficiaries in accordance with terms of the plan and the requirements of the PBA and Regulation.

9. Responsibilities of Other Pension Stakeholders

9.1 External Third-Party Service Provider(s) and Employee(s) of the Administrator

The administrator may delegate responsibility for the management of plan records to its employee(s) or to one or more external third-party service provider(s) (e.g., the custodian of the pension fund, a consulting firm, a company specializing in third-party administration, etc.). However, the administrator must continue to supervise the plan records management activities of its employee(s) and its service provider(s), and be satisfied that records are kept in compliance with the standards set out by the administrator. The administrator remains ultimately responsible for plan records and accountable for any plan-related issues that may arise in relation to those records.

A copy of the administrator's records management and retention policy should be provided to the service provider(s). If a service provider has its own policy on the management and retention of plan records, and the administrator is satisfied that the policy meets legislated and plan-specific requirements, the administrator may rely on the service provider's policy. The administrator must ensure that the agreement or contract between the administrator and the service provider addresses the items in the records management and retention policy, as well as the treatment of all records (e.g., paper, electronic, etc.) during the period the services are provided and at the termination of the contract (e.g., returning records to the administrator or transferring records directly to the successor service provider, etc.).

If records are maintained in electronic form by the service provider, the agreement or contract should specify the administrator's ability to obtain licence rights to the service provider's technology. If the service provider is unwilling to share technology rights, the service provider must find a way of returning the records to the administrator in a usable format. The original signed copies of plan documents that create and support the pension plan and pension fund (e.g., plan texts, amendments, trust agreements, etc.) must always be returned to the administrator.

At the termination of the contract, the service provider must not destroy the records that it managed and retained on behalf of the administrator. Records must be transferred to the administrator or to another entity as specified in the agreement or contract. The service provider will be held responsible for the records that it controls and manages on behalf of the administrator. The standard of care that applies to the administrator under section 22 of the PBA also applies to the service provider.

9.2 Plan Beneficiaries

Plan beneficiaries are responsible for keeping plan records that they receive from the administrator (e.g., pension statements, notices, member booklets, etc.) They are also responsible for reviewing the pension statements that they receive from the administrator (e.g., annual statement of benefits, termination statements, etc.) and notifying the administrator if any information appears incorrect on their statements.

It is to the benefit of plan beneficiaries to keep records related to the pension plan as proof of their entitlement to pension benefits (especially in cases where plan beneficiaries terminate their employment or plan membership prior to their retirement date with a deferred pension that is payable to them at a later date). It is also important for plan beneficiaries to keep the administrator up-to-date about any change(s) to their personal situation (e.g., change in mailing address, marital status, designated beneficiary, etc.).

In cases where the administrator is unable to verify an individual's membership in the company's pension plan, the individual has to provide the administrator with evidence of his or her employment and/or plan membership. The type of evidence that is required may vary depending on whether the pension plan provides mandatory or optional membership. For example, if the terms of the plan required all employees to join the plan from their date of hire, the individual may only be required to provide proof that he or she was a former employee of the company (e.g., Record of Employment statements, payroll stubs, T4 statements, etc.). However, if the terms of the plan gave employees the option of joining the plan, the individual may need to provide proof of plan membership (e.g., annual pension statements, plan enrolment or termination form, T4 statements, etc.). Once the individual's employment and/or plan membership has been established, the administrator will be required to verify whether or not this individual has been paid his or her entitlement under the plan. The administrator must be able to provide evidence in support of the administrator's actions.

An individual may be denied entitlement if he or she does not have any records, or is unable to obtain records from any other sources (e.g., Canada Revenue Agency) that may provide proof of his or her employment in the company or membership in the pension plan.

It should be noted that FSCO does not maintain records about individual plan members.

9.3 Employers

In cases where the employer is not the administrator (e.g., in multi-employer pension plans), section 23 of the PBA requires the employer to provide the administrator with any information that the administrator needs to comply with the PBA, Regulation and the terms of the plan. The employer is responsible for verifying the accuracy of the information that it provides the administrator and notifying the administrator of any updates to an individual's records that may affect his or her entitlements under the pension plan (e.g., date of hire, date of birth, change in salary, etc.).

The administrator is responsible for the records it receives from the employer(s). The administrator must be satisfied of the accuracy of the information provided by the employer(s) at the time when the information is received and at the time when payments are processed. The administrator must resolve any inconsistencies in the information that it has received from the employer(s).

APPENDIX A

Frequently Asked Questions

Questions from Plan Administrators

Q. My employee has retired and is receiving a pension from the plan. How long do I have to keep this individual's plan records?

A. Plan records pertaining to an individual plan member should be retained as long as the member and his or her beneficiaries or estate have an entitlement under the pension plan. Upon the death of the plan member and his or her entitled beneficiaries, the administrator should retain a summary of their plan records which should include, as a minimum, the following information:

- the plan beneficiary's name, employee number or social insurance number (as applicable);
- the plan membership entry date (as applicable);
- the retirement date (as applicable);
- the retired member's date of death;
- the date of death of the retired member's spouse or his or her designated beneficiary (as applicable);
- the pension amount that was paid to the retired member, his or her spouse, designated beneficiary or estate (as applicable), including any evidence that substantiates the payment information (e.g., payment stubs, T4A statements, or any other forms of evidence);
- the date(s) when payment(s) commenced and terminated, if periodic payments were made; and
- the date payment was made and the amount of the payment, if a lump-sum payment was made.

The summary information that is retained must be sufficient to clearly identify the recipient of the payment(s), the exact amount(s) paid to him or her, and the dates when the payment(s) commenced and terminated.

Q. My employee terminated his or her employment and his or her pension entitlement was transferred out of the plan. Do I still have to maintain the plan records for this individual?

A. All plan records pertaining to this individual do not necessarily have to be kept. However, it is important for the administrator to retain at least a summary of the individual's plan records that will provide confirmation of his or her payment status. The individual's records should include, as a minimum, the following information:

- the employee's name or identifying employee or social insurance number;
- the plan membership entry date;
- the termination date;
- the vested status as of the termination date;
- evidence of the disclosure made to the member at termination;
- any options that were elected by the member; and
- the payment amount and date it was made, including any evidence that substantiates the payment information (e.g., bank statements, a receipt that shows the transferred amount and destination, the name of the financial institution, a receipt for cash payment, the date when the cheque was cleared, or any other forms of evidence).

The summary information that is retained must be sufficient to clearly identify the recipient of the payment, the exact amount that was paid to him or her, and date when the payment was made.

Q. An individual has come forward claiming that he or she was a former employee of the company over 30 years ago and is certain that he or she has an unpaid entitlement under the company's pension plan. What is the administrator's obligation to this individual?

A. If the administrator is unable to verify the individual's membership under the company's pension plan, the individual has to provide the administrator with evidence of his or her employment and/or plan membership. The type of evidence that is required may vary depending on whether the plan provides mandatory or optional membership. For example, if the terms of the plan required all employees to join the plan from their date of hire, the individual may only be required to provide proof that he or she was a former employee of the company. However, if the terms of the plan gave employees the option of joining the plan, the individual may need to provide proof of plan membership.

Once the individual's employment and/or plan membership has been established, the onus is on the administrator to verify whether this individual had an entitlement under the terms of the plan and whether such entitlement has been paid. The administrator must be able to provide evidence in support of its actions.

Q. If plan records are missing, what are some of the resources available to plan administrators?

A. The administrator may request a plan viewing at FSCO's premises to view current and historic plan documents that are in FSCO's possession. Please note, however, that FSCO does not maintain records about individual plan members.

If annuities have been purchased for employees or their beneficiaries, the OmbudService for Life & Health Insurance (OLHI) may be able to direct the administrator (or the owner of the annuity) to the insurance company that holds the purchased annuity (contact OLHI toll-free at 1-800-268-8099 or visit OLHI's website at www.olhi.ca).

Q. A company has closed down its business and wound up its pension plan. When do the administrator's responsibilities end with respect to the plan records?

A. When a pension plan is terminated, the pension fund of the pension plan will continue to be subject to the PBA and Regulation until such time as all pension entitlements which are owed to the plan beneficiaries have been paid in full and no assets remain in the pension fund. In order to be discharged of further obligations with respect to the pension plan, the administrator must be able to demonstrate that the payments from the pension fund have been made in accordance with terms of the plan and the requirements of the PBA and Regulation. This means that the administrator may remain responsible for the plan records long after the wind up date of the plan. Therefore, it is important for the administrator to make arrangements with an external service provider (e.g., the custodian of the pension fund, an insurer, a consulting firm, a company specializing in third-party administration, etc.) to ensure that members will continue to have a contact person for the settlement of their pension entitlements.

Q. An individual who has a certificate showing that he or she is a deferred vested member of a pension plan has come forward several years after the plan was wound up. This individual is claiming that he or she did not receive his or her entitlement under the plan. What is the administrator's obligation to this individual?

A. The administrator must be able to confirm whether or not this individual was included in the wind up and confirm if payment has been made to this individual. If payment has not been made, the administrator must take appropriate steps to ensure that this individual receives his or her entitlement under the plan. The termination of the plan does not relieve the administrator of the obligations in respect of members who did not receive their entitlements.

Questions from Plan Members

Q. What are my responsibilities for record keeping? What records should I keep?

A. It is to your benefit to keep records that show you are a member of the pension plan, and that you have an entitlement under the plan. As a minimum, you should keep the following records (at least until such time you are ready to start the payment of your pension entitlement):

- plan enrolment form (if completed)
- annual pension statements
- termination statement
- certificate of a deferred vested entitlement (if issued by the plan)

You are also responsible for reviewing the content of any pension statements that you receive from the administrator and notifying the administrator if any information appears incorrect on your statements.

Q. I was an employee of company ABC over 30 years ago and was a member of the company's pension plan. When I left the company, I am certain that I did not receive my pension entitlement. What should I do?

A. You should first check your records and find any documents that indicate you were a member of the pension plan or an employee of the company (e.g., plan enrolment or plan termination forms, annual statements of pension benefits, T4 statements, Record of Employment statements, etc.). Once you have this information, you should contact the human resources department of the company and ask to speak with the individual who is responsible for the administration of the pension plan. You may need to write to the individual and provide him or her with proof of your plan membership and/or proof that you were a former employee of the company.

If the company was not able to help you, or if you are not satisfied with the company's response, you may write to FSCO for a review of your case at:

Pension Plans Branch
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 4th Floor
Toronto ON M2N 6L9

Please include any correspondence between you and the administrator of the pension plan. You should also include written authorization that allows FSCO staff to contact the administrator on your behalf and forward to the administrator copies of any correspondence you have provided to FSCO.

Q. I am a deferred vested member of company ABC. I recently found out that the pension plan was wound up and the company closed its operations. I did not receive my pension entitlement. What should I do?

A. You may write to FSCO for assistance at:

Pension Plans Branch
Financial Services Commission of Ontario
5160 Yonge Street
Box 85, 4th Floor
Toronto ON M2N 6L9

Please note that FSCO does not maintain records about individual plan members. Therefore, you will need to provide FSCO with copies of any relevant documents that indicate you were a member of the pension plan, along with written authorization that allows FSCO staff to contact your former employer or any other person on your behalf, and forward that person copies of any correspondence you have provided to FSCO. FSCO will assist you in determining who to contact for the payment of your pension entitlement.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Surplus Policies

FSCO's surplus policies set out FSCO's expectations with respect to applications for the payment of surplus to employers, plan members, former members, retired members and other beneficiaries entitled to surplus, under the Pension Benefits Act (PBA) and Regulation 909 (Regulation) under the PBA.

FSCO is in the process of updating these policies. The updated policies will be posted for public consultation as they become available, before they are finalized and published. See below for a list of open consultations.

How to Provide Comments:

There are three ways to submit your comments:

1. Email: pensionconsultation@fsco.gov.on.ca
2. Mail: Pension Policy Unit
   Financial Services Commission of Ontario
   5160 Yonge Street
   Toronto ON M2N 6L9
3. Fax: 416-226-7787

If you have questions about the consultation process before submitting your response, please email FSCO.

This is a public consultation process. All submissions received by FSCO may be posted on FSCO's website at the end of the consultation period. Submissions received by FSCO are also subject to disclosure under the Freedom of Information and Protection of Privacy Act.

If you intend to provide information that is confidential, such as personal information (this includes an individual's home address and telephone number) or third-party information, please do not include it as part of your submission. Instead, include it in a separate letter that is clearly marked "confidential." FSCO will not post the letter to the website and will treat it as confidential information, unless FSCO is required by law to disclose it.

Open Consultations:

Policy Index No.:	**S900-512**
Consultation Reference:	Application by Employer for Payment of Surplus on Wind Up of a Pension Plan Size: ## kb
Summary:	The policy sets out the process when applying to the Superintendent of Financial Services (the Superintendent) for consent to the payment of surplus to an employer on a pension plan wind up pursuant to section 78(1) of the PBA. The policy applies to applications for surplus upon the full wind up of a pension plan and, subject to necessary modifications, to partial wind ups with an effective date prior to July 1, 2012. Schedule 1 to the policy also include a recommended template for use in preparing the surplus application.
Posting Date:	October 15, 2018
Deadline for Submissions:	November 12, 2018
Other instructions:	Please include a subject line in your letter referencing 'S900-512'.

Policy Index No.:	**S900-514**
Consultation Reference:	Surplus Distribution by Written Agreement – The Role of Legal Counsel Size: ## kb
Summary:	The policy provides guidance about the role of legal counsel in representing some or all of the members, former members, retired members or other persons entitled to payments from a pension fund (Affected Persons) where the employer intends to submit an application to the Superintendent of Financial Services (the Superintendent) for consent to the payment of surplus to the employer based on a written agreement between the employer and Affected Persons pursuant to section 77.11(7) of the PBA.

	The policy also provides guidance about the documentation that legal counsel must provide to the Superintendent to demonstrate that legal counsel has authority to act on behalf of Affected Persons. This policy is not meant to establish guidelines respecting the scope of legal counsel’s authority to act on behalf of Affected Persons.
Posting Date:	October 15, 2018
Deadline for Submissions:	November 12, 2018
Other instructions:	Please include a subject line in your letter referencing 'S900-514'.

Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Surplus
INDEX NO.:	S900-512
TITLE:	Application by Employer for Payment of Surplus on Wind Up of a Pension Plan - PBA s. 77.11(1) to (8), 78, 79, 112 - Regulation 909, s. 28(5) and (6), 28.1, 29.1(4)
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (Date to be determined)
EFFECTIVE DATE:	(Date to be determined)
REPLACES:	S900-510, S900-511

This policy replaces S900-510 (Application by Employer for Payment of Surplus on Full Wind Up of a Pension Plan) and S900-511 (Application by Employer for Payment of Surplus on Partial Wind Up of a Pension Plan) as of the effective date of this policy.

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990, or any other regulations under the PBA (Regulations), the FSCO Act, PBA or Regulations govern. Terms used in this policy have the meaning given to them in the PBA or Regulations unless clearly stated otherwise.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca*. All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Policy Purpose

This policy sets out the process to be followed when applying to the Superintendent of Financial Services (the Superintendent) for consent to the payment of surplus to an employer on a pension plan wind up pursuant to section 78(1) of the PBA. While compliance with this policy is intended to facilitate the application process, the Superintendent has the ultimate authority to decide whether to consent to or reject an application. Subject to necessary modifications, this policy applies to partial wind ups with an effective date prior to July 1, 2012.

Public Consultation

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1. DEFINITIONS

1.1. For purposes of this policy:

(a) "Administrator" means the person or persons that administer the pension plan in accordance with section 8 of the PBA.

(b) "Affected Persons" refers to the members, former members, retired members and any other persons entitled to payments under the pension plan on the date of the wind up. In the case of a partial wind up, the Affected Persons are limited to those persons in the wind up group.

(c) "Employer" has the meaning set out in section 1(1) of the PBA. An "Employer" may include any party that is authorized to stand in the place of the Employer (e.g., a receiver or trustee in bankruptcy).

(d) "FSCO" means the Financial Services Commission of Ontario.

(e) "Historical Analysis" refers to the legal analysis of entitlement to surplus based on the terms of all pension plan documents from the plan's inception. The analysis would encompass all documents that may be relevant to surplus entitlement, including all plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any amendments to these documents. An Historical Analysis is only required under certain types of Surplus Applications, as described later in this policy.

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(f) "NOID" means a Notice of Intended Decision issued by the Superintendent pursuant to section 89(3.1) of the PBA.

(g) "Non-Ontario Affected Person" means an Affected Person whose benefits in the pension plan were accrued with respect to employment in a designated jurisdiction (i.e., other than Ontario) and whose entitlement and rights to surplus are determined by legislation in that designated jurisdiction.

(h) "Regulations" refer to Regulation 909, R.R.O. 1990, or any other regulations under the PBA.

(i) "Surplus Application" refers to the application and supporting materials filed with the Superintendent for purposes of obtaining consent to the payment of surplus to an Employer on a pension plan wind up pursuant to section 78(1) of the PBA. The contents of a Surplus Application are described in Schedule I of this policy.

(j) "Surplus Notice" refers to the notice of Surplus Application that must be provided to Affected Persons, each Trade Union and, where applicable, the advisory committee of the pension plan, as prescribed under section 78(2) of the PBA.

(k) "Trade Union" has the same meaning as in the *Labour Relations Act, 1995,* S.O. 1995, c. 1, Schedule A.

(l) "Written Agreement" refers to the agreement providing for the payment of surplus to the Employer in the circumstances specified in the agreement, as described in section 77.11(7) of the PBA.

2. BACKGROUND AND GENERAL PRINCIPLES

2.1. When an Employer wishes to be paid surplus on a pension plan wind up, the Employer must apply for the prior consent of the Superintendent as required by section 78(1) of the PBA. Before consenting, the Superintendent must be satisfied that the Employer has complied with all the requirements of the PBA and the Regulations relating to the payment of surplus. The onus is on the Employer to satisfy the Superintendent that its Surplus Application meets the requirements of the PBA and the Regulations.

2.2. An Employer winding up a pension plan would generally not file a Surplus Application until after the payment of basic benefits from the pension plan has been approved by the Superintendent.

2.3. The distribution of surplus to members may be provided by benefit enhancements or in cash. Where any surplus is to be distributed to an Employer, the surplus can be paid in cash or, in the case of a partial wind up, can be allocated to the ongoing portion of the pension plan (for more information refer to FSCO policy S900-910: Distribution of Surplus to Employer on Partial Wind Up).

2.4. This policy applies to surplus in the context of a defined benefit plan, defined contribution plan, or a plan with both defined benefit and defined contribution provisions.

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2.5. Where the wind up of the pension plan is as a result of an event that affects the employment of members (such as a plant closure), generally all members participating in the pension plan on or after the date notice of the event is provided but prior to the event actually occurring must be included in the wind up group for the purposes of the wind up, including the surplus distribution.

2.6. The administrator must identify if annuities have previously been purchased from the pension plan in circumstances where a discharge applied pursuant to section 43.1 of the PBA. If such a purchase has occurred and the annuitants would have been entitled to payment of surplus under the pension plan if the pension plan had been wound up on the date of the annuity purchase, then those annuitants have the same rights with respect to payment of surplus under the pension plan as former members and retired members who, as of the date of the wind up, are entitled to payments under the pension plan.

2.7. The following addresses shall be used for purposes of submitting or filing paper and hard copy notices, applications, submissions and other correspondence with the Superintendent:

Paper copies: Superintendent of Financial Services
Financial Services Commission of Ontario
5160 Yonge Street, 4th Floor
Toronto ON M2N 6L9

Electronic copies: PensionInquiries@fsco.gov.on.ca

3. PAYMENT OF SURPLUS TO THE EMPLOYER

3.1. The PBA provides three sources of authority for the payment of surplus to an Employer on pension plan wind up, all of which are subject to the prior consent of the Superintendent. Each scenario is described in detail below.

Entitlement under pension plan provisions

3.2. The Superintendent may consent to the payment of surplus to the Employer under section 77.11(1) of the PBA if the Employer demonstrates by means of an Historical Analysis that it is entitled to the payment of surplus under the terms of the documents that create and support the pension plan and pension fund.

3.3. Where the Employer is seeking a payment of surplus based on its entitlement under the terms of the documents that create and support the pension plan and pension fund, if the plan is a successor plan as a result of a transfer of assets with an effective date on or after December 8, 2010, the Employer must demonstrate that an Historical Analysis of both the original pension plan and the successor pension plan provide for the payment of surplus to the Employer on the wind up of the pension plan pursuant to section 77.11(4) of the PBA.

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3.4. However, section 77.11(4) of the PBA is not applicable to asset transfers with an effective date prior to December 8, 2010. Where one or more such transfers have occurred, the ability of the employer to establish its entitlement to a portion or all of the surplus will be determined in accordance with the common law.

Court Orders

3.5. The Superintendent may, pursuant to section 79(3)(b) or section 79(3.1)(b) of the PBA, consent to payment of surplus to an Employer out of a pension plan that is being wound up where the payment of surplus to the Employer on wind up of the pension plan is authorized by a Court Order.

Written Agreements

3.6. The Superintendent may consent to the payment of surplus to an Employer pursuant to a Written Agreement as described in section 77.11(7) of the PBA between the Employer and the following prescribed threshold of Affected Persons:

(a) at least two-thirds of the members of the pension plan (for this purpose, a Trade Union that represents or represented members on the date of the wind up may agree on behalf of those members); and

(b) the number which is considered appropriate in the circumstances by the Superintendent of former members, retired members and other persons entitled to payments under the pension plan on the date of the wind up. In most cases, the Superintendent has determined the appropriate number is two-thirds of this group; however, the number is ultimately at the discretion of the Superintendent.

In circumstances of a partial wind up, the above thresholds for Written Agreement would only apply to those in the partial wind up group.

3.7. As provided by section 77.11(8) of the PBA, where the thresholds for consent have been met, a Written Agreement prevails over language in the documents that create and support the pension plan and pension fund regarding surplus entitlement, including any trust that may exist in favour of any person.

4. SURPLUS APPLICATION PROCESS

4.1. The Surplus Application process involves the following components, although the components differ depending on the authority for the payment of surplus to the Employer:

(a) As required by section 28(5.1) of Regulation 909, the Employer must first file a copy of the Surplus Notice with the Superintendent, and then transmit the Surplus Notice to the parties identified in section 78(2) of the PBA. The Surplus Notice must contain the information prescribed by section 28(5) of Regulation 909. See Part 5 of this policy for more information on the Surplus Notice.

(b) After the Surplus Notice has been transmitted, the Employer must file a Surplus Application to the Superintendent that meets the requirements of the PBA and the

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Regulations. See Part 7 and Schedule I of this policy for more information on the Surplus Application.

(c) Once submitted, the Superintendent will review the Employer's Surplus Application to determine if it is complete and compliant, and will make a determination as to whether consent will be provided. See Part 8 of this policy for more information on the application review process.

5. NOTICE OF SURPLUS APPLICATION (SURPLUS NOTICE)

5.1. The Employer must give notice of the Surplus Application as required by section 78(2) of the PBA to all Affected Persons, and if applicable, any Trade Unions and any advisory committee existing under the pension plan.

5.2. The Employer must file both a paper and an electronic copy of the Surplus Notice with the Superintendent before transmitting it to Affected Persons as required by section 28(5.1) of Regulation 909. For the purposes of section 28(5.1), the Surplus Notice will be considered to be filed when either the paper or electronic copy is first transmitted to the Superintendent. Refer to paragraph 2.7 of this policy for the Superintendent's mailing and e-mail addresses.

5.3. The Superintendent may require that the Surplus Notice be re-issued if it does not satisfy the requirements in paragraph 5.4 of this policy.

Content of Surplus Notices

5.4. The Surplus Notice must include the content prescribed by section 28(5) of Regulation 909 and the additional information required by the Superintendent as outlined below:

(a) The name of the pension plan and its registration number (as required by section 28(5)(a) of Regulation 909).

(b) The valuation date of the report to be provided with the Surplus Application (as required by section 28(5)(b) of Regulation 909). The Superintendent also expects that the Surplus Notice will indicate the date of the wind up report, and the date of any supplementary wind up reports existing at the date of the Surplus Notice.

(c) The amount of surplus in the pension plan (as required by section 28(5)(b) of Regulation 909). The Employer should indicate the source of this figure and the date of the source.

(d) The amount of surplus withdrawal requested (as required by section 28(5)(d) of Regulation 909). This should include the proposed amount to be paid to the Employer, and if applicable, the proposed amount to be distributed to Affected Persons and a description of how this amount is proposed to be allocated among them.

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(e) A statement that written representations may be made to the Superintendent with respect to the Surplus Application within thirty (30) days of receipt of the Surplus Notice (as required by section 28(5)(e) of Regulation 909), that the Superintendent will provide copies or a summary of the written representations to the Employer upon receipt, and that only those who make written representations will receive a copy of the Superintendent's NOID and thus be entitled to a hearing if they object to the NOID. The Surplus Notice must also state that written representations are to be sent to the Superintendent, and must include the mailing and e-mail addresses listed in paragraph 2.7 of this policy.

(f) The authority, if any, for surplus reversion (as required by section 28(5)(f) of Regulation 909); that is, a statement as to whether the Employer will be proceeding on the basis of entitlement under the documents that create and support the pension plan and pension fund, under a Court Order, or under a written agreement between the Employer and the Affected Persons, as described under section 77.11(7) of the PBA. It should also include the following, as applicable:

i. Where the Employer's Surplus Application is based on entitlement under the documents that create and support the pension plan and pension fund, an Historical Analysis of the ownership of surplus, or an address of a website where the Affected Persons can access the Historical Analysis. Where access to the Historical Analysis is provided through a website, the Surplus Notice must also include instructions on how Affected Persons can obtain hard copies of the Historical Analysis;

ii. Where the Employer's Surplus Application is based on a Court Order, a copy of the Court Order declaring that the Employer is entitled to the surplus on plan wind up; or

iii. Where the Employer's Surplus Application is based on a Written Agreement between the Employer and Affected Persons, a description of the consent process, and where applicable, a statement that a Trade Union that represents or represented members on the date of the wind up has the authority to agree on behalf of those members.

The Employer is not required to make any statement regarding the surplus provisions or its entitlement to surplus. However, any statements in the Surplus Notice regarding the surplus provisions or the employer's entitlement to surplus must not be misleading. If the Employer elects to make any such statement in the Surplus Notice, the Written Agreement, or other communications to Affected Persons, then the Employer will be required to support its statement in the Surplus Notice and/or the Surplus Application through an Historical Analysis.

(g) A statement that copies of the wind up report and supplementary wind up reports filed with the Superintendent in support of the Surplus Application are available for review at the offices of the Employer and information on how copies of the report(s) may be obtained (as required by section 28(5)(g) of Regulation 909).

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Where the offices of the Employer are closed, the Employer must provide for and communicate in the Surplus Notice alternate location(s) where these documents can be reviewed (for example, at an alternative location near to the offices of the Employer where the individual previously worked or other location that is agreed upon by the Administrator and the person making the request).

(h) A statement that pursuant to sections 29(1) and (2) of the PBA, upon written request Affected Persons, a Trade Union, and their agents are entitled to review the documents prescribed under section 45(1) of Regulation 909, at the premises where the member, former member or retired member was employed or other location that is agreed upon by the Administrator and the person making the request.

(i) A statement that, pursuant to section 30(1) of the PBA, Affected Persons, a Trade Union, and their agents are entitled to review at the Superintendent's offices the documents that create and support the pension plan and the pension fund, and any other documents that are prescribed under section 45(1) of Regulation 909.

(j) A statement that the documents prescribed in sections 45(2) and 46(2) of Regulation 909 will be provided by mail or electronically, if requested from the Administrator or from the Superintendent in writing, subject to an applicable fee.

(k) A statement that the Surplus Application and the Surplus Notice were prepared by the Employer.

(l) A statement that the Affected Person may wish to seek independent legal advice with respect to the Employer's Surplus Application.

Transmitting the Surplus Notice

5.5. After the Employer has filed a copy of the Surplus Notice with the Superintendent, the Employer must transmit the Surplus Notice to the following parties as required by section 78(2) of the PBA:

(a) each member, former member and retired member of the pension plan to which the pension fund relates;
(b) each Trade Union that represents members of the pension plan;
(c) each Trade Union that represents the members, former members or retired members of the pension plan on the date of the wind up;
(d) any other individual who is receiving payments out of the pension fund; and
(e) the advisory committee of the pension plan, if applicable.

Notice must be given to those annuitants for whom a pension was purchased under section 43.1 of the PBA, provided the annuitants would have been entitled to payment of surplus under the pension plan if the pension plan had been wound up on the date the pension was purchased.

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5.6. The Employer may transmit the Surplus Notice by personal delivery or by regular mail addressed to the person to whom the Surplus Notice is being transmitted. The Employer may use electronic means to send the Surplus Notice to the Affected Person if it has the person's permission to do so and if the Employer complies with the Electronic Commerce Act, 2000, S.O. 2000, c. 17, and with FSCO policy A300-807: Electronic Communications between Plan Administrators and Plan Beneficiaries.

5.7. Pursuant to section 112(3) of the PBA, the Superintendent may authorize the delivery of the Surplus Notice or reasonable notice of the contents of the Surplus Notice by public advertisement or otherwise, where the Superintendent is of the opinion that the persons who are to be given the Surplus Notice are so numerous as to make personal delivery impractical or if for any other reason it is not reasonable to give the Surplus Notice to all or any of the persons individually by personal delivery, by regular mail or electronically as described above.

5.8. Where an Employer requests that the Superintendent authorize the delivery of the Surplus Notice or reasonable notice of the contents of the Surplus Notice by public advertisement or otherwise, the Employer must submit one paper and one electronic copy of the proposed alternate surplus notice for the Superintendent's prior approval. The proposed alternate surplus notice should include at least the following information:

(a) the name of the pension plan and its registration number;

(b) the persons to whom the alternate surplus notice is addressed;

(c) the reason that these persons are being notified (i.e., to notify them of the Employer's Surplus Application and their right to make written representations to the Superintendent with respect to the Surplus Application);

(d) the amount of surplus in the pension plan;

(e) the amount of the surplus withdrawal requested;

(f) the authority for the surplus reversion to the Employer (i.e., entitlement under the pension plan documents, by Written Agreement, or on the basis of a Court Order);

(g) how the complete Surplus Notice (if not included in the alternate surplus notice in its entirety) may be obtained from the Employer; and

(h) a statement that written representations may be made to the Superintendent within thirty (30) days after the delivery of the alternate surplus notice is deemed to be provided, and that the Superintendent will provide copies or a summary of the written representations to the Employer.

5.9. The alternate surplus notice must state that written representations are to be sent to the Superintendent, and include the mailing and e-mail addresses listed in paragraph 2.7 of this policy.

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5.10. The alternate surplus notice is deemed to be provided on the date it is first published or otherwise provided as directed by the Superintendent.

6. THE WRITTEN AGREEMENT

6.1. If the Surplus Application is based on a Written Agreement, it is FSCO's expectation that the Written Agreement provided to Affected Persons and, where applicable, their Trade Union(s), include the information specified below:

(a) the name of the pension plan and its registration number;

(b) a brief history of the pension plan, including any predecessor pension plan that may have transferred assets to the wound up pension plan;

(c) the event that has triggered the refund of surplus (i.e., a pension plan wind up);

(d) a statement that any payment of surplus is dependent on the consent of at least two-thirds of the members of the pension plan, and at least two-thirds of former members, retired members and other persons who are entitled to payments under the pension plan as of the date of the wind up (or such other number that the Superintendent considers appropriate in the circumstances);

(e) a statement that each Affected Person may wish to obtain independent legal advice with respect to the proposed Written Agreement;

(f) the time limit for accepting the Written Agreement (which should be reasonably sufficient to give Affected Persons an opportunity to retain and consult with legal counsel; in most situations FSCO expects that this will be at least sixty (60) days);

(g) a description of the payment of expenses related to the Surplus Application; and

(h) a signature page.

6.2. A Trade Union that represents or represented some but not all of the members of the pension plan on the date of wind up may execute the Written Agreement on behalf of its members. However, if the Trade Union represents or represented less than two-thirds of the members of the pension plan, the agreement of a sufficient number of members that are not represented by the Trade Union will also be required so that the threshold of two-thirds of the total of all active members at the date of the wind up is achieved.

6.3. Where there is a Trade Union that represents or represented members of the pension plan on the date of wind up and the Trade Union is agreeing on behalf of those members, the Trade Union's signature page to the Written Agreement should include the full name of the Trade Union and the full name and signature of the person who is authorized to execute the Written Agreement on behalf of the Trade Union. In addition, the Trade Union should attach to its executed Written Agreement a list of the Affected Persons on whose behalf the Trade Union is representing.

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6.4. Where an Affected Person is represented by legal counsel, legal counsel may execute the Written Agreement on behalf of the Affected Person, provided that legal counsel satisfies the requirements of policy S900-514: Surplus Distribution by Written Agreement - The Role of Legal Counsel.

7. SURPLUS APPLICATION

7.1. The format and content of the Surplus Application should be consistent with Schedule I to this policy. All information supporting the application must be attached to the Surplus Application.

7.2. The Employer must ensure that all the information contained in its Surplus Application and in any supporting documents is accurate and complete.

7.3. The onus is on the Employer to ensure that its Surplus Application complies with the relevant provisions in the PBA and Regulation 909 and considers the guidance provided in this and other relevant policies and frequently asked questions (FAQs) posted on the FSCO website.

7.4. The Superintendent has the right to request additional information as part of his consideration of the Surplus Application.

7.5. The Surplus Application, including enclosures or attachments to the application, should be submitted on 8 ½ inch x 11 inch paper (subject to legibility).

7.6. At least two paper copies and one electronic copy of the Surplus Application should be filed with the Superintendent. Refer to paragraph 2.7 of this policy for the appropriate mail and e-mail addresses.

7.7. Where other documents or information relevant to the Surplus Application are discovered after the Employer has applied to the Superintendent for consent to its Surplus Application, such documents or information must be filed with the Superintendent as an addendum to the initial Surplus Application.

7.8. The Employer must provide a copy of its Surplus Application to the Administrator if the Employer and the Administrator are not the same legal entity.

7.9. The Superintendent will acknowledge receipt of the Employer's Surplus Application.

8. REVIEW PROCESS

8.1. On behalf of the Superintendent, FSCO staff will review the Surplus Application and all accompanying documents in support of the Surplus Application for completeness and compliance.

8.2. If a Surplus Application is incomplete, FSCO staff will inform the Employer by letter. The review of a Surplus Application will not proceed until the earlier of the date when:

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(a) FSCO staff receive all of the information or documents requested;

(b) the Employer informs FSCO staff that the information requested by FSCO staff will not be forthcoming; or

(c) the time for a response, as set out in the letter by FSCO staff, expires.

8.3. If any compliance issues are identified, FSCO staff will send a letter to the Employer, the Administrator, and where applicable the Trade Union(s) and the advisory committee. In addition to outlining the compliance issues, the letter from FSCO staff will specify the time period within which the Employer, the Administrator, and any Trade Union(s) must provide a written response to the compliance issues if they wish to have their responses considered before the Superintendent decides whether or not to consent to the Surplus Application.

8.4. FSCO staff may request a meeting with the Employer, Trade Union(s) (if applicable) or any person who has made written representations to the Superintendent to discuss the Surplus Application.

8.5. Pursuant to section 89(3.1) of the PBA, the Superintendent's NOID to consent or refuse to consent to the Surplus Application, with reasons, will be served on the Employer and on any person who has made written representations to the Superintendent in respect of the Surplus Application.

8.6. The Superintendent may also provide the NOID to the Administrator, and where applicable, any Trade Union(s) and advisory committee, and may require the Administrator to provide a copy of the NOID to Affected Persons. The NOID will also be posted on the FSCO website.

8.7. A person on whom the NOID is served under paragraph 8.5 is entitled to a hearing by the Financial Services Tribunal (the Tribunal) under section 89(6) of the PBA, if within thirty (30) days after being served with the NOID the person delivers to the Tribunal a written notice requiring a hearing and a completed Financial Services Tribunal Form 1.

8.8. If a written notice requiring a hearing is not received by the Tribunal within thirty (30) days, the Superintendent may make the intended decision as provided by section 89(7) of the PBA. If a written notice of hearing is received by the Tribunal, the Tribunal will appoint a time for and hold the hearing pursuant to section 89(8) of the PBA.

8.9. The Superintendent's order consenting or refusing to consent to the Employer's Surplus Application will be provided to the Employer and Administrator, and also posted on the FSCO website.

9. AFTER APPROVAL OF THE SURPLUS APPLICATION

9.1. The Administrator must ensure that all benefits and liabilities under the plan are settled, and that any surplus owing to Affected Persons is distributed before the remaining surplus

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assets are paid to, or as directed by, the Employer. The Administrator must inform the Superintendent in writing once benefits and liabilities have been so discharged.

9.2. The Administrator must notify the Superintendent in writing within thirty (30) days of the final distribution of the assets of the pension plan, including the surplus, as required by section 29.1(4) of Regulation 909.

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SCHEDULE 1

FORMAT AND CONTENT OF THE EMPLOYER'S APPLICATION TO THE SUPERINTENDENT FOR CONSENT TO THE PAYMENT OF SURPLUS TO THE EMPLOYER

Date:	Provide the date of the Surplus Application
Pension Plan:	Provide the full name of the pension plan and its registration number
Employer:	Provide the full legal name of the Employer
Applicant:	Provide the full legal name of the Employer or, where applicable, the receiver or trustee in bankruptcy that is authorized to stand in the place of the Employer

Nature of the Surplus Application:

Provide a full description of the application to the Superintendent with reference to the relevant section(s) of the PBA and Regulations pursuant to which the application is being made.

For example, if the application is based on entitlement under the pension plan provisions, the application may state as follows:

> Application for the Superintendent's consent pursuant to section 78(1) of the Pension Benefits Act, R.S.O. 1990, c. P.8, as amended (the PBA), to the payment of surplus to [provide full legal name of the Employer] in the amount of $ [insert the amount of surplus sought at the effective date of the wind up of the pension plan] as at [insert the effective date of wind up of the pension plan] plus investment earnings thereon to the date of payment [insert any other adjustments the Employer may be seeking to the amount being sought].
>
> The application is based on section 77.11(1) of the PBA. The Employer relies on the documents that create and support the pension plan in support of its position that it is entitled to payment of surplus under the pension plan.

If the application is based on a Court Order, the application may state as follows:

> Application for the Superintendent's consent pursuant to section 78(1) of the Pension Benefits Act, R.S.O. 1990, c. P.8, as amended (the PBA), to the payment of surplus to [provide full legal name of the Employer] in the amount of $ [insert the dollar amount of surplus sought at the effective date of the wind up of the pension plan] as at [insert the effective date of wind up of the pension plan] plus investment earnings thereon to the date of payment [insert any other adjustments the Employer may be seeking to the amount being sought].

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> The application is based on a Court Order declaring that the Employer is entitled to the surplus when the pension plan is being wound up, pursuant to section 79(3)(b) or section 79(3.1)(b) of the PBA.

If the application is based on a Written Agreement, the application may state as follows:

> Application for the Superintendent's consent pursuant to section 78(1) of the Pension Benefits Act, R.S.O. 1990, c. P.8, as amended (the PBA), to the payment of surplus to [provide full legal name of the Employer] in the amount of $ [insert the amount of surplus sought at the effective date of the wind up of the pension plan] as at [insert the effective date of wind up of the pension plan] plus investment earnings thereon to the date of payment [insert any other adjustments the Employer may be seeking to the amount being sought].
>
> The application is based on section 77.11(7)2 or section 77.11(7)3 of the PBA.
>
> This application includes a Written Agreement whereby [insert percentage] per cent of the surplus as at the date of the Written Agreement will be distributed to the Employer and [insert percentage] per cent of the surplus as at the date of the Written Agreement will be distributed to the members, former members, retired members and other persons who are entitled to payments under the pension plan as of the date of wind up.

Counsel/Agent:

Provide the name of any person acting as legal counsel or agent for the Employer making the application, for the Administrator and for the Affected Persons. If there is no legal counsel or agent, please state "None".

> Legal counsel or agent for the Employer (and name of firm)
> Legal counsel or agent for the Administrator (and name of firm).
> Legal counsel or agent for the Affected Persons (and name of firm).

Actuary:

Please also provide the names of the actuary(ies), if any, for the Employer making the application, for the Administrator and for the Affected Persons. If there is no actuary, please state "None".

> Actuary for the Employer (and name of firm).
> Actuary for the Administrator (and name of firm).
> Actuary for the Affected Persons (and name of firm).

Plan Administrator:

Provide the name and address of the Administrator and the name, phone number, e-mail, and address of the contact person for the Administrator.

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Trade Union:

Provide the name and address of the Trade Union(s), if any, that represent(s) or represented members of the pension plan on the effective date of the wind up, including the name, phone number, e-mail, and mailing address of the contact person(s) for the Trade Union(s).

Advise if the Trade Union(s) also represent(s) or represented members, former members or retired members of the pension plan on the date of the wind up.

For each applicable Trade Union, include and reference as an attachment relevant excerpts from the most recent collective bargaining agreement(s), including the cover page, the execution page(s) and all pension-related provisions.

Advisory Committee:

Indicate if the pension plan has an advisory committee established under section 24 of the PBA, and confirm that the advisory committee has been provided the notice of Surplus Application required under section 78(2) of the PBA and any information required by this policy.

Background:

Provide a brief summary of the background of the pension plan leading to the Surplus Application including:

- the effective date of the pension plan;
- the classes of members covered by the pension plan;
- in the case of a partial wind up, a clear description of those members, former members and other persons entitled to payments as a result of the event that gives rise to the partial wind up;
- the basic benefit structure (e.g., “non-contributory”, “flat benefit plan”, “final average earnings”);
- a brief chronology of the pension plan and prior versions of the pension plan, including any pension plan from which assets were transferred into the wound up pension plan (include references to asset transfers to or from the pension fund of another pension plan);
- the corporate history relevant to the pension plan and any predecessor pension plans, including the background to any changes in the name of the Employer associated with the pension plan;
- the effective date of, and reasons for, the wind up of the pension plan; and
- any other information that will assist in the review of the Surplus Application.

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Include and reference as an attachment a list, by class, of the names of members, former members, retired members and any other individual receiving payments out of the pension fund as at the date of wind up. For smaller groups of Affected Persons, this information can be included in the Surplus Application (rather than as an attachment).

Section 78(2) of the PBA – Notice Requirements:

The applicant must satisfy the Superintendent that notice has been provided pursuant to section 78(2) of the PBA, section 28(5) of Regulation 909, and as required by this policy. As required by section 28(6) of Regulation 909, provide the following:

- A statement that section 78(2) of the PBA has been complied with.
- The date the last Surplus Notice was distributed and the form of delivery of the Surplus Notice. Include and reference as an attachment a list, by class, of the names of the persons to whom the Surplus Notice was transmitted.
- Notice must be given to those annuitants for whom a pension was purchased under section 43.1 of the PBA, provided the annuitants would have been entitled to payment of surplus under the pension plan if the pension plan had been wound up on the date the pension was purchased..
- A statement that a copy of the Surplus Notice was filed with the Superintendent before the Surplus Notice was transmitted to Affected Persons, as required by section 28(5.1) of Regulation 909.
- Include and reference as an attachment a certified copy of the Surplus Notice.

Section 112(3) of the PBA - Alternate Service:

If the Surplus Notice is transmitted by public advertisement with the prior authorization of the Superintendent, list the classes or groups of persons who were served by public advertisement and the dates and newspapers in which the advertisement ran.

If the Surplus Notice is transmitted in an alternative form, other than public advertisement with the prior authorization of the Superintendent, list the classes or groups of persons to whom the Surplus Notice was served in alternative form and the date(s) and method by which the alternative form of service was provided.

Include and reference as an attachment a copy of the public advertisement and/or alternative form of service and the Superintendent's authorization for alternative service of the Surplus Notice.

Section 79(3) and (3.1) of the PBA – Prerequisites to Superintendent's Consent to Payment of Surplus to the Employer on Wind Up:

In the following sections, the Employer must satisfy the Superintendent that the prerequisites for payment of surplus set out in the PBA and Regulation 909 have been met.

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a) Section 79(3)(a) – The Pension Plan has a Surplus:

The applicant must demonstrate that the pension plan has a surplus.

Include and reference as an attachment the letter from the Superintendent approving the distribution of basic benefits to the Affected Persons.

Include and reference as an attachment the wind up report and any supplements to the wind up report. A supplement to the wind up report will be required to be filed if the distribution of surplus is not addressed in the initial wind up report, where the initial wind up report does not reflect the surplus distribution proposal reflected in the Written Agreement, if the balance sheet contained in the wind up report has been amended to reflect the actual cost of the purchase of pensions being paid or deferred pensions, or if there are errors/omissions, etc. Any supplements to the wind up report must be prepared by an actuary.

Include in the Surplus Application a brief summary of the balance sheet for the pension plan as at the effective date of wind up along with a balance sheet reconciliation if there has been any significant change in the figures at the date of the Surplus Application. You may use the format below, or a similar format:

Balance Sheet

	As at effective date of wind up	**As at [insert current date]**
Assets		
Market value of assets	$0.00	$0.00
Less: Provision for expenses	$0.00	$0.00
Available Assets	$0.00	$0.00
Liabilities		
Basic benefits	$0.00	$0.00
Benefit enhancements if applicable	$0.00	$0.00
Liabilities for benefits	$0.00	$0.00
Surplus (Deficit)	$0.00	$0.00

b) Section 77.11, 79(3)(b) or 79(3.1(b) – Authorization of Payment of Surplus to Employer on Wind Up:

The applicant must demonstrate that the payment of surplus to the Employer on the wind up of the pension plan is authorized either as provided in section 77.11 of the PBA or by a Court Order under section 79(3)(b) or 79(3.1)(b) of the PBA declaring that the Employer is entitled to the surplus when the pension plan is being wound up. The

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required documentation will differ depending upon the basis for Employer entitlement, and is described below for each basis:

Where surplus entitlement is established through the terms of the documents that create and support the pension plan and pension fund (section 77.11(1) of the PBA):

If the payment of surplus to the Employer is on the basis that the documents that create and support the pension plan and pension fund provide for the payment of surplus to the Employer, the Surplus Application must include an Historical Analysis demonstrating that the Employer is legally entitled to the payment of surplus on wind up.

"Historical Analysis" refers to the legal analysis of entitlement to surplus based on the terms of all pension plan documents from the plan's inception. The analysis would include all documents that may be relevant to surplus entitlement, including all plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures, and any amendments to these documents.

The applicant must also describe in detail, with reference to the relevant documents, how it reaches the conclusion that the Employer, and not the pension plan beneficiaries, is entitled to the surplus.

Where there are prior pension plans from which the current plan assets can be traced, or that may otherwise be relevant, the Historical Analysis must take into account the prior plan texts, trust agreements, insurance contracts, employee booklets, employee notices, collective bargaining agreements, information brochures and any other documents that may be relevant to the Superintendent's determination of whether a plan provides for the payment of surplus to the Employer on wind up. Any predecessor plan information as required by section 3.3 of this Policy must also be included.

Where any plan or trust documentation that may be relevant has been amended since its inception, the Historical Analysis must spell out the authority under the plan or trust to amend the provision or document. The Historical Analysis must also refer to all provisions or documents that do not support the Surplus Application.

The applicant should highlight the portions of the documents that may be relevant to the Superintendent's decision on surplus entitlement, including those provisions that do not support the Employer's claim to surplus. Complete documents must be included as attachment(s) to the Surplus Application, arranged in chronological order, and clearly labelled.

Where entitlement to surplus has been established by Court Order (section 79(3)(b) or section 79(3.1)(b) of the PBA as applicable)

If the payment of surplus to the Employer on the wind up of the pension plan is authorized by a Court Order, include and reference as an attachment the Court Order declaring that the Employer is entitled to the surplus on plan windup.

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Where surplus entitlement is established through a Written Agreement between the Employer and Affected Persons (section 77.11(7)2 or 77.11(7)3 of the PBA)

If authority for the payment of surplus to the Employer on the wind up of the pension plan is on the basis of a Written Agreement between the Employer and Affected Persons, include the following:

- The proposed distribution of surplus as per the Written Agreement expressed as a percentage and as a dollar amount. You may use the table below, or a similar table.

To members, former members, retired members and other persons entitled to payments under the pension plan on the date of wind up	[insert %]	[insert $ amount]
To Employer	[insert %]	[insert $ amount]

- Provide information concerning the executed Written Agreement received by the Employer. You may use the table below, or a similar table.

	Total (#)	**Notices Issued (#)**	**Consents (#)**	**Consents (%)**	**Refusals / No Response (#)**
Members					
Former members					
Retired members					
Other persons					
Trade Union #1					
Trade Union #2					

- Include and reference as attachment(s) the following materials:
  - A list, by class, of the Affected Persons who received the Written Agreement.
  - Include those annuitants for whom a pension was purchased under section 43.1 of the PBA, provided the annuitants would have been entitled to payment of surplus under the pension plan if the pension plan had been wound up on the date the pension was purchased.
  - The name of the Trade Union(s) representing and/or agreeing on behalf of members of the pension plan, if any, that received the Written Agreement, and a list of the Affected Persons on whose behalf the Trade Union is acting.
  - An original or certified copy of the Written Agreement signed by the Employer and by any Trade Unions, where applicable.

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- Each Affected Person's executed signature page of the Written Agreement, or a certified copy thereof.
- A copy of other information regarding the Written Agreement provided to Affected Persons, if any.

c) Section 79(3)(c) of the PBA – Provision has been made for Payment of all Liabilities

Outline the status of the distribution of benefits and the proposal for the distribution of surplus to members, former members, retired members and any other persons entitled to payments under the pension plan as of the date of the wind up, if any. If the Superintendent is not satisfied that adequate provision has been made for the payment of all liabilities of the pension plan as calculated for purposes of the wind up of the pension plan, the Superintendent may issue a NOID to refuse to consent to the Surplus Application.

Other Designated Jurisdictions

The Employer must disclose whether there are any Non-Ontario Affected Persons. Where applicable, the Employer must include a table showing the number of Non-Ontario Affected Persons at the date of wind up in each jurisdiction. You may use the table below, or a similar table.

	Ontario #	[insert name of jurisdiction] #	[insert name of jurisdiction] #	[insert name of jurisdiction] #	Totals #
Members					
Former members					
Retired members					
Other persons					

Where the Surplus Application is based on a Written Agreement, include a reference to the tab or attachment that contains a list of Non-Ontario Affected Persons who have executed a Written Agreement.

Include and reference as an attachment a certification in the form set out in Schedule II to this policy confirming that the Employer has complied with the requirements of the relevant legislation applicable to the Non-Ontario Affected Persons for the allocation, payment and distribution of surplus.

Written Representations from Affected Persons

The Employer must specify whether or not it has received any written representations with respect to the Surplus Application. Any written representations must be attached to the Surplus

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Application. Responses by the Employer to the written representations (if any) must also be attached to the Surplus Application.

Written Submissions from the Employer

Include and reference as an attachment any written representations by the Employer that may be relevant to its Surplus Application.

Attachments

Provide an index of all attachments to the Surplus Application. The attachments should be listed in the order that corresponds to the order of the subject matter in this Schedule and, where applicable, in chronological order. Where a Surplus Application is bound, the relevant tab numbers and their contents should also be included in the index.

Signature

The Surplus Application must be signed by an authorized employee or agent of the Employer (or of the receiver or trustee in bankruptcy authorized to act for the Employer). The individual signing the Surplus Application should print his or her name below his or her signature and should indicate the capacity in which he or she has signed the Surplus Application (i.e. authorized employee or agent).

DATED this _________day of ____________________, ________
(day) (month) (year)

____
Signature of the applicant's authorized employee or agent

____
Name of the applicant's authorized employee or agent

____
Capacity/Title of the applicant's authorized employee or agent

____

____

____
Address of the applicant's authorized employee or agent

It is an offence under the *Criminal Code,* R.S.C. 1985, c. C-46, as amended, for anyone to knowingly make a false document with the intent that it be acted on as genuine.

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SCHEDULE II

CERTIFICATION OF COMPLIANCE WITH SURPLUS WITHDRAWAL REQUIREMENTS OF OTHER DESIGNATED JURISDICTIONS

Date: Provide the date of the Surplus Application

Pension Plan: Provide the full name of the pension plan and its registration number

Employer: Provide the full legal name of the Employer

Applicant: Provide the full legal name of the Employer, or, where applicable, the receiver or trustee in bankruptcy that is authorized to stand in the place of the Employer

I CERTIFY TO THE SUPERINTENDENT OF FINANCIAL SERVICES THAT:

(a) I am an authorized employee or agent of the applicant.

(b) The Surplus Application affects members, former members, retired members and other persons whose benefits in the pension plan were accrued with respect to employment in a designated jurisdiction (i.e., other than Ontario) and whose entitlements and rights to surplus are determined by legislation in that designated jurisdiction (Non-Ontario Affected Persons).

(c) I am aware of or have consulted with professionals with expertise in the requirements of the law for the distribution of surplus in the jurisdictions applicable to the Non-Ontario Affected Persons and I have reviewed the Surplus Application in order to determine whether it complies with such laws.

(d) I certify that, to the best of my knowledge and belief, based on the information and advice provided to me, including that referred to in paragraph (c) of this certification, that this Surplus Application complies with the requirements for the distribution of surplus in jurisdictions (i.e., other than Ontario) with respect to the Non-Ontario Affected Persons.

DATED this __________day of ______________________, _________
(day) (month) (year)

____
Signature of the applicant's authorized employee or agent

____
Name of the applicant's authorized employee or agent

____
Capacity/Title of the applicant's authorized employee or agent

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____

____

____

Address of the applicant's authorized employee or agent

It is an offence under the *Criminal Code,* R.S.C. 1985, c. C-46, as amended, for anyone to knowingly make a false document with the intent that it be acted on as genuine.

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Financial Services Commission of Ontario
Commission des services financiers de l'Ontario

SECTION:	Surplus
INDEX NO.:	S900-514
TITLE:	Surplus Distribution by Written Agreement – The Role of Legal Counsel - PBA s. 77.11(7) and 78(2)
APPROVED BY:	Superintendent of Financial Services
PUBLISHED:	FSCO website (Date to be determined)
EFFECTIVE DATE:	(Date to be determined)
REPLACES:	S900-503

This policy replaces S900-503 (Surplus Distribution – The Role of Legal Counsel in Obtaining Written Consent) as of the effective date of this policy. This policy is supplemental to S900-512 (Application by Employer for Payment of Surplus on Wind Up of a Pension Plan).

Note: Where this policy conflicts with the Financial Services Commission of Ontario Act, 1997, S.O. 1997, c. 28 (FSCO Act), Pension Benefits Act, R.S.O. 1990, c. P.8 (PBA) or Regulation 909, R.R.O. 1990 (Regulation), the FSCO Act, PBA or Regulation govern.

Note: The electronic version of this policy, including direct access to all linked references, is available on FSCO's website at www.fsco.gov.on.ca. *All pension policies can be accessed from the* **Pensions** *section of the website through the* **Pension Policies** *link.*

Policy Purpose

This policy provides guidance concerning the role of legal counsel in representing some or all of the members, former members, retired members or other persons entitled to payments from a pension fund (Affected Persons) where the employer intends to submit an application to the Superintendent of Financial Services (the Superintendent) for consent to the payment of surplus to the employer based on a written agreement between the employer and Affected Persons pursuant to section 77.11(7) of the PBA. This policy also provides guidance on the documentation that legal counsel must provide to the Superintendent to demonstrate that legal counsel has authority to act on behalf of Affected Persons. This policy is not meant to establish guidelines respecting the scope of legal counsel's authority to act on behalf of Affected Persons.

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This policy applies to a surplus application relating to an ongoing plan or a plan that is winding up.

The Role of Legal Counsel in Surplus Distribution by Written Agreement

Under section 77.11(7) of the PBA, an employer may make an application to the Superintendent for payment of surplus to the employer based on a written agreement between the employer and the Affected Persons (sometimes referred to as a surplus sharing agreement).

Where some or all of the Affected Persons are represented by legal counsel, they may choose to have their legal counsel represent them in negotiating a written agreement on their behalf. The exact scope of the legal services may vary depending on the situation. For instance, those represented by legal counsel may instruct the employer, through their legal counsel or otherwise, to transmit the notice required under section 78(2) of the PBA to their legal counsel.[1] FSCO's expectation is that legal counsel will clearly communicate the scope of legal counsel's authority to act on behalf of represented individuals to the individuals.

Documentation to the Superintendent

If legal counsel purports to represent Affected Persons in a surplus distribution application, the Superintendent will require legal counsel to provide the Superintendent with an affidavit that includes the following information:

- the names of the individual(s) represented by legal counsel including a description of each of their status in the pension plan (i.e., member, former member, retired member or other person entitled to payments under the pension fund); and

- the general scope of legal counsel's authority to act on behalf of the individuals represented by legal counsel.

The Superintendent may request legal counsel provide documentation confirming the scope of the legal counsel's authority.

Public Consultation

[1] Under section 78(2) of the PBA, an employer who applies to the Superintendent for payment of surplus to the employer out of a pension fund is required to provide notice to the prescribed parties, including the Affected Persons.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Rules for Financial Hardship Unlocking

The content on this web page has moved to www.fsrao.ca. Visit https://www.fsrao.ca/withdrawing-locked-accounts-because-financial-hardship to update your bookmarks.

Generally speaking, any money transferred from a registered pension plan into a locked-in account (locked-in retirement account (LIRA), life income fund (LIF) or locked-in retirement income fund (LRIF)) must remain "locked-in" and can only be used to provide retirement income.

In certain situations, however, it is possible to apply for special access to money in an Ontario LIRA, LIF or LRIF. One of these situations is financial hardship.

Effective January 1, 2014, the rules for financial hardship unlocking have changed.

It is the responsibility of the financial institution which holds and administers their clients' locked-in accounts, to review each financial hardship unlocking application to determine if it meets the requirements set out in the Regulation for the particular category of financial hardship on which the application is based and, if it does, to approve the application and make the payment from the account in accordance with the Regulation. The financial institution will also determine if the application is to be refused because it does not meet the requirements of the law.

The financial institution is responsible for answering questions and providing information to owners of locked-in accounts, relating to their applications.

It will no longer be the responsibility of the Financial Services Commission of Ontario to review or process applications for financial hardship unlocking.

Under the new rules, there are four categories of financial hardship:

1. low expected income;
2. payment of first and last months’ rent;
3. arrears of rent or debt secured on a principal residence (such as a mortgage); and
4. medical expenses.

Each application for financial hardship unlocking must be made based on one of these categories.

All applications must be made on Forms issued by FSCO that are available along with accompanying Guides. An individual can make applications under different categories but must use the form that applies.

The following resources provide additional information on access to locked-in accounts:

- Questions & Answers
- Webcast on Financial Hardship Unlocking Size: ## kb
- **Financial Hardship Unlocking**
  User Guide (Financial Institutions): PDF | Accessible document
- Pension Forms - Pension Unlocking

Regulations Relating to Pension Division on Marriage Breakdown (Bill 133)

Overview

Bill 133, the *Family Statute Law Amendment Act, 2009*, received Royal Assent in May 2009. Bill 133 introduces new rules on pension asset division on marriage breakdown. The new pension division regime introduces two major reforms:

Valuation: The valuation of pension assets on marriage breakdown will be determined according to a prescribed formula and calculated by plan administrators.

Settlement: Immediate settlement of the former spouse's entitlement where there is a court order, family arbitration award or domestic contract awarding a payout from the pension.

- For former spouses of active and deferred members, settlement is effected through a lump sum transfer out of the plan.
- For former spouses of retired members, settlement is effected through a division of the pension in pay.

The provisions of Bill 133 that amend the *Pension Benefits Act* (PBA) require the enactment of corresponding regulations prior to proclamation. The government is interested in feedback on this important initiative. Draft regulations, along with this accompanying paper, are posted on the Regulatory Registry for public consultation.

Contents of Draft Regulation

The draft regulation contains the majority of the content required to implement the new regime. In particular, the draft regulation:

- outlines the valuation methodology, including rules for calculating both the *preliminary value* (the total value of the pension up to the "family law valuation date") and the *imputed value* (the portion of the preliminary value attributable to the period or marriage or cohabitation, as applicable);
- describes any exceptions or adjustments to the preliminary valuation;
- describes the circumstances in which a former spouse would be entitled to inspect plan documents;
- prescribes rules on how to apply for a valuation and, where applicable, payout of the former spouse's entitlement;

- sets out the contents of the valuation statement to be provided by plan administrators;

- lists certain transfer options available to former spouses of active and deferred members entitled to a payout from the pension plan;

- outlines the rules for updating the imputed value if a transfer of a lump sum occurs;

- describes the circumstances that may limit or delay the payout of the former spouse's entitlement;

- prescribes rules for adjusting the member's pension if the former spouse's entitlement is paid out; and

- updates regulations that apply to the transitional provisions outlined in Bill 133.

Contents of Regulation Currently Under Consideration

Not all elements of the new pension division regime are reflected in the accompanying draft regulation. The government welcomes public comment on the following elements as well.

1. Hybrid Plans

Options regarding a separate valuation, updating, and adjustment methodology for "hybrid" plans are being considered, and the government invites further suggestions. This would include a methodology for both "combination" plans, where a member would be entitled to a stand-alone defined benefit (DB) and defined contribution (DC) benefit (e.g., as a result of a plan conversion), as well as plans which provide a benefit formula containing inter-connected DB and DC benefits (e.g., plans with a minimum guaranteed DB floor).

2. Amendments to PBA Regulation Regarding Locked-in Accounts/ Annuities

Amendments to General Regulation 909 under the PBA will be required to account for the option of an immediate transfer of an eligible former spouse's entitlement to a locked-in account. It is anticipated that amendments will be made to:

- explicitly permit a former spouse of a member or deferred member to transfer his/her entitlement to a locked-in account (i.e., a life income fund (LIF) or a locked-in retirement account (LIRA)); and

- base the receipt of payment from such locked-in account on the former spouse's age rather than the age of the member.

Further, amendments will be required to clarify that locked-in accounts and annuities covered by the PBA will be available for immediate settlement and will continue to be subject to the “50% rule” —that is, that the former spouse cannot receive more than 50% of the value of the retirement vehicle’s assets, accrued during the period of marriage or cohabitation, as applicable, as part of an equalization payment.

3. Transfer Option under s. 67.3(2), para. 4 of the PBA

Bill 133 permits an eligible former spouse to leave his/her lump sum entitlement in the plan to the credit of the former spouse. This option would only be available with administrator consent and in circumstances to be prescribed. The regulations would set out rules that provide for:

- on-going disclosure of plan documents and information to the former spouse while his/her entitlement remains in the plan;
- the conditions for commencement of payment to the former spouse of his/her entitlement;
- unforeseen circumstances arising while the former spouse’s entitlement remains in the plan (e.g., death, wind-up); and
- the extent of a former spouse’s rights under the plan.

4. Miscellaneous Amendments to PBA Regulation

Other minor amendments to Regulation 909 will be required to account for the new PBA provisions in Bill 133.

Issues Arising from Pension Reform Initiatives (Bills 236 and 120)

Over the past year, the government has been engaged in a number of pension-related initiatives. In May and December 2010, the Legislature passed Bill 236, the *Pension Benefits Amendment Act, 2010* and Bill 120, *Securing Pension Benefits Now and for the Future Act, 2010*, respectively.

A number of the initiatives introduced in these bills may affect the new pension division regime set out in Bill 133 and its corresponding regulations. In particular, rules regarding target benefits, the payment of variable benefits from a DC plan, phased retirement, and optional ancillary benefits may require adjustment to the new regime. It is anticipated that such adjustments will be considered once these initiatives have been fully implemented through regulation.

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made under the

PENSION BENEFITS ACT

FAMILY LAW MATTERS

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INTERPRETATION

Family law matters

1. This Regulation relates to the family law matters governed by sections 67.1 to 67.6 of the Act.

Interpretation

2. (1) In this Regulation,

"General Pension Regulation" means Regulation 909 (General) of the Revised Regulations of Ontario, 1990 made under the Act.

(2) Expressions used in this Regulation have the same meaning as in the General Pension Regulation, unless the context requires otherwise.

(3) Where this Regulation refers to section 3500 of the *Canadian Institute of Actuaries Standards of Practice*, the reference is to section 3500 ("Pension Commuted Values") of the *Standards of Practice* of the Actuarial Standards Board, dated January 2011, published by the Canadian Institute of Actuaries, which section is described in the *Standards of Practice* as being effective February 1, 2005 and revised May 1, 2006, December 8, 2008, March 26, 2009 and June 3, 2010.

PRELIMINARY VALUATION
(SUBSECTIONS 67.2 (1) TO (4) OF THE ACT)

Overview of preliminary valuation

3. (1) For the purposes of section 67.2 of the Act, the preliminary value of pension benefits, a deferred pension or a pension is determined in accordance with the requirements set out in this section and in sections 4 to 13 of this Regulation.

(2) For the purposes of a preliminary valuation, the following must be determined using the methods and actuarial assumptions that are consistent with section 3500 of the *Canadian Institute of Actuaries Standards of Practice*:

1. The commuted value of pension benefits that are defined benefits.

2. The commuted value of a deferred pension or a pension that is provided with respect to defined benefits.

3. The commuted value of ancillary benefits.

(3) Additional voluntary contributions are not included in a preliminary valuation of pension benefits or a deferred pension.

(4) A lump sum payable under subsection 39 (4) of the Act is not included in a preliminary valuation of pension benefits, a deferred pension or a pension.

Preliminary value of member's pension benefits (defined contribution benefits)

4. The preliminary value of a member's defined contribution benefits is the total amount of the contributions, and the interest on the contributions, paid by or for the credit of the member and determined on an individual account basis as of the family law valuation date. However, if that amount cannot be determined as of the family law valuation date, it must be determined as of the last day of the month immediately preceding the family law valuation date.

Preliminary value of former member's deferred pension (defined contribution benefits)

5. The preliminary value of a former member's deferred pension that is provided with respect to defined contribution benefits is the total amount of the contributions, and the interest on the contributions, paid by or for the credit of the former member and determined on an individual account basis as of the family law valuation date. However, if that amount cannot be determined as of the family law valuation date, it must be determined as of the last day of the month immediately preceding the family law valuation date.

Preliminary value of member's pension benefits (defined benefits)

6. (1) The preliminary value of a member's pension benefits that are defined benefits is determined using the following formulas, in which "A", "B", "C" and "T" have the meaning assigned by subsection (2):

1. If "T" for the member is at least zero but less than 10,

$$(0.1\mathrm{T}/10)\times \mathrm{A} + [(4-0.04\mathrm{T})/10]\times \mathrm{B} + [(6-0.06\mathrm{T})/10]\times \mathrm{C}$$

2. If "T" for the member is at least 10 but less than 20,

$$[(0.3T-2)/10]\times A+[(4.8-0.12T)/10]\times B+[(7.2-0.18T)/10]\times C$$

3. If “T” for the member is at least 20 but less than 30,

$$[(0.45T-5)/10]\times A+[(6-0.18T)/10]\times B+[(9-0.27T)/10]\times C$$

4. If “T” for the member is 30 or more,

$$(0.85\times A)+(0.06\times B)+(0.09\times C)$$

(2) In the formulas used in subsection (1),

“A” is the commuted value of the member’s accrued pension benefits,

(a) determined as if the member had terminated employment or membership in the plan on the family law valuation date,

(b) determined in accordance with the terms of the pension plan on the family law valuation date and without consideration of future salary, benefits or changes to the plan and regardless of whether the member’s entitlement to the pension benefits is vested under the plan on the family law valuation date,

(c) determined assuming that if, as of the family law valuation date, the member has met all eligibility requirements under the plan necessary to choose one or more dates on which he or she may commence a pension, the member will choose the date that results in a pension with the greatest commuted value, and

(d) adjusted to include the commuted value of any ancillary benefit for which, as of the family law valuation date, the member has met all eligibility requirements under the plan necessary to exercise the right to receive the benefit;

“B” is the commuted value of the member’s accrued pension benefits,

(a) determined as if the member had terminated employment or membership in the plan on the family law valuation date,

(b) determined in accordance with the terms of the pension plan on the family law valuation date and without consideration of future salary, benefits or changes to the plan and regardless of whether the member’s entitlement to the pension benefits is vested under the plan on the family law valuation date, and

(c) determined assuming that the member’s pension will commence at the normal retirement date under the terms of the plan;

“C” is the commuted value of the member’s accrued pension benefits,

(a) determined as if the member had terminated employment or membership in the plan on the family law valuation date,

(b) determined in accordance with the terms of the pension plan on the family law valuation date and without consideration of future salary, benefits or changes to the plan and regardless of whether the member’s entitlement to the pension benefits is vested under the plan on the family law valuation date, and

(c) determined assuming that the member’s pension will commence, without reduction,

(i) at the earliest date at which he or she would be eligible, without the administrator’s or employer’s consent, to be paid an unreduced pension if his or her employment or membership in the plan continued on the same terms to that date, or

(ii) if the administrator’s or employer’s consent is an eligibility requirement for the member’s entitlement to be paid an unreduced pension, at the earliest date at which the member would be eligible, with the administrator’s or employer’s deemed consent as described in subsection (3) or (4), to be paid an unreduced pension if his or her employment or membership in the plan continued on the same terms to that date, and

(d) if the plan provides bridging benefits, adjusted to include the commuted value of the bridging benefits as determined in accordance with subsection (5); and

“T” is the number of years during the period that begins on the member’s family law valuation date and ends on the earliest date on which the member would be eligible, or would be deemed in accordance with subsection (3) or (4) to be eligible, to be paid an unreduced pension under the pension plan if his or her employment or membership in the plan continued on the same terms to that date.

(3) For the variables “C” and “T” in subsection (2), if the administrator’s or employer’s consent is an eligibility requirement for an unreduced pension before the normal retirement date and if the administrator or employer is otherwise deemed to have consented for any other purpose under the Act, the administrator or employer is also deemed to have consented for the purposes of the preliminary valuation.

(4) For the variables "C" and "T" in subsection (2), if the administrator's consent is an eligibility requirement for an unreduced pension before the normal retirement date and if the administrator is not otherwise deemed to have consented for any other purpose under the Act, the administrator is deemed to have consented for the purposes of the preliminary valuation if all of the following conditions are satisfied:

1. The member would meet all of the other eligibility requirements for his or her entitlement to be paid the unreduced pension, if he or she continues his or her employment or membership in the pension plan on the same terms to the earliest date on which the unreduced pension could commence.

2. The administrator has consented in respect of at least 80 per cent of the instances where consent was required within the three fiscal years of the plan before the family law valuation date.

(5) For the variable "C" in subsection (2), if the member would be entitled to bridging benefits when payment of the unreduced pension begins, the variable "C" includes the commuted value of the bridging benefits,

(a) as accrued for service up to the family law valuation date and as payable from the earliest date on which the member would be eligible to be paid the unreduced pension, in the case of bridging benefits determined with reference to the length of the member's service; or

(b) as prorated by the ratio that the member's actual period of employment or membership in the plan up to the family law valuation date bears to the period of employment or membership that would end on the earliest date on which the member would be eligible to be paid the unreduced pension and full bridging benefits, in the case of bridging benefits that are not determined with reference to the length of the member's service.

(6) For the variable "T" in subsection (2), the number of years during the specified period must include one-twelfth of a year for each full month during the period.

(7) For the purposes of clause (5) (b), the period of employment or membership in the plan is measured in months and must include one-twelfth of a year for each full month of employment or membership during the period.

Preliminary value of former member's deferred pension (defined benefits)

7. The preliminary value of a former member's deferred pension that is provided with respect to defined benefits is the commuted value of the deferred pension, as of the family law valuation date, adjusted to include the commuted value of any ancillary benefits for which, as of the family law valuation date, the member has met all eligibility requirements necessary to exercise the right to receive the benefit.

Preliminary value of retired member's pension (defined benefits)

8. (1) This section applies if payment of the first instalment of a retired member's pension that is provided with respect to defined benefits is due on or before the family law valuation date.

(2) The preliminary value of the retired member's pension that is provided with respect to defined benefits is the commuted value of the pension, as of the family law valuation date,

(a) adjusted to include the commuted value of any ancillary benefits that the member was receiving as of the family law valuation date; and

(b) adjusted to exclude the value of any pension payable to the spouse upon the death of the retired member.

Preliminary value of spouse's survivor benefit (defined benefits)

9. (1) This section applies with respect to the pension payable to the spouse of a retired member of a pension plan upon the death of the retired member.

(2) The preliminary value of a pension payable to the spouse of a retired member of a pension plan upon the death of the retired member is the commuted value, as of the family law valuation date, of the pension.

Special circumstances — no vested entitlement

10. If the entitlement to the pension benefits is not vested under the pension plan on the family law valuation date, the preliminary value of the pension benefits as otherwise determined is reduced by 50 per cent.

Special circumstances — shortened life expectancy

11. (1) This section applies if, on or before the family law valuation date, the administrator receives an application for the withdrawal of the commuted value of pension benefits, a deferred pension or a pension from the pension fund in circumstances of the shortened life expectancy of a member, former member or retired member.

(2) The preliminary value for family law purposes of the pension benefits, deferred pension or pension is the same as their commuted value as determined for section 49 of the Act if, on or before the family law valuation date, the administrator has approved the application for the withdrawal but the commuted value of the pension benefits, deferred pension or pension has not been withdrawn from the pension fund.

Special circumstances (defined benefits) — wind up or partial wind up of pension plan

12. (1) If the pension plan is being wound up in whole and if the effective date of the wind up is on or before the family law valuation date, the preliminary value of pension benefits, a deferred pension or a pension is the same as their commuted value as of the effective date of the wind up, accumulated with interest from the effective date of the wind up to the family law valuation date.

(2) If the pension plan is being wound up in part, if the member, former member or retired member is affected by the partial wind up and if the effective date of the partial wind up is on or before the family law valuation date, the preliminary value of pension benefits, a deferred pension or a pension is the same as their commuted value as of the effective date of the partial wind up accumulated with interest from the effective date of the partial wind up to the family law valuation date.

(3) However, if the effective date of the wind up or partial wind up is after the family law valuation date, the preliminary value of the pension benefits, deferred pension or pension is determined without reference to the wind up or partial wind up.

(4) For the purposes of subsections (1) and (2), the interest to be accumulated is calculated at the same interest rate used in calculating the commuted value of the pension benefits, deferred pension or pension on the effective date of the wind up or partial wind up.

Special circumstances (defined benefits) — entitlement to surplus

13. (1) If the Superintendent's consent is required for payment of surplus out of a pension fund to a member, former member or retired member, and if the following conditions are satisfied, the value of the surplus is added to the preliminary value of the pension benefits, deferred pension or pension as otherwise determined:

1. The Superintendent consents on or before the family law valuation date to the payment of surplus.

2. The surplus has not been paid to the member, former member or retired member on or before the family law valuation date.

(2) If the Superintendent's consent is not required for payment of surplus out of a pension fund to a member, former member or retired member, and if the following conditions are satisfied, the value of the surplus is added to the preliminary value of his or her pension benefits, deferred pension or pension as otherwise determined:

1. On or before the family law valuation date, the terms of the pension plan were amended to permit the payment of surplus to a member, former member or retired member.

2. On or before the family law valuation date, the member, former member or retired member is entitled to payment of a specified amount of the surplus.

3. The surplus has not been paid to the member, former member or retired member on or before the family law valuation date.

(3) In any other case, for the purposes of a preliminary valuation of pension benefits, deferred pension or pension, the value of the surplus to which a member, former member or retired member may be entitled is nil.

IMPUTED VALUE FOR FAMILY LAW PURPOSES
(SUBSECTION 67.2 (5) OF THE ACT)

Overview re imputed value

14. For the purposes of subsection 67.2 (5) of the Act, the imputed value, for family law purposes, of each spouse's pension benefits, deferred pension or pension, as the case may be, is determined in accordance with sections 15 to 17 of this Regulation.

"Starting date" for the imputed value

15. (1) If the imputed value is being determined for the period described in clause 67.2 (5) (a) of the Act, for the purposes of an order under Part I (Family Property) of the *Family Law Act*, a reference in section 16 of this Regulation to the "starting date" for the imputed value means the date of the spouses' marriage.

(2) If the imputed value is being determined for the period described in clause 67.2 (5) (b) of the Act, for the purposes of a family arbitration award or domestic contract, a reference in section 16 of this Regulation to the "starting date" for the imputed value means the following date:

1. If Part I (Family Property) of the *Family Law Act* applies with respect to the spouses,

   i. a date chosen jointly by the spouses, which cannot be earlier than the date on which their cohabitation began or later than the date of their marriage, or

   ii. if the spouses do not jointly choose a date described in subparagraph i, the date of their marriage.

2. In any other case,

   i. a date chosen jointly by the spouses, which cannot be earlier the date on which the spouses' cohabitation began, or

   ii. if the spouses do not jointly choose a date described in subparagraph i, the date on which their cohabitation began.

Imputed value of pension benefits, etc.

16. The imputed value of a member's pension benefits, a former member's deferred pension or a retired member's pension is the amount calculated using the formula,

$$D \times E/F$$

in which,

"D" is the preliminary value of his or her pension benefits, deferred pension or pension,

"E" is that portion of his or her period of employment or membership that is credited under the pension plan for the purpose of calculating the pension benefits, deferred pension or pension and that falls within the period that begins on the starting date for the imputed value and ends on the family law valuation date, and

"F" is the entire period of his or her employment or membership that is credited under the pension plan for the purpose of calculating the pension benefits, deferred pension or pension as of the family law valuation date.

Imputed value of spouse's survivor benefit

17. The imputed value of the pension payable to the spouse of a retired member of a pension plan upon the death of the retired member is equal to the preliminary value of that pension.

STATEMENT OF IMPUTED VALUE
(SUBSECTIONS 67.2 (6) TO (9) OF THE ACT)

Application for statement of imputed value

18. (1) An application under subsection 67.2 (6) of the Act for a statement of imputed value must be made on a form approved by the Superintendent and must be accompanied by the material that is specified in the form.

(2) The application form must require the applicant to provide the following information and material:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and contact information of the applicant and of his or her spouse. The application must also indicate which spouse is the member, former member or retired member of the pension plan and, if applicable, which spouse is entitled to a pension payable on the death of the retired member.

3. Each spouse's date of birth. Proof of the date of birth must be provided.

4. The spouses' date of marriage, if applicable. Proof of the date of marriage must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to their date of marriage, a certified copy of their marriage certificate or a certified copy of a domestic contract indicating their date of marriage.

5. The date on which the spouses’ cohabitation began, if the starting date for determining the imputed value is not their date of marriage, if any. Proof of the date on which their cohabitation began must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to that date or a certified copy of a domestic contract indicating that date.

6. The date, if any, chosen jointly by the spouses as the starting date for determining the imputed value, if it is not their date of marriage, if any, or the date on which their cohabitation began. Proof of the jointly-chosen date must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to that date or a certified copy of a domestic contract indicating that date.

7. The spouses’ family law valuation date. Proof of the family law valuation date must be provided. The only acceptable forms of proof are a joint declaration, signed by the spouses, attesting to their family law valuation date or a certified copy of a domestic contract indicting their family law valuation date.

Maximum fee payable for application

19. The following is the maximum fee that may be imposed by an administrator for an application for a statement of imputed value:

1. $200, if the pension plan provides defined contribution benefits to the member, former member or retired member.

2. $500, if the pension plan provides defined benefits to the member, former member or retired member.

Statement of imputed value — form and contents

20. (1) A statement of imputed value, to be provided under subsection 67.2 (9) of the Act, must be set out on a form approved by the Superintendent.

(2) Background information: The following background information must be included in the statement:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and date of birth of each spouse. The statement must also indicate which spouse is the member, former member or retired member of the pension plan and, if applicable, which spouse is entitled to a pension payable on the death of the retired member.

3. The employment and membership status, for the purposes of the pension plan, of the spouse who is the member, former member or retired member. The statement must

also indicate when he or she became a member and, if applicable, when he or she became a former member and retired member, respectively.

4. The starting date used for determining the imputed value of the pension benefits, deferred pension or pension. The statement must indicate whether the starting date is the spouses' date of marriage, the date on which their cohabitation began or another date chosen jointly by the spouses.

5. The spouses' family law valuation date.

(3) Preliminary valuation: The preliminary value for family law purposes of the pension benefits, deferred pension or pension and the particulars of the information used and assumptions relied upon to determine the preliminary value must be set out in the statement.

(4) Imputed value: The imputed value of the pension benefits, deferred pension or pension must be set out in the statement.

(5) Related financial matters: The following additional information about related matters must be included in the statement:

1. The accumulated amount of any additional voluntary contributions made by the member or former member on or before the family law valuation date, including interest on those contributions. The dates on which additional voluntary contributions were made must also be indicated.

2. The amount of any lump sum payable to the former member or retired member under subsection 39 (4) of the Act, determined as of the family law valuation date.

(6) Options for spouse: The following information about the options available in the circumstances to the former spouse of a member, former member or retired member must be included in the statement:

1. If applicable, a description of the options available to the former spouse under subsection 67.3 (2) of the Act for transferring a lump sum from the pension plan. The statement must also indicate how the former spouse applies for a transfer and indicate the information that he or she will be required to provide in such an application.

2. If applicable, a description of the option available to the former spouse under subsection 67.4 (10) of the Act to request payment of a single pension instead of payment of a share of the retired member's pension and payment of a pension on the death of the retired member. The statement must also indicate how the former spouse applies for payment of a single pension and indicate the information that he or she will be required to provide in such an application.

(7) General information: The following general information about the pension plan must be included in the statement:

1. An explanation of the provisions of the plan that apply to the member, former member or retired member or to a spouse entitled to a pension payable on the death of the retired member.

2. The transfer ratio of the plan as of the valuation date of the most recent report under section 3 or 14 of the General Pension Regulation that was filed with the Superintendent before the family law valuation date.

3. If applicable, particulars relating to the wind up of the pension plan if the effective date of the wind up is on or before the date of the statement of imputed value.

4. If applicable, particulars relating to a partial wind up of the pension plan if the member, former member or retired member is affected by the partial wind up and if the effective date of the partial wind up is on or before the date of the statement of imputed value.

5. If applicable, particulars of any application to the Superintendent on or before the family law valuation date for payment of surplus out of the pension fund to a class of employees that may include the member, former member or retired member, if the Superintendent has not consented to the application on or before the family law valuation date.

(8) A certificate of the administrator — certifying that the information in the statement is accurate, based on the information provided by the applicant and the information contained in the records of the pension plan — must be included in the statement.

Deadline for providing statement

21. The statement of imputed value must be given to both spouses under subsection 67.2 (9) of the Act within 60 days after the administrator receives the completed application for the statement, accompanied by the required documents and the application fee, if any.

TRANSFER OF A LUMP SUM FOR CERTAIN FAMILY LAW PURPOSES
(SECTION 67.3 OF THE ACT)

Application for transfer of lump sum

22. (1) An application under subsection 67.3 (2) of the Act by an eligible spouse for the transfer of a lump sum must be made on a form approved by the Superintendent and must be accompanied by the material that is specified in the form.

(2) The application form must require the applicant to provide the following information and material:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and contact information of the applicant and of his or her spouse.

3. The applicant's date of birth. Proof of the date of birth must be provided.

4. The applicant's direction to the administrator to make a transfer described in subsection 67.3 (2) of the Act, specifying the type of transfer under that subsection, and the particulars required to enable the administrator to make the transfer.

5. A certified copy of a domestic contract, family arbitration award or court order setting out the information described in paragraphs 4 and 5 of subsection 67.3 (1) of the Act concerning the applicant's entitlement to the transfer and the amount to be transferred. In the case of a family arbitration award or court order, the applicant must also certify that the award or court order is final and is not subject to appeal or review by a court.

Transfers to prescribed retirement savings arrangements

23. The following types of retirement savings arrangements are prescribed for the purposes of paragraph 2 of subsection 67.3 (2) of the Act as the prescribed retirement savings arrangements into which a lump sum may be transferred:

1. A life income fund that is governed by Schedule 1.1 of the General Pension Regulation.

2. A locked-in retirement account.

Restrictions on transfer of lump sum

24. (1) The restrictions set out in this section are prescribed for the purposes of subsection 67.3 (3) of the Act as restrictions that apply with respect to the transfer of a lump sum under section 67.3 of the Act.

(2) The administrator is not required to make the transfer if, after the administrator gave the statement of imputed value to the spouses but before the eligible spouse gave the administrator the completed application for transfer, the member's pension benefits or the former member's deferred pension, as the case may be, ceased to be available for apportionment for family law purposes as a result of a transfer or otherwise.

(3) The following restrictions apply if the transfer relates to pension benefits that are defined benefits or if the transfer relates to a deferred pension provided with respect to defined benefits:

1. The same restrictions that apply under subsections 19 (2), (3) and (6) to (7.2) of the General Pension Regulation with respect to the transfer of the commuted value of the member's pension benefits or the former member's deferred pension, as the case may

be, also apply with necessary modifications with respect to the transfer of a lump sum under section 67.3 of the Act.

2. For the purposes of applying the restrictions under those subsections of the General Pension Regulation to the transfer of the lump sum, a reference to “commuted value” in those subsections means that portion of the imputed value to which the eligible spouse is entitled.

(4) If the pension plan is being wound up in whole and if the administrator receives the application for the transfer before any assets attributable to the member or former member are distributed,

(a) the transfer of the lump sum is subject to the same restrictions on the wind up of the pension plan as the distribution of the member’s pension benefits or the former member’s deferred pension, as the case may be; and

(b) the maximum lump sum that may be transferred is 50 per cent of the member’s or former member’s entitlement on the wind up, including any amount guaranteed by the Guarantee Fund.

(5) Subsection (4) applies with necessary modifications if the pension plan is being wound up in part, if the member or former member is affected by the wind up and if administrator receives the application for the transfer before any assets attributable to the member or former member are distributed.

Deadline for making the transfer

25. (1) The lump sum must be transferred under subsection 67.3 (4) of the Act within 60 days after the administrator receives the completed application for the transfer, accompanied by the required documents.

(2) Despite subsection (1), if the transfer is subject to a restriction described in subsection 24 (3) of this Regulation, the deadline for transferring the remaining portion of the lump sum is the same as the applicable deadline in subsection 19 (7) of the General Pension Regulation.

(3) Despite subsection (1), if the transfer is subject to a restriction described in clause 24 (4) (a) of this Regulation on the wind up of the pension plan, the deadline for transferring the lump sum is the same as the deadline under section 72 of the Act for making other transfers in respect of the wind up.

Updating the imputed value re maximum percentage for transfer

26. (1) The imputed value of pension benefits or a deferred pension must be updated in accordance with this section for the purposes of subsection 67.3 (6) of the Act.

(2) The imputed value of pension benefits or a deferred pension accumulates interest from the family law valuation date to the beginning of the month in which the lump sum is to be transferred under section 67.3 of the Act.

(3) The rate of interest is calculated in accordance with the following rules:

1. If the pension benefits are defined contribution benefits, or if the deferred pension is provided with respect to defined contribution benefits, the rate of interest is calculated as the average, over a reasonably recent period that does not exceed 12 months, of the yields of five-year personal fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management System (CANSIM) series V122515 compiled by Statistics Canada and available on the website maintained by the Bank of Canada.

2. If the pension benefits are defined benefits, or if the deferred pension is provided with respect to defined benefits, the rate of interest is the same as the rate of interest used to calculate the preliminary value of the pension benefits or deferred pension.

Overview re adjustment of benefits, etc., following transfer of lump sum

27. For the purposes of subsection 67.3 (8) of the Act, the benefits and entitlements of a member or former member are to be adjusted in accordance with sections 28 to 30 of this Regulation upon the transfer of a lump sum under section 67.3 of the Act.

Adjustment of pension benefits or deferred pension (defined contribution benefits)

28. If the member's pension benefits are defined contribution benefits, or if the former member's deferred pension is provided with respect to defined contribution benefits, the adjusted amount of his or her pension benefits or deferred pension upon the transfer of the lump sum is determined using the formula,

$$G - H$$

in which,

"G" is the total amount of contributions, and interest on the contributions, paid by or for the credit of the member or former member and determined on an individual account basis immediately before the transfer of the lump sum, and

"H" is the amount of the lump sum that was transferred.

Adjustment of member's pension benefits (defined benefits)

29. (1) If the member's pension benefits are defined benefits, the adjusted amount of his or her pension benefits is determined in accordance with this section.

(2) All calculations required by this section are to be made as of the date on which the member terminates employment or membership, except where otherwise indicated.

(3) The adjusted amount of the member's accrued pension benefits, other than bridging benefits, if any, is determined in accordance with the following rules:

1. Transferred portion: As of the date of the transfer of the lump sum, calculate an amount representing the transferred portion of the member's accrued pension benefits (other than bridging benefits, if any) using the formula,

$$J \times (E/F) \times (K/L)$$

in which,

"E" has the same meaning as in section 16,

"F" has the same meaning as in section 16,

"J" is the amount of the member's accrued pension benefits as of the family law valuation date, excluding any bridging benefits,

"K" is the amount of the lump sum that was transferred, and

"L" is the imputed value of the member's accrued pension benefits as updated under section 26.

2. Indexation of transferred portion: If the terms of the pension plan, as they read on the family law valuation date, provide for the indexation of a deferred pension, increase the amount of the transferred portion as calculated under paragraph 1 for indexation on the same basis as a deferred pension of a former member who terminated employment or membership as of the family law valuation date, for the period beginning on the family law valuation date and ending on the date on which the member terminates employment or membership.

3. Pre-adjustment amount of the member's accrued pension benefits: Calculate the amount of the accrued pension benefits (other than bridging benefits, if any) to which the member is entitled on the date on which he or she terminates employment or membership.

4. Adjusted amount: Calculate the adjusted amount of his or her accrued pension benefits (other than bridging benefits, if any) using the formula,

$$M - N$$

in which,

“M” is the pre-adjustment amount of the member’s accrued pension benefits (other than bridging benefits, if any) as calculated under paragraph 3, and

“N” is the amount of the transferred portion as calculated under paragraph 1 or 2, whichever applies.

(4) The adjusted amount of the member’s accrued bridging benefits, if any, is determined in accordance with the following rules:

1. Transferred portion: As of the date of the transfer of the lump sum, calculate an amount representing the transferred portion of the member’s accrued bridging benefits, if any, using the formula,

$$P \times (E/F) \times (K/L)$$

in which,

“E” has the same meaning as in section 16,

“F” has the same meaning as in section 16,

“K” has the same meaning as in paragraph 1 of subsection (3),

“L” has the same meaning as in paragraph 1 of subsection (3), and

“P” is the amount of the member’s accrued bridging benefits, if any, as of the family law valuation date.

2. Pre-adjustment amount of the member’s accrued bridging benefits: Calculate the amount of the accrued bridging benefits to which the member is entitled on the date on which he or she terminates employment or membership.

3. Adjusted amount: Calculate the adjusted amount of the member’s accrued bridging benefits, if any, using the formula,

$$Q - R$$

in which,

“Q” is the pre-adjustment amount of the member’s accrued bridging benefits as calculated under paragraph 2, and

“R” is the amount of the transferred portion as calculated under paragraph 1.

(5) For greater certainty, the period of employment credited under the pension plan to the member is not reduced by an adjustment under this section.

Adjustment of former member’s deferred pension (defined benefits)

30. (1) If the former member’s deferred pension is provided with respect to defined benefits, the adjusted amount of his or her deferred pension is determined in accordance with this section.

(2) All calculations required by this section are to be made as of the transfer of the lump sum, except where otherwise indicated.

(3) The adjusted amount of the former member’s deferred pension, other than bridging benefits, if any, is determined in accordance with the following rules:

1. Pre-adjustment amount: Calculate the amount of the former member’s deferred pension (other than bridging benefits, if any) as of the family law valuation date, increased for any indexation provided by the terms of the pension plan for the period from the date on which he or she terminated employment or membership to the family law valuation date.

2. Transferred portion: Calculate an amount representing the transferred portion of the former member’s deferred pension (other than bridging benefits, if any) using the formula,

$$S \times (E/F) \times (U/V)$$

in which,

“E” has the same meaning as in section 16,

“F” has the same meaning as in section 16,

“S” is the pre-adjustment amount of the former member’s deferred pension (other than bridging benefits, if any) as calculated under paragraph 1,

“U” is the amount of the lump sum that was transferred, and

“V” is the imputed value of the former member’s deferred pension as updated under section 26.

3. Adjusted amount: Calculate the adjusted amount of the former member’s deferred pension (other than bridging benefits, if any) using the formula,

$$S - W$$

in which,

“S” is the pre-adjustment amount of the former member’s deferred pension (other than bridging benefits, if any) as calculated under paragraph 1, and

“W” is the amount of the transferred portion as calculated under paragraph 2.

(4) The adjusted amount of the former member’s bridging benefits, if any, is determined in accordance with the following rules:

1. Pre-adjustment amount: Calculate the amount of any bridging benefit to which the former member was entitled as of the family law valuation date.

2. Transferred portion: Calculate an amount representing the transferred portion of the former member’s bridging benefits using the formula,

$$X \times (E/F) \times (U/V)$$

in which,

“E” has the same meaning as in section 16,

“F” has the same meaning as in section 16,

“U” has the same meaning as in paragraph 2 of subsection (3),

“V” has the same meaning as in paragraph 2 of subsection (3), and

“X” is the pre-adjustment amount of the former member’s bridging benefits as calculated under paragraph 1.

3. Adjusted amount: Calculate the adjusted amount of the former member’s bridging benefits using the formula,

$$X - Y$$

in which,

"X" is the pre-adjustment amount of the former member's bridging benefits as calculated under paragraph 1, and

"Y" is the amount of the transferred portion as calculated under paragraph 2.

(4) For greater certainty, the period of employment credited under the pension plan to the former member is not reduced by an adjustment under this section.

DIVISION OF A PENSION FOR CERTAIN FAMILY LAW PURPOSES (SECTION 67.4 OF THE ACT)

Application for division of pension

31. (1) An application under subsection 67.4 (2) of the Act by an eligible spouse for the division of a pension must be made on a form approved by the Superintendent and must be accompanied by the material that is specified in the form.

(2) The application form must require the applicant to provide the following information and material:

1. Particulars identifying the pension plan, the employer and the administrator.

2. The name and contact information of the applicant and of his or her spouse.

3. The applicant's date of birth. Proof of the date of birth must be provided.

4. The applicant's direction to the administrator to divide the retired member's pension under section 67.4 of the Act and the particulars required to enable the administrator to implement the direction.

5. A certified copy of a domestic contract, family arbitration award or court order setting out the information described in paragraphs 4 and 5 of subsection 67.4 (1) of the Act concerning the applicant's entitlement to the division and to payment of the share of the pension. In the case of a family arbitration award or court order, the applicant must also certify that the award or court order is final and is not subject to appeal or review by a court.

(3) The application may include a written waiver under subsection 67.4 (8) of the Act, in a form approved by the Superintendent, that the eligible spouse waives his or her entitlement to a pension payable upon the death of the retired member.

(4) The application may include the applicant's request under subsection 67.4 (10) of the Act for payment of a single pension from the pension plan instead of payment of a share of the retired member's pension and payment of a pension upon the death of the retired member.

Restrictions on division of pension

32. (1) The restrictions set out in this section are prescribed for the purposes of subsection 67.4 (3) of the Act as restrictions that apply with respect to the division of a pension under section 67.4 of the Act and the payment of the eligible spouse's share under that section.

(2) The administrator is not required to divide the pension and pay the eligible spouse's share to the applicant if, after the administrator gave the statement of imputed value to the spouses but before the eligible spouse gave the administrator the completed application for division of the pension, the retired member's pension ceased to be available, as a result of a transfer or otherwise, for division and payment.

(3) If the pension plan is being wound up in whole and if, before any assets attributable to the retired member are distributed, the administrator receives the application for division of the pension and payment of the eligible spouse's share,

(a) payment of the eligible spouse's share to the applicant is subject to the same restrictions on the wind up of the pension plan as the payment of the retired member's pension; and

(b) the maximum share of the retired member's pension that is payable to the eligible spouse is 50 per cent of the retired member's pension entitlement on the wind up, including any amount guaranteed by the Guarantee Fund.

(4) Subsection (3) applies with necessary modifications if the pension plan is being wound up in part, if the retired member is affected by the wind up and if, before any assets attributable to the retired member are distributed, the administrator receives the application for division of the pension and payment of the eligible spouse's share.

Deadline to begin payments to eligible spouse

33. Payment of the eligible spouse's share of the pension under subsection 67.4 (4) of the Act must begin within 60 days after the administrator receives the completed application for division and payment, accompanied by the required documents.

Overview of division and revaluation, etc.

34. (1) For the purposes of subsection 67.4 (4) of the Act, a retired member's pension is to be divided and revalued in accordance with section 35 of this Regulation.

(2) For the purposes of subsection 67.4 (10) of the Act, the single pension payable to an eligible spouse is to be determined in accordance with section 36 of this Regulation.

(3) The calculations required by sections 35 and 36 must be done using methods and assumptions that are consistent with section 3500 of the *Canadian Institute of Actuaries Standards of Practice*.

(4) For the purposes of the calculations required by sections 35 and 36, the rate of interest is calculated as the average, over a reasonably recent period that does not exceed 12 months, of the yields of five-year personal fixed term chartered bank deposit rates as determined from the Canadian Socio-Economic Information Management System (CANSIM) series V122515 compiled by Statistics Canada and available on the website maintained by the Bank of Canada.

Division and revaluation of retired member's pension

35. (1) The following rules govern the division and revaluation of the retired member's pension:

1. Retired member's initial (notional) pension: Determine the amount of the pension instalment payable to the retired member immediately before the family law valuation date.

2. Eligible spouse's initial (notional) share: Determine the amount of the pension instalment payable to the eligible spouse, under the order, family arbitration award or domestic contract referred to in subsection 67.4 (1) of the Act, as of the family law valuation date.

3. Retired member's revalued (notional) pension: Subtract the eligible spouse's pension instalment, as determined in paragraph 2, from the retired member's pension instalment, as determined in paragraph 1.

4. Lump sum arrears in eligible spouse's (notional) share: Determine the total of the pension instalments, with interest, payable to the eligible spouse from the family law valuation date to the date as of which the retired member's pension is divided under subsection section 67.4 (4) of the Act.

5. Arrears expressed as pension instalments: Determine the amount of a pension instalment payable for the life of the retired member, commencing as of the payment date that falls on or immediately after the date as of which the retired member's pension is divided, such that the commuted value of this pension is equal to the amount determined in paragraph 4.

6. Eligible spouse's share of the pension: Add the amount of the pension instalment as determined under paragraph 5 to the amount of the pension instalment as determined under paragraph 2. This is the eligible spouse's share of the retired member's pension.

7. Retired member’s revalued pension: Subtract the amount of the pension instalment as determined under paragraph 5 from the amount of the pension instalment as determined under paragraph 3. This is the retired member’s revalued pension.

(2) The eligible spouse’s share of the retired member’s pension, as determined in paragraph 6 of subsection (1), is payable as of the payment date that falls on or immediately after the date on which the retired member’s pension is divided under subsection 67.4 (4) of the Act, and is payable for the life of the retired member.

(3) The retired member’s revalued pension, as determined in paragraph 7 of subsection (1), is payable as of the payment date that falls on or immediately after the date on which the retired member’s pension is divided under subsection 67.4 (4) of the Act, and is payable for the life of the retired member.

Combining payments into a single pension

36. (1) If an eligible spouse requests payment of a single pension under subsection 67.4 (10) of the Act, and if the pension plan permits payment of a single pension to the spouse in the circumstances, the amount of the single pension is determined in accordance with the following rules:

1. Eligible spouse’s share of the retired member’s pension: Determine the eligible spouse’s share of the retired member’s pension in accordance with section 35.

2. Commuted value of eligible spouse’s share: Determine the commuted value of the eligible spouse’s share of the retired member’s pension.

3. Commuted value of eligible spouse’s survivor benefit: Determine the commuted value of the pension payable to the eligible spouse upon the death of the retired member.

4. Total commuted value of both: Add the commuted values determined under paragraphs 2 and 3.

5. Eligible spouse’s single pension: Determine the amount of a pension instalment payable for the life of the eligible spouse, commencing as of the payment date that falls on or immediately after the date as of which the retired member’s pension is divided, such that the commuted value of this pension is equal to the amount determined in paragraph 4. This is the single pension payable to the eligible spouse under subsection 67.4 (10) of the Act.

6. The commuted values referred to in paragraphs 2, 3 and 5 are to be determined as of the date on which the retired member’s pension is being divided.

(2) The single pension payable to the eligible spouse under subsection 67.4 (10) of the Act, as determined in paragraph 5 of subsection (1), is payable as of the payment date that falls on or immediately after the date on which the retired member's pension is divided under subsection 67.4 (4) of the Act, and is payable for the life of the eligible spouse.

OTHER TRANSITIONAL MATTERS
(SECTION 67.6 OF THE ACT)

Calculation re maximum percentage

37. (1) For the purposes of subsection 67.6 (4) of the Act, the pension benefits accrued during the period a member, former member or retired member had a spouse shall be determined as if the member terminated employment at the valuation date in accordance with the terms of the plan at that date and without consideration of future salary, benefits or changes to the plan but with consideration for the possibility of future vesting.

(2) In this section,

"valuation date" means the valuation date as defined in subsection 4 (1) of the *Family Law Act*.

Notice re spouse's entitlement to options

38. (1) This section applies if the administrator is given a certified copy of a court order, family arbitration award or domestic contract described in subsection 67.6 (1) of the Act that was made before the date on which that subsection of the Act comes into force and that entitles the spouse of a member to a payment under section 5 of the *Family Law Act*.

(2) If the member named in the court order, award or contract terminates employment, the administrator shall give the following information and documents to the spouse within 30 days after receiving notice of the termination:

1. Notice that the member has terminated employment.

2. A copy of the statement given to the member by the administrator.

3. Information about the options available to the spouse under subsection 67.6 (7) and section 42 of the Act.

MISCELLANEOUS MATTERS

Inspection of administrator's records

39. (1) The administrator of a pension plan is required by clause 29 (1) (c.1) of the Act to make the prescribed records available for inspection without charge by a former spouse, within the meaning of sections 67.1 to 67.6 of the Act, of a member, former member or retired member,

(a) if the former spouse has applied under subsection 67.2 (6) of the Act for a statement of imputed value; or

(b) if his or her spouse has applied under subsection 67.2 (6) of the Act for a statement of imputed value.

(2) However, the administrator is not required to make the prescribed records available to the former spouse after the earlier of,

(a) one year after the date on which the administrator gives the statement of imputed value to the former spouse or to the member, former member or retired member, as the case may be, under subsection 67.2 (9) of the Act; and

(b) the date on which the administrator transfers a lump sum to the former spouse under subsection 67.3 (4) of the Act or begins payment of a share of the retired member's pension to the former spouse under subsection 67.4 (4) of the Act.

Details of Temporary Solvency Funding Relief for Certain Pension Plans in the Broader Public Sector

(Pension Benefits Act Regulation 909)

Overview

In June 2009, the Lieutenant Governor in Council enacted an amendment to the regulation under the *Pension Benefits Act* (PBA) to provide temporary solvency funding relief for defined benefit (DB) pension plans in Ontario. The measures apply to the first scheduled valuation report dated on or after September 30, 2008 and before September 30, 2011.

The relief measures include three options:

- Defer for up to one year the start of new special payments. This deferral applies to both the going concern special payments and solvency special payments.
- Consolidate any remaining solvency special payments from previous valuations into a new 5-year payment schedule.
- Amortize the new solvency deficiency over a period of up to 10 years, instead of the usual 5 years, with the consent of plan members. Consent is provided if no more than 1/3 of all active, deferred and retired members indicate that they do not consent.

Since the introduction of the 2009 solvency funding relief measures, many single-employer defined benefit pension plan sponsors and sponsors of defined contribution pension plans with minimum guaranteed benefits (hybrid pension plans) in the public sector and broader public sector (BPS), including universities, have approached the government seeking additional solvency funding relief.

In an effort to support sustainable public sector and BPS pension plans, the Minister of Finance announced in the 2010 Budget that the government is considering providing additional temporary solvency funding relief to certain single employer, DB or hybrid pension plans in the public sector and BPS, including Ontario university pension plans.

In exchange for the relief, plan sponsors would be expected to adopt plan changes that would make their plans more sustainable in the long term. Plan changes, as indicated in the 2010 Budget, could include (but are not limited to) the following:

- converting to joint sponsorship for future service;

- more equitable sharing of the normal cost of providing benefits between employers and members;
- linking some future benefits, such as inflation protection, to plan performance; and
- enhancing cost certainty and affordability through benefit adjustments that make plans more sustainable.

This process could include discussions with collective bargaining agents (CBAs).

Although the exemption from the requirement to fund on a solvency basis applies only to existing JSPPs, plans that convert to JSPPs in the future could be considered for relief from future solvency deficiencies. Existing solvency deficiencies would still need to be addressed.

Consideration would be given to the need for agreement between the plan sponsor and the representatives of plan members on issues such as the plan's governance structure, sharing of gains and losses, funding policies and contribution rate stabilization reserves, and the way in which accrued benefits are addressed in the event of a plan wind up.

There would be no additional funding from the province to finance pension deficits.

Further details were provided through separate announcements on August 5, 2010 and August 24, 2010. Links to these announcements on the Ministry of Finance website are provided at the end of this document.

Details of the relief measures, including eligibility criteria and additional conditions, would be outlined in an amendment to the regulations under the PBA, which is expected to come into effect by mid-May, 2011. Examples of steps that eligible pension plans could take and the measurement of financial impacts that are outlined in the "Savings Target" section below are not part of the amendment to the regulation. Rather, this is information that the Ministry of Finance would rely on in considering whether a pension plan has been made more sustainable in the long term. The Lieutenant Governor in Council will make the final decision on the regulation.

The proposed measures would provide temporary solvency funding relief in two stages with eligibility criteria attached to each stage. Details of the proposed relief measures and requirements for application are provided in the sections below.

If accepted into Stage 1, plan sponsors would file a valuation report with the Financial Services Commission of Ontario (FSCO) in accordance with the proposed regulation. Plan sponsors would have three years (3-year period) from the valuation date of this report to determine plan changes, a process that may include discussions with CBAs or other means in accordance with the plan's governance requirements. They would be required to make minimum payments during this 3-year period to ensure the solvency shortfall does not increase.

At the end of the 3-year period, plan sponsors would be required to prepare another valuation and submit a report (Stage 1 progress report) to the Ministry of Finance to demonstrate progress in meeting their funding plan targets. This report would be submitted to the Ministry of Finance no later than 6 months after the end of the 3-year period.

The results revealed in this report would be measured against established savings targets as detailed in the "Savings Targets" section, which outlines the conditions a pension plan would be required to meet in order to qualify for Stage 2 relief.

If substantial progress has been made in meeting the targets, it is contemplated that Ministry of Finance would recommend further funding relief to be provided to eligible plans (Stage 2 relief). Otherwise, the normal PBA funding provisions effective at the time would apply.

Plan changes identified during the 3-year period should be fully adopted no more than 5 years from the effective date of the Stage 1 progress report.

Please note that while the details of the proposed temporary solvency funding relief are anticipated to form a part of the proposed regulation, the savings targets would likely not form part of the proposed regulation.

Details of the Proposed Temporary Solvency Funding Relief as Proposed in the Draft Amendment to the Regulation

<u>Eligibility to Enter Stage 1</u>

It is contemplated that the Ministry of Finance would recommend that single employer, public sector and BPS pension plans qualify for Stage 1 of the proposed two-stage relief if they meet certain criteria as outlined in the 2010 Budget and subsequent announcements:

- the pension plan provides defined benefits;
- the pension plan is not a multi-employer pension plan;
- the pension plan is not a jointly-sponsored pension plan;
- the pension plan is sponsored by a public sector employer as defined in the regulation;

- members continue to accrue defined benefits under the pension plan (i.e., it is not a closed plan with past service benefits only or a plan with predominantly retired members);

- eligibility for Stage 1 relief would be based on the first valuation report (Stage 1 valuation report) dated on or after December 31, 2009 and filed after the regulation is made [expected by mid-May, 2011];

- the Stage 1 valuation report indicates that, as of the valuation date, either:

  - the ratio of the market value of the plan assets to the going concern liabilities is less than 0.9; or

  - the ratio of the solvency assets to the solvency liabilities, as defined under the *Pension Benefits Act*, is less than 0.9.

- a *funding* plan shall be submitted to the Ministry of Finance indicating estimated savings targets and possible steps to make the pension plan more sustainable in the long term;

- steps could include, among other things, prospective benefit adjustments, an increase in the portion of the normal cost paid by employees (up to 50% of the total), linking some future benefits to plan investment performance, or converting to joint sponsorship for future service.

<u>Stage 1 Relief</u>

During the three years of the Stage 1 relief period, the following provisions would apply:

- Annual filings of actuarial valuations would not be required, irrespective of whether the plan has solvency concerns as described in the regulations under the PBA;

- The prior year credit balance would be set to zero at the onset of Stage 1 relief;

- Commencement of new going concern special payments may be deferred by up to one year from the date of the Stage 1 valuation report;

- Going concern payment schedules established in valuation reports prior to the date of Stage 1 valuation report would continue;

- Solvency payment schedules established in valuation reports prior to the Stage 1 valuation would be suspended. Instead, during the <u>four</u> years following the date of Stage 1 valuation report, the annual minimum solvency special payments would be the greater of (a) and (b) below, less the going concern special payments due for the year:

a. The amount of the annual interest charge on the solvency deficiency identified in the Stage 1 valuation report, excluding any solvency asset adjustment and solvency liability adjustment; and

b. 50% of the special payments that are required to amortize the excess, if any, of 80% of the solvency liability over the solvency assets, as determined in the Stage 1 valuation report, over a four year period commencing at the date of Stage 1 valuation report.

- Limits on contribution holidays and accelerated funding requirements for benefit improvements during the 4-year period as detailed in the "Additional Conditions: Limits on Contribution Holidays and Benefit Improvements" section below would apply;

- Additional disclosure requirements to members and retirees. This could be accomplished through including such information in annual statements or issuing special notices.

<u>Exit Stage 1 Relief</u>

For plans which are not able to make substantial progress in meeting the savings targets and therefore not able to enter the Stage 2 relief, it is anticipated that the following provisions would apply no more than 3 years from the date of the Stage 1 valuation report (Stage 1 exit date).

- The plan should prepare an actuarial valuation report as of the Stage 1 exit date under s. 3 or s.14.

- This report should be filed with the FSCO no later than one year after the valuation date.

- Any solvency deficiency identified in this report must be amortized over a period of no more than 5 years with the first payment starting no later than 12 months after the valuation date.

- Going concern special payment schedules established in valuation reports prior to this report would continue.

- Any new going concern unfunded liability identified in this report would be amortized over a period of no more than 15 years, with the first payment starting no later than 12 months after the date of the valuation report.

- Limits on contribution holidays and accelerated funding requirements on benefit improvements detailed in “Additional Conditions: Limits on contribution holidays and benefit improvements” below would remain in effect until the earlier of 10 years from the Stage 1 exit date or the date the second of two consecutive valuations are filed with FSCO where the transfer ratio is greater than or equal to 1.0.

- Disclosure to members and retirees about the plan’s exiting from the Stage 1 relief regime. This could be accomplished through including such information in annual statements or issuing special notices.

<u>Stage 2 Relief</u>

For plans that are able to demonstrate that substantial progress has been made in meeting savings targets, the following provisions would apply if the proposed regulation is made:

- The plan would prepare an actuarial valuation report as of the Stage 1 exit date (Stage 2 valuation report).

- The Stage 2 valuation report would be filed with FSCO no later than one year after the valuation date.

- Any solvency deficiency identified in the Stage 2 valuation report would be amortized over a period of no more than 10 years with the first payment starting no later than 12 months after the date of the Stage 2 valuation report.

- Solvency asset adjustment would include the present value of going concern special payments payable from the date of the Stage 2 valuation report to the end of the period this solvency deficiency is fully liquidated.

- Going concern special payment schedules established in valuation reports prior to the Stage 2 valuation report would continue.

- Any new going concern unfunded liability identified in the Stage 2 valuation report would be amortized over a period of no more than 15 years with the first payment starting no later than 12 months after the date the Stage 2 valuation report.

- Filing of subsequent valuation reports would be in accordance with the requirements of the PBA and regulations in effect at the time.

- Funding of any additional going concern unfunded liability in a valuation report subsequent to the Stage 2 valuation report would be in accordance with the PBA and regulations in effect at the time.

- Any additional solvency deficiency revealed in a report subsequent to the Stage 2 valuation report would be amortized over a period that is the longer of 5 years or the remaining period from the valuation date to the end of the 10 year period the solvency deficiency identified in the Stage 2 valuation report is fully liquidated.

- The solvency asset adjustment would include present value of going concern special payments and solvency special payments payable over the same period.

- Limits on contribution holidays and accelerated funding requirements on benefit improvements detailed in the "Additional Conditions: Limits on Contribution Holidays and Benefit Improvements" section below would remain in effect until the earlier of 15 years starting from the effective date of the Stage 2 valuation report, or the date the second of two consecutive valuations filed with FSCO, where the transfer ratio is greater than or equal to 1.0.

<u>Additional Conditions: Limits on Contribution Holidays and Benefit Improvements</u>

Proposed regulations under Bill 120 would prescribe conditions for contribution holidays and require accelerated funding of benefit improvements under certain situations. All pension plans registered under the PBA would be subject to Bill 120 and its related regulations once those regulations are made. It is proposed that plans seeking temporary solvency funding relief under this regime would be subject to additional conditions and limits, as follows:

- The transfer ratio of the plan shall not fall below 1.10 after the application of the contribution holidays;

- To the extent that a going concern unfunded liability is created or increased due to plan amendments that increase pension benefits or ancillary benefits, such an unfunded liability shall be amortized over a period of no more than 5 years with the first payment commencing in accordance with the funding requirements under the PBA and regulation in effect at the time.

- To the extent that the transfer ratio of the plan is reduced to below 0.90 due to plan amendments that increase pension benefits or ancillary benefits, a lump sum special payment should be made immediately to restore the transfer ratio to at least 0.90. The balance of the increase in the going concern unfunded liability shall be amortized over a period of 5 years as stated above.

Savings Targets

Almost all pension plans experienced significant investment losses during the great recession of 2008 - 2009. These investment losses, together with declining interest rates, have resulted in significant funding deficits in most pension plans. These funding deficits could be viewed as cyclical, structural or a combination of both to some degree.

If a plan experiences funding difficulties regardless of the economic environment, the funding deficit is considered to be more structural than cyclical in nature. The savings targets attempt to approximate the size of structural deficits. Under this proposed regime, a pension plan that has had structural funding challenges over the past decade would have higher savings targets.

Additionally, the savings targets will also serve as a measurement tool for the Ministry of Finance to consider whether steps taken towards sustainability were commensurate with the structural funding challenges faced by those plans seeking Stage 2 funding relief. It will also serve to guide plans with various funding challenges towards more equitable sharing of risk between members and employers in the long term.

The savings target is defined as:

savings target = 1 - Minimum (A, B) where:

> A is the average ratio of the market value of plan assets to going concern liabilities, up to 1.00, determined in the last three valuations filed and in the Stage 1 valuation
>
> B is the average ratio of solvency assets to solvency liabilities, up to 1.00, determined in the last three valuations filed and in the Stage 1 valuation

Terms

Stage 1 valuation = 1^{st} valuation on or after December 31, 2009 and filed after the regulation is made

Stage 1 progress valuation = valuation performed no more than 3 years after the Stage 1 valuation date to qualify for Stage 2 funding relief

The present value of future service benefits and future normal costs shall be determined using an aggregate actuarial cost method calculated on a going concern basis.

All present values of future service benefit, normal cost and liabilities are determined as of the Stage 1 progress valuation date and should be calculated using the same actuarial assumptions used in the Stage 1 valuation.

PVFB(o) = present value of future service benefits under plan provisions as at the Stage 1 valuation date, excluding amendments made within the last five years leading up to the Stage 1 valuation date or plan amendments made prior to this period that are scheduled to come into effect during this period which may have enhanced the sustainability of the plan. Amendments to increase pension benefits or ancillary benefits that were made during this five-year period or scheduled to come into effect during this period should not be excluded.

PVFNC(o) = present value of future normal cost under the same plan provisions in calculating PVFB(o), expressed as a dollar amount <u>and</u> as a percentage of the present value of future pensionable earnings.

PVFB(n) = present value of future service benefits under plan provisions as at the Stage 1 progress valuation date, including plan amendments excluded from PFVB(o) and amendments adopted or to be adopted no later than 5 years after the Stage 1 progress valuation date.

PVFNC(n) = present value of future normal cost under the same plan provision in calculating PVFB(n), expressed as a dollar amount <u>and</u> as a percentage of present value of future pensionable earnings.

Accrued Liability(o) = accrued liability for active members under the same plan provisions in calculating PVFB(o).

Accrued Liability(n) = accrued liability for active members under the same plan provision in calculating PVFB(n).

<u>Savings Targets for a DB Plan:</u>

- The plan should determine a normal cost contribution rate as at the Stage 1 progress valuation date such that the present value of future normal cost contributions would at least equal the present value of future service benefits under the same plan provision in calculating PVFB(n). That is:

  PVFNC(n) = PVFB(n) and where PVFB(n) <= PVFB(o);

- The employer's share of the normal cost should not exceed its share under the same plan provisions in calculating PVFB(o). That is:

$$\frac{\text{ER PVFNC(n)}}{\text{EE PVFNC(n)}} <= \frac{\text{ER PVFNC(o)}}{\text{EE PVFNC(o)}}$$

- The plan should demonstrate that it has achieved one or both of the following:

  - Employer and members share more equally in the normal cost going forward

  - Adjustment to pension benefits / ancillary benefits in respect of future service and / or realignment of employer and employee normal cost going forward would satisfy the savings target. That is:

$$\left(\frac{[PVFB(o) - EE\ PVFNC(o)] - [PVFB(n) - EE\ PVFNC(n)] + [\text{Accrued Liability}(o) - \text{Accrued Liability}(n)]}{PVFB(o)}\right) \geq \text{savings target}$$

Savings Targets for a Hybrid Plan:

If retaining the plan structure as a hybrid plan, or if the plan has converted to provide defined contribution benefits only for future service but retains the practice of converting a defined contribution benefit into a defined benefit within the plan at retirement, then the plan should demonstrate the following:

- PVFB(n) <= PVFB(o), where the present value of future service benefits includes benefits under both the defined contribution provision and the minimum guarantee benefit provision.

- The employer's share of the total normal cost, i.e., employer normal cost contribution to the defined contribution provision and to the minimum guarantee benefit provision, should not exceed its share under the same plan provision in calculating PVFB(o). That is:

$$\frac{ER\ PVFNC(n)}{EE\ PVFNC(n)} \leq \frac{ER\ PVFNC(o)}{EE\ PVFNC(o)}$$

  (for purposes of this calculation, the present value of future benefits and contributions includes benefits and contributions under the defined contribution provision, as applicable)

- Actions that have been taken to reduce the plan's risk resulting from a review of the conversion process, excess investment return indexing provision and non-reduction guarantee provision, and the financial impact as a result of taking such actions.

- The aggregate financial impact from all actions taken would produce a saving to the plan that would meet the savings target below:

$$\left(\frac{[PVFB(o) - EE\ PVFNC(o)] - [PVFB(n) - EE\ PVFNC(n)] + [\text{Accrued Liability}(o) - \text{Accrued Liability}(n)]}{PVFB(o) + \text{Accrued Liability}(o)}\right) >= \text{savings target}$$

For purposes of demonstrating the financial impact of actions taken to reduce the plan's risks, such as revision of the conversion process and/or other post-retirement benefit adjustment provisions, those actions could be modeled for inclusion in the determination of whether the savings target has been achieved.

Also, for the purposes of this calculation, the present value of future service benefits, contributions, accrued liabilities include benefits, contributions and accrued liabilities under both the defined contribution provision and the minimum guarantee benefits provision, as applicable.

If the plan has been converted to a "pure" defined benefit plan, the plan should demonstrate that:

- The future service benefit accrual rate should not exceed the current minimum guarantee benefit level.

- The plan should determine a normal cost contribution rate as at the Stage 1 progress valuation date such that present valuation of future contributions would at least equal the present value of future benefits under the same plan provisions in calculating PVFB(n). That is:

  PVFNC(n) = PVFB(n) and where PVFB(n) <= PVFB(o);

- The employer's share of the normal cost should not exceed its share under the same plan provision in calculating PVFB(o). That is:

  $$\frac{ER\ PVFNC(n)}{EE\ PVFNC(n)} <= \frac{ER\ PVFNC(o)}{EE\ PVFNC(o)}$$

  (for this calculation, present value of contributions includes contributions to defined contribution provision as applicable)

- Actions that have been taken to reduce the plan's risk resulting from a review of the conversion process, excess investment return indexing provision and non-reduction guarantee provision for benefits accrued up to the effective date of conversion and the financial impact as a result of taking such action.

- The plan should demonstrate that it has achieved one or both of the following:

    - Employer and members share more equally in the normal cost going forward;

    - The aggregate financial impact from all actions taken would produce a saving to the plan that would meet the savings target outlined in the DB section. That is:

$$\left(\frac{[\text{PVFB (o) - EE PVFNC (o)}] - [\text{PVFB(n) - EE PVFNC(n)}] + [\text{ Accrued Liability (o) - Accrued Liability (n)}]}{\text{PVFB(o)}}\right)$$

$$>= \text{savings target}$$

  For purposes of demonstrating the financial impact of actions taken to reduce the plan's risks, such as a revision of the conversion process and/or other post-retirement benefit adjustment provisions, those actions could be modeled for inclusion in the determination of whether the savings target has been achieved.

  Also, for purposes of this calculation, the present value of future service benefits, contributions and accrued liabilities include benefits, contributions and accrued liabilities under both the defined contribution provision and the minimum guarantee benefits provision, as applicable.

Application and Process

Plans which intend to apply for the 2-stage solvency funding relief should apply by submitting an application to the Ministry of Finance prior to filing the Stage 1 valuation report in order to be considered by the Ministry for solvency relief. The application should be sent to:

Public Sector Pension Plan Solvency Relief Application
Pension Policy Branch
Ministry of Finance
5th Floor, Frost Bldg S.
7 Queen's Park Crescent
Toronto ON M 7A 1Y7

There will be a number of windows of opportunity to apply.

The first window is from the date of posting of this document to March 23, 2011. Eligible pension plans with a valuation date as at December 31, 2009 or with a valuation date in 2010 could apply during this window.

Other windows of opportunity for eligible pension plans with valuation dates in 2011 and 2012 will be announced at a future date.

The application should include, at a minimum, the following documents:

- The estimated savings target of the pension plan in accordance with the "Savings Targets" section above;
- A detailed *funding plan* showing how the pension plan could be modified such that its provisions are consistent with the intent of the relief regime;
- The *funding plan* should identify prospective plan changes which could be introduced or discussed with CBAs during the 3-year period under the Stage 1 relief and would become effective no later than 5 years after the end of Stage 1 relief. Such prospective plan changes could include changes to benefits, contributions, or both.
    - To the extent possible, when identifying examples of prospective plan changes that could measurably reduce future costs, include rough estimates of potential savings, expressed in dollars as well as a percentage of present value of future pensionable earnings and future liabilities on a going concern basis, using the assumptions in the Stage 1 valuation report.
- An indication that this *funding plan* has been shared with plan members and their representatives / collective bargaining agents (CBAs) and will be shared with retirees;
- Identification of the CBAs representing members of the pension plan (if any), the number of members represented by each CBA (and those not represented) at the valuation date, and the date(s) at which collective bargaining agreements expire.
- Identification of amendments to the pension plan which have already been made in the last five years leading up to the date of Stage 1 valuation report or plan amendments made prior to this period that are scheduled to come into effect during this period which may have enhanced the sustainability of the pension plan.
- Identification of amendments made prior to entering Stage 1 that are scheduled to come into effect after entering Stage 1 that may have increased the cost of the pension plan.
- Copies of plan documents, amendments and valuation reports filed since December 31, 1999.

The Ministry of Finance will consider whether the application satisfies the criteria for Stage 1 relief. If the plan is considered to have satisfied the criteria, the Ministry will make a recommendation to the government that a regulation be made to provide the described funding relief.

A pension plan that is provided with funding relief through the proposed regulation would have up to three years from the Stage 1 valuation date to determine pension plan changes, a process that may include discussions with CBAs, that are consistent with the intent of this proposed solvency funding relief regime.

The administrator of the plan would be required to provide the Ministry of Finance with a report (Stage 1 progress report) within 6 months after the end of the 3-year period of Stage 1 relief. The report should detail all pension plan changes that have been identified or discussed with the CBAs and are to be fully adopted not later than 5 years after the end of the 3-year period under Stage 1 relief (See “Savings Targets” above for details).

If a pension plan is considered to have made substantial progress in meeting the savings target, the Ministry would consider recommending to the government that a regulation be made to provide the Stage 2 funding relief.

It is proposed that pension plans whose sponsors do not successfully adopt sufficient plan modifications during the 3-year period under Stage 1 relief (including decisions taken previously) would not receive extended solvency relief and would be transitioned back to the normal funding rules in place at the time (see “Exit Stage 1 Relief” above for details)

Whether or not a pension plan would receive the extended solvency relief (Stage 2 relief), an actuarial valuation report should be filed with FSCO no more than 12 months after the end of the 3-year period under Stage 1 relief.

Applying for this two-stage solvency funding relief would not preclude eligible sponsors from electing Option 1 under the 2009 temporary solvency funding relief (i.e., the deferral of up to 12 months of the start of new going concern special payments).

It is contemplated that the regulations will name those pension plans that receive solvency relief in 2011.

<u>Links to Previous Announcements</u>:

August 5, 2010

http://www.news.ontario.ca/tcu/en/2010/08/putting-university-pension-plans-on-a-sustainable-track.html

August 24, 2010

http://news.ontario.ca/mof/en/2010/08/mcguinty-government-taking-additional-steps-to-strengthen-ontarios-pension-system.html

RISK-BASED REGULATION FRAMEWORK

Consultation Document

Financial Services Commission of Ontario
March, 2011

Table of Contents

Executive Summary

This document describes a broad-based framework proposed by the Financial Services Commission of Ontario (FSCO) for the risk-based regulation of pension plans in Ontario. The purpose of introducing this framework is to improve FSCO's overall effectiveness in its monitoring of key pension risks, and to ensure appropriate regulatory response is taken by FSCO to address risk situations, thereby better protecting the interests of pension plan beneficiaries. It also serves in part to address the Ontario Expert Commission on Pensions' recommendations in regard to FSCO, which are contained in a report entitled *A Fine Balance – Safe Pensions, Affordable Plans, Fair Rules*.

Our proposed framework is grounded on the following five principles:

- **Proactive** – We will take proactive measures to promote compliance and to reduce risks to plan beneficiaries;
- **Focused** – We will focus our attention on those plans posing the most serious risks to the security of plan beneficiaries' benefits;
- **Proportionate** – Our regulatory response will be proportionate to the risks identified, with due regard to the probability and impact of risk, and we will intervene on a specific basis only when necessary;
- **Consistent** – We will apply our approach consistently and in a way that minimizes uncertainty about our likely response; and
- **Informed** – Our assessment of risk and regulatory response will be informed by the evidence gathered from appropriate sources.

In addition, our approach is building on existing risk-based processes that have proven to be effective. The risk-based approach as proposed in this consultation document will apply to any Ontario registered pension plan that provides either defined benefit (DB) or defined contribution (DC) benefits, or both.

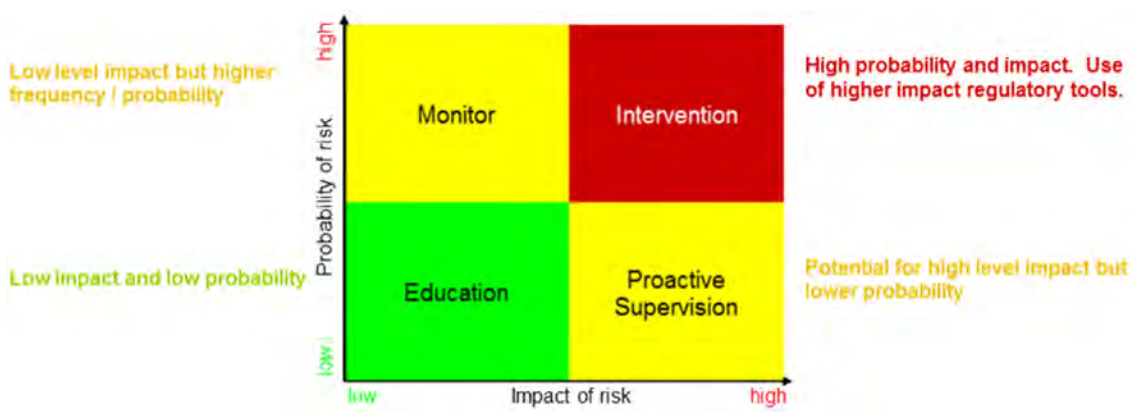
The core of the framework is a Regulatory Response Model, which includes a trigger mechanism based on readily available information and supported by a plan specific assessment process to identify plans posing the greatest risks. Both the likelihood and impact of risk are taken into account in the assessment process. As well, a certain degree of judgment will be required depending on the nature of the risks being assessed.

In designing the trigger mechanism and assessment process, we intend to focus initially on five risk areas, namely:

- funding risk,
- investment risk,
- administration risk,
- governance risk, and
- sponsor/industry risk.

Once a plan is judged to pose a high risk, we would look carefully at the circumstances of the plan before deciding on the appropriate regulatory actions to take, which may include prosecution under the Pension Benefits Act.

The following chart depicts the Regulatory Response Model.



The proposed framework is a significant change to the way in which FSCO regulates. The full implementation of the framework will take time and flexibility will need to be built into transition plans as implementation is phased in. We plan to carry out over the next three years the following activities:

1. Enhance existing risk-based processes - integrating the monitoring and review of funding and investment risks; adding other risk factors (e.g., late filings, stakeholder complaints) to the trigger mechanism; strengthening site examinations.
2. Enhance stakeholders' understanding of FSCO's risk-based approach.
3. Establish a quality control and maintenance process.

Consultation Questions

FSCO would like to hear from administrators and other interested stakeholders on the risk-based regulation framework (Framework) proposed in this document. We welcome comments on the following:

General questions

1. *Do you agree with FSCO's overall approach to risk-based regulation?*
2. *Do you think that the proposed Framework will help FSCO more effectively regulate registered pension plans?*

Specific questions

Section 1 sets out the objectives for FSCO's risk-based regulation of pensions and the design principles in creating the Framework.

3. *Do you agree with the design principles on which the Framework is based?*

Section 2 gives an overview of the Regulatory Response Model, describes the risk universe and risk assessment methodology, identifies the data sources and regulatory tools necessary to assess risks and to carry out the regulatory response, and describes the regulatory process flow.

4. *Do you agree that the Regulatory Response Model is an appropriate way to regulate pension plans and to guide regulatory response actions?*
5. *Are the risk universe and related risk indicators appropriate for risk assessment purposes? Are there any other risk indicators that should be taken into account?*
6. *Have we identified the right data sources and regulatory tools in support of the Framework? Are any data unnecessary or too difficult to obtain? Are there any additional data we should collect and use?*
7. *Do you have any comments on the regulatory process flow and the related business processes?*

Section 3 outlines the principal activities FSCO plans to carry out over the next three years for transition to the Framework.

8. *Do you consider the transition plan reasonable, in the light of FSCO's regulatory capacity and the stakeholders' expectation?*
9. *Do you agree that the proposed stakeholder education and engagement activities would enhance stakeholders' understanding of FSCO's risk-based regulation approach?*

How to Provide Comments

FSCO welcomes comments regarding this consultation document. There are several ways to submit your comments.

1) You may send your comments by email to: Tim.Thomson@fsco.gov.on.ca. Please include in the subject line of your email "Risk- Based Regulation Framework."

2) You may mail your comments to:
Attention: Tim Thomson, Project Manager
Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto ON M2N 6L9

   Please include a subject line in your letter referencing "Risk Based Regulation Framework."

3) You may send your comments by fax to (416) 226-7787. Please include a subject line in your fax referencing "Risk-Based Regulation Framework."

If you need clarifications on the technical aspects of the proposed Framework prior to submitting your response, please contact either:

George Ma, Chief Actuary
Tel: (416) 226-7785
Email: George.ma@fsco.gov.on.ca

or

Lester Wong, Senior Actuarial Consultant
Tel: (416) 226-7784
Email: lester.wong@fsco.gov.on.ca

Please note that we may publish the feedback you send us as part of our response to the consultation. If you wish your comments to remain anonymous, please state this explicitly in your response.

If you wish your response to be kept confidential, please state so and we will take the necessary steps to meet your request. However, please be aware that, should we receive a formal request under Freedom of Information legislation, we may be required to make your response available.

When responding, please advise whether you are responding as an individual or on behalf of an organization. If responding on behalf of an organization, please specify the organization.

Closing date

This consultation document was published on March 8, 2011. The closing date for responses to this consultation is April 7, 2011.

1. Introduction

1.1 Background

Over the past decade pension regulators around the world have been moving towards risk-based regulation. This trend has been sparked by a desire to address funding issues, as well as to promote good governance and risk management practices, in recognition that pure compliance approaches are limited. As an initial step, FSCO has instituted processes addressing funding and investment risk.

The Ontario Expert Commission on Pensions recommended in its report *A Fine Balance – Safe Pensions, Affordable Plans, Fair Rules* that FSCO should:

- Develop a program of proactive monitoring, auditing, inspections and investigations directed especially at plans whose profiles, sponsors' profiles or sectoral location suggest that they may be at risk of failure or of significant under-funding.
- Expand and update its existing systems for monitoring risks, ensure that these systems are designed and administered by expert staff, and supplement them with other strategies for detecting plans at risk.
- Be empowered to undertake remedial measures based on the results of its proactive monitoring.

Furthermore, FSCO's assessment is that:

- Current pension regulatory programs at FSCO may not identify all key risks inherent in pension plans and may not adequately protect the interests of pension plan beneficiaries. FSCO pension resources can be allocated more effectively to address pension plan risks.
- Through the expansion and enhancement of its existing risk-based monitoring programs, FSCO could better monitor primary pension risks, and ensure appropriate steps are taken to address non-compliance and risk taking without proper risk governance, thereby better protecting the interests of pension plan beneficiaries.
- With access to consolidated data and information collected from stakeholders and other available sources, and the provision of sufficient regulatory authority and resources, FSCO would be equipped to address non-compliance and to mitigate potential risk to pension plans and their beneficiaries in a more timely, effective and efficient manner.

A project to enhance risk-based regulation was established by FSCO in 2009, in response to the Ontario Expert Commission on Pensions Report that recommended, inter alia, developing a program of proactive monitoring of pension plans and updating systems and processes to detect plans at risk.

The Framework as proposed in this document builds on the existing risk monitoring programs that have proven to be effective and considers a broader universe of pension plan risks including those related to administration, governance and sponsor related risks.

The Framework provides for a base level of regulation across all pension plans including monitoring of key risk indicators, improved dialogue with pension stakeholders, and promotion of best practices. Above this base level, the Framework directs resources to those plans that are exposed to or exhibit greatest risks. It is expected that this approach would help FSCO more effectively monitor and manage the risk of pension plan failure and optimizes its use of regulatory resources.

The Framework presented herein is based on consideration of the pension plan environment in Ontario, the current regulatory activities of FSCO's Pension Division, as well as leading practices in risk-based regulation that have been adopted by The Pensions Regulator in the United Kingdom, the Australian Prudential Regulation Authority, the De Nederlansche Bank in the Netherlands, and the Office of the Superintendent of Financial Institutions of Canada.

1.2 Objectives

The objectives for FSCO's risk-based regulation of pensions are set out below:

- Regulation should enhance the security of plan beneficiaries' benefits.
- Regulation should reduce the risk of situations which may lead to calls on the Pension Benefits Guarantee Fund (PBGF).[1]
- Regulation should ensure compliance with the law, in particular ensuring FSCO discharges its responsibilities set out in the Pension Benefits Act.
- Regulation should encourage sponsors and plan administrators to adopt good governance, risk management and business practices.

These objectives are broadly consistent with those observed at peer regulators. The risks that are addressed on the basis of the above objectives are defined by the Risk Universe contained within the Framework.

[1] It should be noted, however, that we do not regard our objective of reducing the risk of situations which may lead to calls on the PBGF as meaning that this risk should, or could, be reduced to zero. As the causes of calls on the PBGF are very diverse, particularly those related to employer insolvency, it is not possible for the regulator to achieve this outcome. In addition, FSCO needs to balance the extent of its regulatory oversight with the administrative burdens put on the plan sponsors.

1.3 Design Principles

In designing the Framework, a number of key principles have been considered. These design principles assist in creating a framework that is consistent with the risk-based regulation objectives and recognize FSCO's current resources, activities and plans. The key principles are as follows:

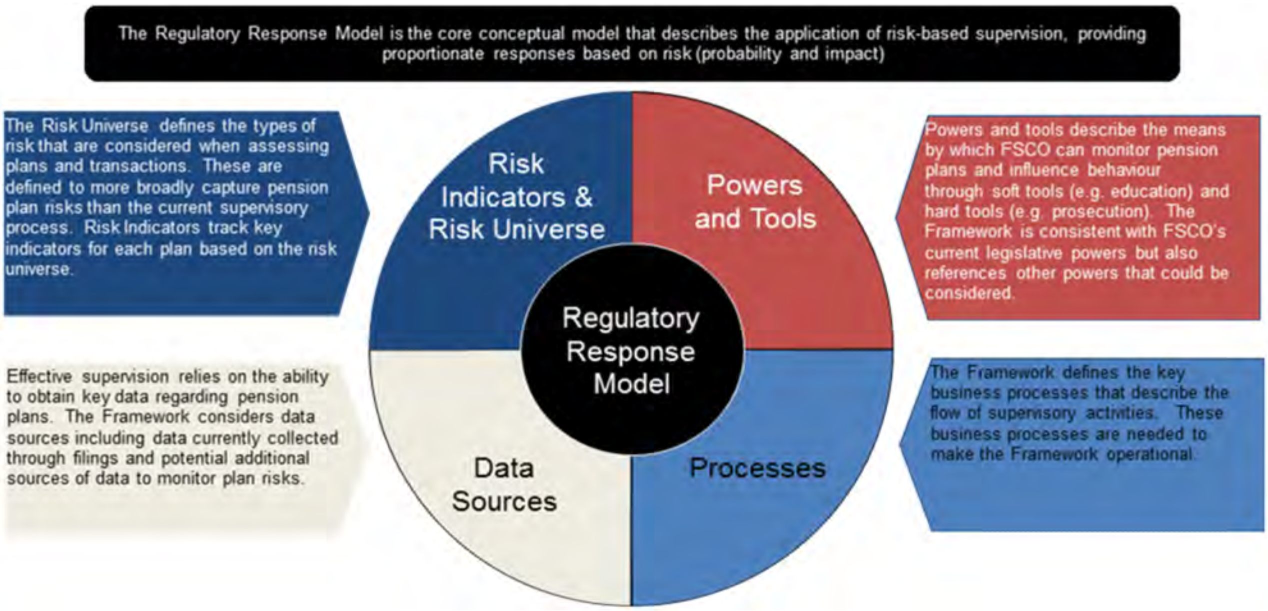
- **Proactive** – The Framework should entail proactive measures to promote compliance and to reduce risks to plan beneficiaries, recognizing that prevention is better than cure.
- **Focused** – The Framework should encourage a focus on the appropriate risk areas, minimize side effects, and ensure resources are targeted towards plans and areas of higher risk.
- **Proportionate** – The Framework should enable FSCO to plan its regulatory activities proportionate to the risk involved. This includes use of high impact regulatory tools towards areas of higher risk and intervention only when necessary.
- **Consistent** – The approach applied within the Framework should be consistent and in a way that minimizes uncertainty about our likely response.
- **Informed** – Risk assessment and our regulatory response should be informed by the evidence and due attention should be paid to emerging risks.

In addition, FSCO already has some risk-based monitoring processes that have proven to be effective and these would be built upon.

2. The Proposed Framework

The following chart depicts the component parts of the Framework. The key elements of the Framework are described more fully in the balance of this document.

Figure 2.1



2.1 Regulatory Response Model

The Regulatory Response Model, illustrated by the diagrams in this section (Figures 2.2 – 2.4), lies at the core of the Framework. The diagrams summarize our approach to prioritizing regulatory work according to risk. Both the probability and the impact of risk are taken into account in determining FSCO's level of response in specific cases.

The Framework envisages that the model will be used to assess plan and transaction risks on an ongoing basis. Plans and transactions will be classified within the model depending on their risk characteristics. Consideration of the risk universe and related risk indicators should be made in determining the quadrant into which a plan or transaction falls.

The model provides for a base level of regulation across all pension plans including a focus on industry education, promotion of best practices and monitoring of risk indicators. Above this base level, the model directs resources to those plans that are exposed to or exhibit greater risks. It is expected that this approach would help FSCO more effectively manage the risk of pension plan failure and optimize the use of regulatory resources.

Figure 2.2

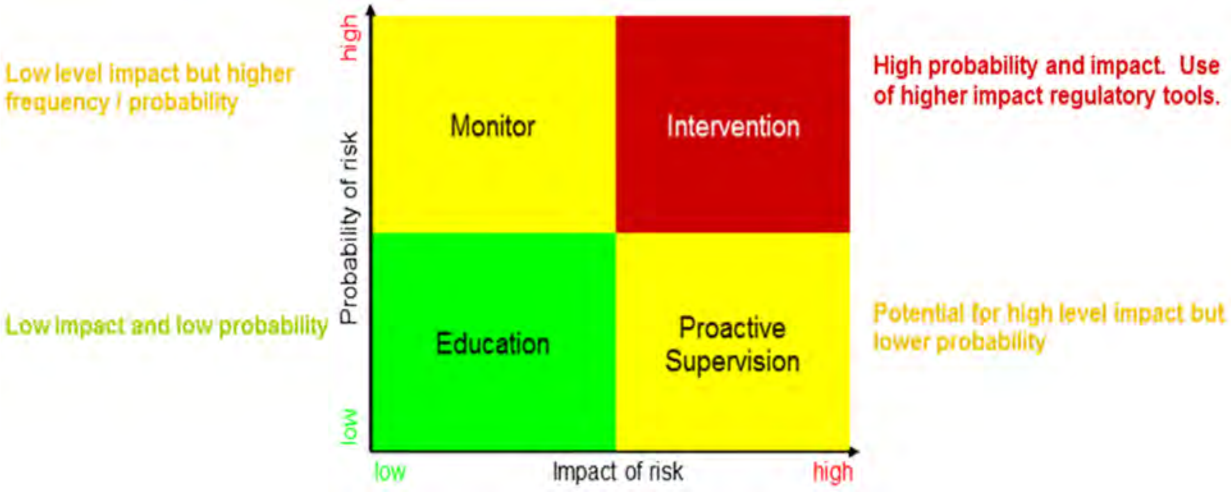
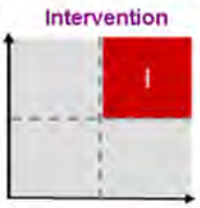
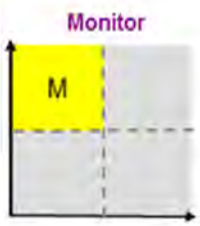


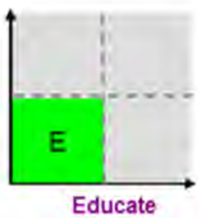
Figure 2.3



Examples of Plans / Issues	Potential Regulatory Responses
Intervention: High Impact, High Probability High risk events/transactions (e.g. failure to remit contributions over extended period of time, major corporate restructurings affecting large number of plan members) Chronic significant underfunding, especially in collective bargained plans with periodic benefit improvements Significant member complaints about plan administration or benefit entitlements Significantly underfunded plans carrying excessive investment risks Plans with significant sponsor risk (e.g. CCAA)	**Intervention: High Impact, High Probability** Regular interactions and /or meetings with plan administrator, sponsor, plan advisors etc.) Take proactive measures to mitigate risks Keep FSCO Management abreast of the issues and the corresponding regulatory actions taken Site examinations Actions or legal proceedings pursuant to PBA
Proactive Supervision: High Impact, Low Probability Very large plans may fall in this category due to the potential for adverse impact on a large number of members, or very high impact on the PBGF in the event of employer insolvency Plans where there are early signs of high impact events occurring	**Proactive Supervision: High Impact, Low Probability** Ongoing monitoring Included in periodic management reporting, particularly if impact can be very large Ongoing media monitoring of plan and sponsor Possible interactions with plan Consider for site examinations

Figure 2.4





Examples of Plans / Issues	Potential Regulatory Responses
<u>Monitor: Low Impact, High Probability</u> Smaller plans with clear risk indicators (e.g. small plan but significant solvency issue, contribution issues etc.). Issues can be either significant individually or in combination. Larger plan but issue itself is not a large impact, e.g. consistently late filings, although consideration should be given to whether issue relates to other larger risk, especially in combination with other indicators (e.g. late filings plus large number of member complaints).	<u>Monitor: Low Impact, High Probability</u> Continue to monitor and flag if identified risks persist or additional risk indicators present Enhanced review may be appropriate Communication with plan may be warranted, e.g. to bring awareness of the issue, request explanation
<u>Educate: Low Impact, Low Probability</u> Plans other than very large plans with little or no risk indicators present Many IPPs and DC plans will fall in this category (although IPPs and DC plans with significant risks or issues may fall into other categories)	<u>Educate: Low Impact, Low Probability</u> No specific communications to individual plans required Provide general education/communications to plan administrators and advisors, with a view to enhancing understanding of pension administration , governance principles and PBA requirement, e.g.: - FSCO reports and industry sessions - guidance notes/ best practices

2.2 Risk Universe

The proposed risk universe is intended to capture broadly the risks inherent in pension plans. Risk indicators for key risks will be developed and tracked for all plans. They are used as guidance when applying the Regulatory Response Model and in performing more detailed risk assessments. While it describes the various risks that could potentially be considered, judgment will be applied to determine what risks to review in specific cases and to what extent.

It is recognized that some of the risks will be more challenging to assess than others. In some cases, the tools or information to make meaningful assessments of specific risks are not currently available. Therefore, more emphasis will be given to those risks in the universe for which meaningful and relevant assessments can be made.

The Framework envisages that detailed risk assessments will be performed primarily on plans identified to be high risk. However, detailed risk assessments will also be performed on other plans periodically as part of the quality control process to ensure that the Framework remains effective.

The risk universe focuses on risks within pension plans. The following is a suggested risk universe categorization:

- Funding Risk
- Investment Risk
- Administration Risk
- Governance Risk
- Sponsor/Industry Risk

Definitions and examples of risk considerations for each category are set out in Table 2.1 below.

Table 2.1

Risk Area	Example Inherent Risk Considerations
Funding Risk *The risk to member benefits posed by shortfalls in plan funding*	• Appropriateness of actuarial assumptions and methods used in valuations • Plan solvency per actuarial reports and internal (FSCO) estimates • Timeframe for plan recovery • Late or unremitted contributions
Investment Risk *The risk of exposure to changes in the value of plan assets that support the plan liabilities*	Market Risk (*exposure to changes in market prices*) • Volatility of investment products • Complexity and liquidity of investments Matching Risk (*risk of mismatch between assets and liabilities*) • Difference in average duration between assets and liabilities • Classes of investments held vs. liabilities for active / retired members Credit Risk (*risk of counterparty failing to meet obligations*) • Credit quality of assets
Administration Risk *The risk associated with inefficient or insufficiently effective processes or organization in the administration of the plan*	• Benefit processing (accuracy, timeliness and communication) • Complex plan arrangements • Recordkeeping procedures • Errors / complaints: Frequency and response effectiveness • Late filings / errors in filings • Multi-jurisdictional plans • Regulatory compliance ***Note: Some aspects can only be assessed through plan examination***

Table 2.1

Risk Area	Example Inherent Risk Considerations
Governance Risk *The risk associated with lack of or poor governance practices*	• Existence of code of conduct / policies and procedures • Use of qualified outsourced providers and oversight by the plan administrator • Existence of oversight / monitoring / supervision policies and evidence that policies are followed (i.e. internal controls) • Information, performance measures and risk management processes ***Note: Some aspects can only be assessed through plan examination***
Sponsor/Industry Risk *The risk of sponsor insolvency or potential adverse financial impact due to industry-wide events*	• Continuity / financial strength of pension plan sponsor • Business outlook of Industry sector; industry reports • Mergers / acquisitions /Downsizing

2.3 Risk Indicators

The Framework recommends that risk indicators be developed consistent with the risk universe. When developing risk indicators, consideration should be given to the following:

- FSCO's ability to obtain, track and report on the risk indicator;
- The ability to leverage current processes and information tracked by FSCO;
- The relative importance of the risk indicator in identifying plans at risk;
- The total number of risk indicators – including consideration that too many indicators can reduce the usefulness of the indicator concept as it can be difficult to assess which indicators are relevant for which plan.

The Framework recommends that a tool be developed to present the risk indicators through taking quantifiable / measurable risk-based metrics and presenting these in an appropriate format. The appropriate format will be one that can be supported by FSCO's IT system and that presents the indicators clearly and concisely (e.g. on one page / screen, such as a dashboard format).

The primary purpose of the risk indicator tool is to provide an initial pre-screening to establish a preliminary assessment within our Regulatory Response Model. The tool will highlight potential key risk areas for further analysis, and supports staff in the next level of review within the Framework.

The risk indicator tool will likely include indicators that can be automated and others where manual input is required. For example, funding risk and investment risk indicators can build on the data collected in the AIS and IIS filings and for which we have already established some risk-based monitoring processes. These existing processes can be used (perhaps with modifications) to provide the risk indicator ratings in an automated fashion. Other indicators, such as sponsor specific risks, may be identified through manual processes such as media searches.

The risk indicator tool can be implemented initially based on information currently available in our database. Over time, the risk indicators to include in the tool will be refined based on availability of information as well as our experience with each indicator's effectiveness in satisfying the main purpose of the tool.

Indicators to consider for initial implementation are shown in Table 2.2 below.

Table 2.2

Risk Category	Risk Indicator	Potential Rating Method
Funding	Flags based on AIS data	System rule based on AIS process (e.g. plan solvency, actuarial assumptions, actuarial gains/losses, demographics, etc.)
	Late or unremitted Contributions	System rule based on frequency, tardiness and size of late contributions
Investment	Flags based on IIS data	System rule based on IIS process (e.g. regulatory breach, investment performance, asset/liability mismatch, etc.)
Administration	Late Filings	System rule based on frequency and lateness of late filings
	Complaints	System rule based on number and severity of complaints
	Non-compliance	Manual input
	Complexity of plan structure	Flag based on existing data
	Multijurisdictional plan	Flag based on existing data
	Benefits processing	Manual input based on plan examination results
Governance	Plan type	Flag based on existing data
	Audit Report	Manual input based on issues identified in audit report
	Policies and procedures	Manual input including plan examination results
Sponsor/Industry	Industry outlook	Manual input
	Mergers/acquisitions/downsizing	Manual input
	Sponsor insolvency	Manual input

2.4 Detailed Risk Assessments

As discussed earlier, detailed risk assessments are recommended for plans or transactions designated as higher risk through the Regulatory Response Model, as well as other plans on a selective basis. Such risk assessments can provide the following benefits:

- More comprehensive approach whereby staff more fully consider the risks faced by the plan, taking into account the plan's specific circumstances;
- Confirm or otherwise modify initial risk assessment provided mainly by system-based approach;
- Risk factors are not considered in isolation, but rather a "holistic" approach is taken to obtain a more complete picture of the risks involved;
- The documentation of risks assists in developing appropriate regulatory responses;
- Ability to track how risks are changing over time and highlights new risks;
- The process can identify plans that are no longer high risk;
- Risk assessment provides direction and focus to the plan examination process;
- The documentation allows for *ex-post* reviews of the risk assessment process and risk universe, assisting in future improvements to the regulatory approach.

Detailed risk assessments are intended for internal purposes only and would be used as a tool to guide regulatory action or dialogue. While there will be some structure in performing detailed risk assessments, they will be customized as needed to fit the particular circumstances of the plan or transaction being reviewed. It does not result in a standardized report.

In performing the detailed risk assessment, the elements from the risk universe will be prioritized based on what is deemed most relevant as well as the availability and quality of information. It is unlikely that all elements of the risk universe would be considered in any particular case.

It is intended that material concerns and issues arising from the detailed risk assessments would be communicated and shared with the plan administrator. This provides an opportunity for the administrator to address these concerns and issues through constructive dialogue. Further regulatory action, if any, would be guided by the outcome of such a process.

Please see Appendix for illustrations of what a detailed risk assessment might entail.

2.5 Regulatory Powers and Tools

Regulatory tools are generally set out in legislation but can also include actions taken by the regulator to influence through moral suasion (e.g. stakeholder communication, educational material, guidance on industry best practices).

Regulatory powers and tools assist the regulator in performing its regulatory duties and influencing the actions of the regulated entities. These include powers and tools which:

- Enable the regulator to monitor plans to help identify plans that are at higher risk, for example through providing early warning signals.
- Help the regulator change the behavior of plan administrators and sponsors, which can include educational tools such as best practice guidance as well as deterrence tools that deal with known instances of non-compliance.

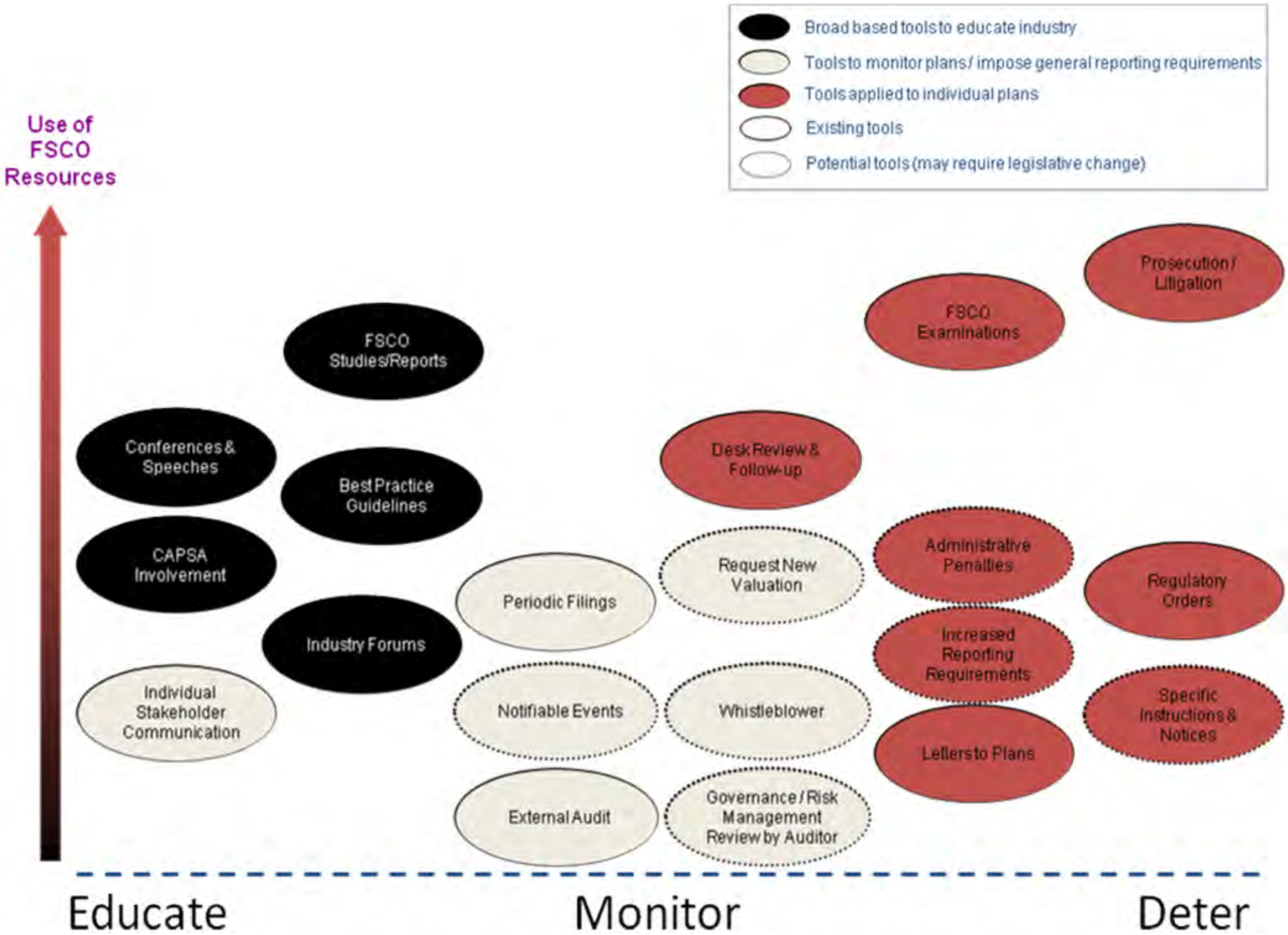
Powers which enable the regulator to monitor plans, particularly when the regulator indicates the reasons for monitoring and the risks being monitored, may also influence the behaviour of administrators since administrators know that their plans are being monitored.

The Framework is generally designed to be consistent with the powers of FSCO under the current Pension Benefits Act and regulations.

In reviewing the Framework and processes used by peer regulators in other jurisdictions, it was noted that some have other powers and tools available to them that FSCO does not have. Some of these powers and tools are mentioned in this document and may be recommended for future legislative reform. **Note, however, that FSCO does not have any authority to make legislative changes,** and therefore they are presented herein primarily for informational purposes.

The following diagram provides an overview of key regulatory tools for risk-based regulation. The proportionate nature of the tools is illustrated through the categories: Educate Monitor and Deter. For illustrative purposes, included are certain tools that currently do not exist and would require legislative change to bring about.

Figure 2.5



The use of many of the regulatory powers and tools will require coordination between the regulatory functions and other functions such as policy, legal, and enforcement.

2.6 Data Sources

The data obtained by FSCO through plan filings is broadly consistent with those of leading risk-based peer regulators. As such the Framework does not recommend wholesale changes to plan filings although certain enhancements are discussed in this document.

The Framework also recommends that additional information could be collected outside the plan filings to assist with monitoring risks within the broader risk universe. As well, should FSCO obtain legal powers to collect additional information, such information can be used within the Framework.

This section considers three categories of data source enhancement:

A. Existing data that can be used in an enhanced manner.
B. New data to consider collecting absent legislative change
C. New data that may be provided pursuant to legislative change

A. <u>Existing Data That Can Be Used In an Enhanced Manner</u>

This includes information that is currently collected or available in some form, which can, for example, be used to enhance the risk indicator tool including:

- **Complaint information.** A process is currently being implemented to track complaint information and to categorize by severity. Metrics for tracking complaint information can be used to facilitate risk indicator reporting.
- **Unremitted contributions**. Plan trustees notify FSCO when required contributions are not made.
- **Late Filings and Applications.** Late filings are tracked in the system and can form part of the risk indicator reporting. Tracking of late applications may require enhancement to be used effectively as a risk indicator.
- **Examinations.** Examinations can be used to grade plans, particularly in risk areas where little information is available on plan filings (e.g. administration and governance). Key results of examinations can be made available within the Pension Division systems.
- **Audit Reports.** FSCO receives audited financial statements for pension plans where an audit is required. The audit results, including disclosures in the notes in financial statements, can be used in the risk assessment process.

B. New Data to Consider Collecting Absent Legislative Change

Industry and Sponsor Intelligence. The Framework recommends that an intelligence process be established to monitor industry and sponsor risks.

- **Industry risks.** Examples of data that can be monitored for industry risks include forward looking (e.g. research reports on industry) and backward looking information (e.g. past insolvency rates by industry). Availability of data and cost considerations may impact the choice of sources of industry risk data.
- **Sponsor risks.** Risks for certain specific sponsors can be monitored. It would be impractical to actively monitor all sponsors, and accordingly FSCO would focus on the sponsors of plans that have been designated as high risk through a detailed risk assessment. Examples of data sources include news alerts related to sponsors (e.g. news aggregators such as Google news alerts and RSS feeds, subscription services such as Dow Jones Factiva). As well, where sponsors are public companies with issued debt, credit ratings are typically readily available and these can be monitored. In certain circumstances, for example when funding shortfalls are significant and there are concerns about sponsor viability, FSCO may wish to acquire credit reports for privately held companies.

External Scans and Monitoring for Emerging Trends and Risks. This would include information that would be used to refine and enhance the approach to risk-based regulation. A number of sources may be used in combination, including ongoing interaction with the industry; participation in forums and communication with peer regulators; and scanning external information and reports.

Additional Data Concerning Plans and Service Providers. While FSCO often obtains and records information identifying service providers to plans, FSCO could consider requiring this information to be provided, for example via AIRs). This would allow FSCO to record, for all plans, the details of who provides investment advice and actuarial services, allowing this data to be mined if required (e.g. if FSCO wanted to know what plans a particular investment firm advises). This type of information should normally be available to the plan administrator as part of its governance process of monitoring and overseeing its service providers.

C. Potential New Data Pursuant to Legislative Changes

There are a number of areas where peer regulators obtain information on pension plans outside the regular filing process that FSCO could introduce, and which may require legislative change. Examples of such new data include:

- **Notifiable events**. These are predefined significant events that require reporting by plan administrators / sponsors, such as breaches of bank covenants, senior management convictions, sponsors moving outside the jurisdiction, and can be used as early warning signals of potential problems.
- **Whistleblower reports**. These are reports of legislative breaches made by sponsors, administrators or plan advisors. Whistleblower obligations can be set out under the law.
- **Governance / Risk Management Information**. Other jurisdictions require pension plans to provide details of their governance arrangements or require external audits of risk management processes.
- **Other information that could be subject to an external assurance process**. FSCO could require disclosure of information such as related party transactions, conflicts of interest, and investment holdings outside quantitative limits, and could explore whether this could be provided through an external assurance process.

2.7 Process Overview

The following chart provides an overview of the regulatory process flow.

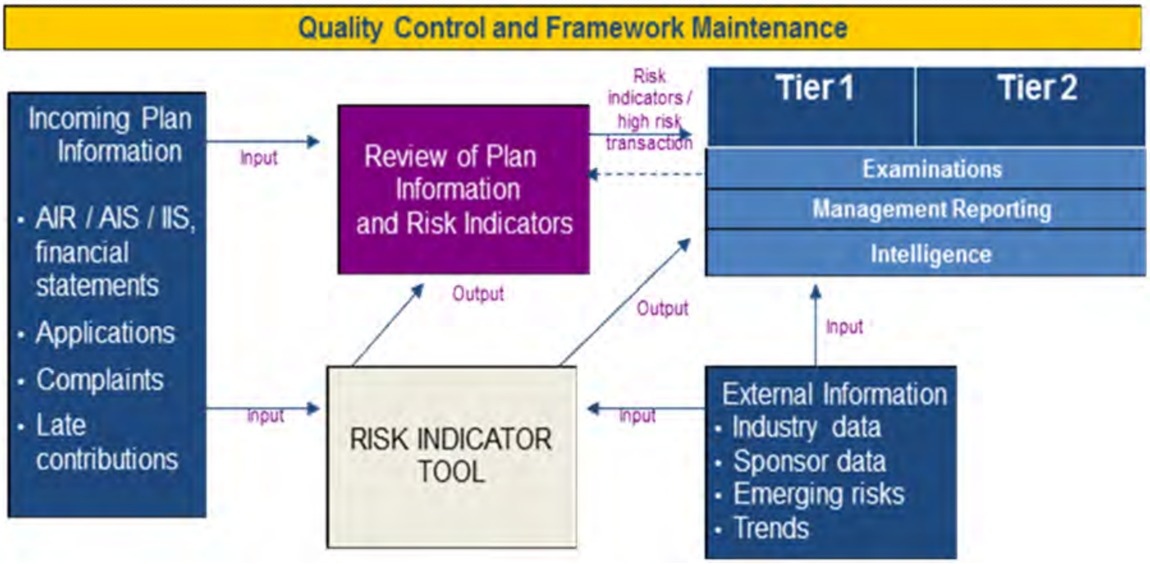


Figure 2.6

The cornerstone of the Regulatory Response Model is a Risk Indicator Tool (RIT) that uses incoming plan information as input. Initially, the RIT will use information on existing FSCO databases such as Annual Information Return (AIR), Actuarial Information Summary (AIS), Investment Information Summary (IIS), late filing information, plan size, plan type, late or unremitted contributions, plan demographics, whether collectively bargained, multi-jurisdictional, frequency and severity of complaints, as well as complexity of plan structure.

Inputs to this tool can be automated to the extent practical. Based on pre-defined algorithms, the RIT presents the outcome of various risk indicators in a "traffic light" format (illustrative only and subject to change), as shown on the next page, and it determines if a plan or transaction requires further review.

	Low risk
	Potential risk – consider in conjunction with other risk indicators whether to forward to / obtain advice from the Tier 1 review process
	High risk – consider using application of judgement whether to forward to / obtain advice from Tier 1 review process
N/A	No data available / indicator not applicable to this plan

The remaining process is described as follows:

- Other than for plans or transactions presenting no major risk factors, a Tier 1 review would be performed[2]. The purpose of Tier 1 review is to assess risk in terms of probability and impact on the basis of pre-defined risk assessment criteria, supplemented by judgments in the light of the particular circumstances of a plan or transaction. It then assigns the plan or transaction with a preliminary risk classification, into one of the four quadrants of the Regulatory Response Model as described in Section 2.1. The outcome of Tier 1 review is used to guide FSCO staff as to what type of regulatory response should be undertaken.
- A plan or transaction in the "high risk" classification (i.e., upper-right quadrant) would be subject to a Tier 2 review. Based on the judgment of the Tier 1 reviewers, some plans or transactions in the "moderate risk" category (i.e., lower-right or upper-left quadrant) would also be subject to a Tier 2 review.
- Where a Tier 2 review is required, a detailed risk assessment would be performed to confirm the preliminary risk classification. If a "high risk" classification is confirmed, the specific plan or transaction will be case-managed by a dedicated team of FSCO staff consisting of a case manager, front-line pension officers as well as actuarial, investment, legal and/or other professional support. The case management teams conduct on-going monitoring of high risk plans and high risk transactions, which includes recommending approval of specific applications by the Superintendent, periodic risk assessments,

[2] Applications that require Superintendent's approval (e.g., wind-ups, asset transfers etc.) are routinely subject to a standard review for legislative and regulatory compliance, which forms part of the Tier 1 review process. If material non-compliance is identified in a plan situation, the issue will be escalated to a Tier 2 review.

interactions with plan administrators and their advisors as well as regulatory interventions, if warranted.

- Additional Tier 2 activities may include:
  - On site examinations of pension plans linked to the risk assessment process.
  - Management reporting on risk-based activities such as those relating to high risk plans, trends and significant issues.
  - Intelligence process (e.g. reviewing news feeds, general industry data) to identify areas of risk that can be used to update the risk indicators and be communicated more broadly as required. The intelligence process would also monitor internal data such as results of on-site examinations and risk assessments for trends and issues to ensure these are identified and disseminated.

The Framework operates with ten key business processes that can be described as follows:

Table 2.3

Business Process	Summary Definition
Incoming Plan Information	The receipt of plan information (filings, applications, complaints etc.), the initial review for completeness and routing to the appropriate person / group
Intelligence	Review of external information (e.g. media reports) and internal information (e.g. outputs from risk assessments), and filtering to determine relevant information to disseminate
Risk Indicator Tool	The process by which risk indicators are determined and kept current, and any changes made to the screening process
Routine Review	The review of routine applications, filings, complaints, approval/rejection of applications, and identification of higher risk items.
Tier 1 Review	Review to assess risk related to a plan or transaction, in terms of probability and impact as well as legislative and regulatory compliance, and to assign the plan or transaction into one of the four quadrants of the Regulatory Response Model.
Tier 2 Review	Consists of: • Detailed risk assessment • Process by which high risk applications / plans / issues are case managed.
Examinations	On site examinations of pension plans linked to the risk assessment process.
Management Reporting	Oversight by senior management through reporting on developments relating to higher risk plans / issues, trends and key performance indicators
Quality Control and Framework Maintenance	Oversight of methodology of risk-based regulation including ensuring it is applied appropriately and consistently through quality control processes and it is revised and updated appropriately
Education and Engagement	Providing education internally and externally on the risk-based regulation approach, including communication of expectations to stakeholders and soliciting their feedback and input

3. Medium Term Strategy

The proposed Framework is a significant change to the way in which FSCO regulates pension plans. The full implementation of the Framework will take time, and flexibility will need to be built into transition plans as implementation is phased in.

To transition to the new Framework, the principal activities FSCO plans to carry out over the next three years are:

- Enhance existing risk-based processes, including integrating the monitoring and review of funding and investment risks, applying risk indicators such as late filings and stakeholder complaints for risk monitoring, and strengthening on-site examinations with focus on administration and governance risks.
- Enhance stakeholders' understanding of FSCO's risk-based approach through ongoing engagement including education and communication.
- Establish quality control and maintenance process that includes the oversight and update of the risk-based methodology and application.

3.1 Framework Transition

FSCO will streamline its existing risk-based processes by integrating the monitoring and review of funding and investment risks. Focus will be placed on, but not limited to, the review of appropriateness of actuarial assumptions and methods, contributions remittance, asset mix policy in relation to the liabilities of the plan, and the measurement of fund performance relative to appropriate benchmarks.

In addition to the AIR, FSCO will introduce and implement e-filings of the IIS, PBGF and AIS to facilitate the collection of data necessary for risk monitoring. It will use other evidence such as late filings, stakeholder complaints, and news alerts, for risk monitoring and assessment.

Well governed pension plans are likely to be better administered, have greater awareness of financial risk, and to represent better the interests of plan members. FSCO intends to strengthen its on-site examinations by placing focus on identifying instances of poor governance and administration, and working with the administrators to address the shortcomings related to their plans.

At the same time, FSCO will take steps to promote, on an industry-wide basis, the knowledge and understanding of the governance requirements for pension plans (e.g., information session on CAPSA governance guidelines, best practices of well-governed plans).

3.2 Stakeholder Education and Engagement

A key element of risk-based regulation is the communication of the regulator's expectations to stakeholders, including plan administrators, sponsors and their advisors, through ongoing engagement including education and communication.

There are two elements of education and communication:

- Education and communication of the changes to the regulatory approach as FSCO expands its application of risk-based regulation.
- On-going communication of the outcome of risk-based regulation as it is applied.

Extensive consultations with stakeholders and the industry will be required during the period of transition. Consultation activities could include:

- Working collaboratively with stakeholders and the industry to design and develop a comprehensive risk-based regulation framework.
- Providing information about the risk-based regulatory approach and how it is to be applied to pension plans.
- Communication with a broader public audience to ensure that the regulatory approach and its limitations are properly understood.

Ways in which ongoing education and communication may be achieved include:

- Providing periodic reports on the outcome of risk-based activities to industry on regulated areas. Currently, FSCO provides annual reports on funding and investment monitoring activities. This will be expanded to include other risk monitoring activities.
- Providing reports on the application of risk-based regulation in general including aggregate risk profiles, common issues, cases escalated to enforcement, the use of regulatory tools, PBGF claims information, etc.
- Identifying areas of potential concern within the pension system, performing thematic reviews and reporting to the industry on the results.
- Providing guidance to pension administrators and sponsors on a variety of areas, especially in regard to plan governance. This may be performed in conjunction with other pensions regulators (e.g. through CAPSA) or through FSCO initiatives.
- Engaging in industry forums, conferences, and speaking engagements.
- Encouraging a customer service approach to contact with pension plans which may include more personal interaction (e.g. face to face meetings, telephone calls) in place of written correspondence.

- Providing regular updates through website postings, news releases, webinars, email newsletters on regulatory and policy developments, including key issues, emerging trends, enforcement actions taken by FSCO.
- Broadening the potential scope of on-site examinations, and ensuring linkage between examination of plans and outputs from the risk assessment process.

3.3 Quality Control and Framework Maintenance

A key element of effective application of the Framework is recognizing that:

- Its implementation is subject to human judgment and hence its application can vary.
- Staff training to ensure common understanding of the risk-based regulatory approach and its application is essential.
- Quality control procedures need to be put in place to ensure appropriate and consistent application.
- Update of the Framework will be needed as the industry practices change, new risks emerge and priority of existing risks changes.

It is expected that the Quality Control and Framework Maintenance process will include the following activities:

- Setting benchmarks or key performance indicators to monitor and measure the effectiveness of risk indicators in identifying higher risk plans, and modifying them as appropriate.
- Maintaining the Framework including periodically revisiting and updating the methodology, risk definitions and assessment criteria.
- Coordinating the identification of emerging or increasing risks and developing approaches to address those risks (e.g. identifying areas for thematic reviews, providing guidance / training / updates to colleagues, recommending changes to the application of the Framework).
- Ensuring, through leading initiatives or coordination / participation with others, appropriate communication and education to the industry regarding the risk-based approach and regulatory expectations.
- Liaison with relevant IT groups to ensure that the system of risk-based regulation is appropriately supported by technology.
- Maintaining network of strategic relationships within FSCO, the industry, national and international regulatory bodies.
- Reporting to senior management on the status and effectiveness of risk-based regulation.

These measures will be implemented once the Framework has become operational and as we learn more about the risk profile of the pension plan universe.

Appendix - Illustrations of Detailed Risk Assessment

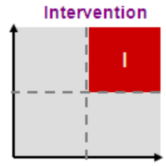
For the purposes of this Appendix, we have assumed that a risk indicator tool with pre-defined algorithms presents the outcome of various risk indicators in a “traffic light” format, as shown in Section 2.7.

Other than for a “low risk” situation, a Tier 1 review is performed to assign a plan or transaction with a preliminary classification into one of the four quadrants of the Regulatory Response Model shown in Section 2.1. If the plan or transaction is classified in the “high risk” category (i.e., upper-right quadrant), it will be subject to a Tier 2 review. In addition, there may be situations where a Tier 2 review is warranted even for plans classified in the other quadrants. In the Tier 2 review process, a detailed risk assessment (DRA) would be performed to confirm the risk classification and to guide FSCO in determining the appropriate regulatory actions.

As part of the DRA process, FSCO may seek additional information to better assess the risks to the pension plan. Request may be made directly to the administrator or the employer, but the information gathering process would be broad and dependent on the specific situation.

It should be noted that these examples have been provided purely for illustrative purposes and any resemblance to an existing registered pension plan is coincidental.

<u>Example 1 – Plan A:</u> Suppose the risk indicator tool presented the following results for Plan A and that the Tier 1 review process gave a preliminary classification for Plan A to the "high risk" quadrant.

Plan A	**Regulatory Response Model Classification:** 	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Solvency ratio 65%
Late contributions		
IIS Flags		Performance below benchmark, A/L mismatch
Late filings		History of late filings of IIS and FS
Complaints		
Non-compliance		
Complexity of plan		
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		BC, AB, ON and QC
Policies and procedures	N/A	
Industry outlook		Auto parts manufacturing
Mergers / acquisitions	N/A	
Sponsor insolvency		Media alerts on potential CCAA

<u>Detailed Risk Assessment</u>

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

Key Plan Data:

Benefit type	Collectively bargained career average plan					
Membership profile	Number		Avg Age / Service		Avg Salary / Pension	
- Active	350		46 / 16		$45,800 / $5,400	
- Retired	90		72		$4,700	
- Other	130		41		$2,000	
Market value of assets	$12,533,000					
Financials as of Dec 31, 2009	**Going-concern**			**Solvency**		
Actuarial value of assets	14,417,000			12,363,000		
Plan liabilities:						
- Active	9,161,000	63%		12,996,000	67%	
- Retired	4,244,000	29%		4,887,000	25%	
- Other	1,158,000	8%		1,626,000	8%	
- Total	14,563,000	100%		19,509,000	100%	
Surplus (Deficit)	(146,000)			(7,146,000)		
Contribution requirements	Year 1		Year 2		Year 3	
- Total normal cost	665,000		665,000		665,000	
- Special payments	911,000		790,000		667,000	

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The actuarial basis used for both the going-concern and solvency valuations are reasonable
b) Plan size vs. Sponsor size	The solvency liability of $19.5 million represents approximately 2% of the sponsoring company's assets. And the deficit of $7.1 million represents 0.7% of the company's assets. The $7.1 million deficit does not appear to be a material amount relative to the company's recent cash flow and revenue figures. However, due to the deterioration in business conditions, this may be an issue in the near future.

Risk Area	Analysis / Commentary
c) Sponsor size vs. Contribution requirements	The normal cost represents 4.2% of the company's active payroll while the special payment represents 5.7% of payroll, for a total of close to 10%. However, the annual contribution requirement does not appear to be a material amount relative to the company's recent cash flow and revenue figures.
d) Other	The plan sponsor is a subsidiary of an US-based parent. There does not seem to be any evidence that the parent company is in difficulty at this time. The US parent is a public company and has a very large market capitalization. It is not known at this time if any parent company guarantee exists should the Canadian subsidiary experience financial difficulty. . FSCO should inquire into this matter further.
2. Investment Risk	The pension fund has an asset mix target of 60% equity/40% fixed income and its actual asset mix is reasonably close to this. The assets are managed by Manager ABC in diversified pooled funds. It is invested in a traditional manner without the use of leverage or esoteric strategies.
a) Matching risk - Asset mix vs. Demographics	The current asset mix does not exhibit a material mismatch. Take action if necessary to ensure investment policy is reviewed in the event of material plan changes (e.g. windup or partial windup). Monitor to ensure plan does not take on undue risk to try and close the windup deficit.
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc.
a) Errors / complaints	Levels of member complaints and resolution efforts are acceptable.
b) Multi-jurisdictional plans	Multi-jurisdictional plan with members in BC, AB, ON and QC.
c) Late filings / errors in filings	There is a history of requests for filing extensions for the financial statements and IIS. As well, there have been some instances of errors in filings, although it appears that all of these have been resolved.
d) Regulatory compliance	No issues have been found.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk.
a) Use of qualified outsourced providers and oversight by the plan	No known issues with respect to the service providers engaged by the administrator.
b) Incidence and nature of legislative breaches	No known breaches.

Risk Area	Analysis / Commentary
5. Sponsor/Industry Risk	
a) Continuity / financial strength of pension plan sponsor	Due to media alerts on potential CCAA application, there are major concerns about the financial strength of the plan sponsor. Therefore, proactive monitoring is called for along with direct interaction/dialogue with the administrator/sponsor to ensure that funding requirements are met promptly and that investment of pension fund is prudent in the circumstances.
b) Business outlook of Industry sector; industry reports	Plan sponsor's business is in the auto sector. Outlook has improved since financial crisis in 2008. However, there continue to be concerns about the economic recovery in general and the auto sector in particular. The big 3 US automakers seem to have favourable outlooks going forward – which would be a direct benefit to the auto sector.
c) General economic environment	Still have concerns about housing and employment situation, especially in the US. This likely will have direct impact on sponsor's business.
d) Mergers / acquisitions	No specific information about M&A activity, although this is viewed as a distinct possibility.
e) Incidence and nature of litigation against plan and sponsor	No media reports of any legal actions.
6. Other Matters	
a) PBGF coverage	Most if not all of the benefits provided are covered by the PBGF – members' accrued pensions are typically under the coverage limit. No benefit improvements within the last 3 years.

Conclusions and Actions

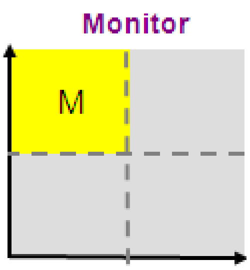
There is a risk of sponsor insolvency which would leave the plan with a windup deficit of approximately $7 million as of the last valuation date, December 31, 2009. The plan is significantly underfunded on a solvency basis with a solvency funded ratio of approximately 65%. However, because of the level of pensions, Ontario members would have most, if not all, of their pensions covered by the PBGF. The PBGF is exposed to a modest claim. There would be a risk to non-Ontario members of a 35% reduction in their benefits should the plan windup without any additional contributions by the sponsor.

Since the plan sponsor is up to date in remitting required contributions to the fund, the emphasis for FSCO is to ensure that the sponsor continue to make the required contributions to the plan in a timely manner and to take further action should contributions become delinquent.

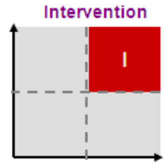
Staff should also engage in dialogue with the administrator and employer to better understand the company business situation and to also communicate our concerns and remind the sponsor of his obligations under the PBA. Staff should also determine if possible whether the parent company intends to stand behind the pension obligations of the plan sponsor (its subsidiary).

The investments should also be closely monitored to ensure that no undue risks are taken by the sponsor in an attempt to eliminate the deficiency.

Reclassify to the “Monitor” quadrant of the Regulatory Response Model:



<u>Example 2 – Plan B:</u> Suppose the risk indicator tool presented the following results for Plan B and that the Tier 1 review process gave a preliminary classification for Plan B to the "high risk" quadrant.

Plan B	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Solvency ratio 65%, very large solvency deficiency, excluded benefits
Late contributions		
IIS Flags		Performance concerns, derivatives, alternative investments
Late filings		
Complaints		
Non-compliance		
Complexity of plan		Public sector plan, fairly complex employees from many employers
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		
Policies and procedures	N/A	
Industry outlook		
Mergers / acquisitions	N/A	
Sponsor insolvency		

<u>Detailed Risk Assessment</u>

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

Key Plan Data:

Plan type	Large public sector plan.					
Benefit type	Collectively bargained final average plan, fully indexed					
Membership profile	Number	Avg Age / Service	Avg Salary / Pension			
- Active	25,000	45 / 11.0	$55,000			
- Retired	15,000	72	$13,000			
- Other	4,000	46	$2,800			
Market value of assets	$47.8 billion					
Financials as of December 31, 2009	**Going-concern**		**Solvency**			
Actuarial value of assets	$6.7 B		5.9B			
Plan liabilities:						
- Active	3.9 B	57%	$3.6 B	57%		
- Retired	2.7 B	40%	2.6 B	41%		
- Other	0.2 B	3%	0.1B	2%		
- Total	$6.8 B	100%	$6.3 B	100%		
Surplus (Deficit)	$(0.1) B		$(0.4) B			
Contribution requirements	Year 1	Year 2	Year 3			
- Total normal cost	275,000,000	287,000,000	300,000,000			
- Special payments	3,000,000	13,000,000	14,000,000			

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The actuarial basis used for the going-concern valuation is on the aggressive end of the range. For the solvency valuation, they have excluded indexing benefits (excluded benefits from the solvency liabilities are $2.6 B). Additionally due to the large plan size and indexed pensions, the estimated annuity purchase price for pensions and deferred pensions have been estimated to be the same as for a lump sum commuted value calculation – there is no definitive standard or practice how these should be valued.
b) Plan size vs. Sponsor size	For this plan, the participating employers are in the public sector and are large relative to the plan size.

Risk Area	Analysis / Commentary
c) Sponsor size vs. Contribution requirements	The employer required contributions represent approximately 8% to 8.5% of payroll. Members are required to contribute an equal amount. Given the nature of the employers, there is no significant risk of an inability by employers to make the required contributions.
d) Demographics	The plan is comprised of a diverse mix of members in terms of earnings and service.
e) Other	Given that the participating employers are in the public sector, there is a very low probability of a plan windup. For the same reason, there is a low probability that the employers will be unable to make the minimum required contributions under the PBA. We do not have information about the impact on the plan if a participating employer ceases its participation. FSCO should research this.
2. Investment Risk	The pension fund investments are considered very sophisticated, including allocations to real estate, infrastructure and private equity. The initial system screen indicated a “risky” situation due to performance issues, use of derivatives and investment in alternative asset classes. The level of complexity, volatility and potential liquidity are valid concerns for this plan. The current information we collect through financial statements and the IIS do not allow us to assess this plan very effectively due to the varied asset classes as well as the difficulty in determining appropriate benchmarks for the non-traditional investments (e.g. infrastructure or private equity). The plan does have qualified investment professionals on staff and has in place systems and processes for monitoring and assessing its investments. As well, the plan itself is audited annually and prepares a report which includes investment performance statistics and benchmark statistics. The annual audit includes an assessment of their internal controls and risk management processes and systems. Although the asset mix is on the aggressive side (relative to the plan demographics) and the plan uses derivatives and other sophisticated financial instruments, they have on staff investment professionals and have established documented procedures for managing and monitoring their investments. As such, they appear to follow prudent investment practices.

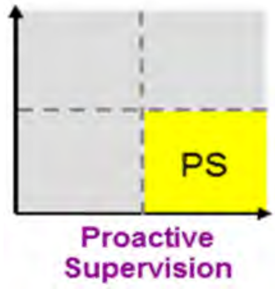
Risk Area	Analysis / Commentary
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc. Nevertheless, the fact that an organization exists with plan administration as one of its primary purposes suggests that the administration risk is low for this plan. The plan maintains a website through which it can communicate with its members and with other stakeholders.
a) Errors / complaints	Levels of member complaints and resolution efforts are acceptable.
b) Late filings / errors in filings	No material issues noted.
c) Regulatory compliance	No issues have been noted.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk. However, they have a well-developed framework for plan governance and have documented its governance structure and processes. The board of directors has representation from both the employers and the members. The plan's governance appears to be functioning effectively.
5. Sponsor/Industry Risk	There is a very low probability of any issues related to sponsor risk (or employer risk in this case) given that the participating employers are all public sector entities.

Conclusions and Actions

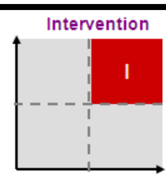
This plan was initially flagged as a "high risk" plan by the system based screening tool and the Tier 1 review process. The primary reasons were the low transfer ratio, very large windup deficiency, complexity of the plan and investment related concerns.

The detailed risk assessment undertaken in the Tier 2 review process indicates that there is a very low probability of plan failure and that the issues related to plan complexity and investments are being managed effectively by the plan administrator. Nevertheless, due to the large number of plan members and the high profile nature of the plan, any significant negative event affecting the plan would potentially cause a concern and affect a large number of individuals. Therefore, it would be prudent to re-classify this plan to be in the "Proactive Supervision" quadrant and take steps to be aware of issues concerning the plan on a timely basis.

The plan is currently in full compliance with the PBA and FSCO should focus on being up-to-date about the plan's circumstances through regular periodic monitoring efforts.



<u>Example 3 – Plan C:</u> In this example, a pension plan is being terminated and there is an application to wind-up the plan. The risk indicator tool and Tier 1 review classifies this as a high risk transaction to be reviewed in Tier 2.

Plan C	**Regulatory Response Model Classification:**	
Risk Indicator	**Rating**	**Notes**
AIS Flags		Transfer ratio 55%, large solvency deficiency of $130 million
Late contributions		Contributions are up-to-date
IIS Flags	N/A	
Late filings	N/A	
Complaints		
Non-compliance	N/A	
Complexity of plan		Moderate complexity, different classes of employees get different benefits
Benefit processing	N/A	
Audit report	N/A	
Multijurisdictional plan		
Policies and procedures	N/A	
Industry outlook		Steel industry, currently in down cycle
Mergers / acquisitions	N/A	
Sponsor insolvency		

<u>Detailed Risk Assessment</u>

The plan would be subject to a Tier 2 review. The DRA takes into account the following information.

The plan sponsor's business is in the steel industry. The industry appears to be at a low point in the business cycle with media reports of shrinking global demand and a poor outlook over the next 12 – 18 months. The company is also undergoing a major restructuring effort which includes a significant downsizing. As part of its restructuring plan, the company is winding up the pension plan. The windup report as at December 31, 2010 provides the following information:

Key Plan Data:

Plan type	Single employer		
Benefit type	Collectively bargained flat benefit plan with generous early retirement provisions		
Membership profile	Number	Avg Age / Service	Avg Salary / Pension
- Active	800	45 / 16.3	$16,800
- Retired	500	61	$24,800
- Other	100	47	$3,300
Market value of assets	$170.0 million		
Financials as of December 31, 2010	**Going-concern**	**Wind-Up**	
Actuarial value of assets	Not relevant	169.8 M (net of expenses)	
Plan liabilities:			
- Active	n/a	$150.2 M	47%
- Retired	n/a	156.0 M	49%
- Other	n/a	10.9 M	4%
- Total	n/a	317.1 M	100%
Surplus (Deficit)	n/a	$(147.3) M	
Contribution requirements			
- Special payments over 5 years	30.1 M per year		

Through the DRA process, the following elements of the risk universe have been considered:

Risk Area	Analysis / Commentary
1. Funding Risk	
a) Actuarial basis	The windup basis is in accordance with prescribed requirements.
b) Plan size vs. Sponsor size	The windup deficit of $147.3 million is a significant amount for the sponsor, especially given the current business difficulties.
c) Sponsor size vs. Contribution requirements	The minimum amount if funded over 5 years is $30.1 million per year. Under normal business conditions, it appears that a $30.1 million cash contribution requirement would be manageable. The normal cost from the prior valuation was $3.5 million. Given the difficulties faced by the sponsor and also the business conditions faced by the steel industry, there is a significant funding risk of the sponsor not making the required contributions or not being able to fully fund the deficit within 5 years.
2. Investment Risk	The pension fund investments are broadly diversified and managed by investment professionals. There are significant allocations to equities, both domestic and foreign, which represent approximately 70% of the total portfolio. Due to the windup, there is a significant mismatch risk between how the liabilities are determined versus the assets backing them. Going-concern scenarios are irrelevant and the focus should be on windup and how to fully fund the windup deficit.
3. Administration Risk	There has been no plan examination conducted for this plan, so there is no direct information on matters like staffing concerns, benefit processing, recordkeeping, etc. Given that a windup is intended, some review of benefit processing accuracy and recordkeeping practices would be advisable. There have been no unusual levels of member complaints logged and plan filings have been received on time.
4. Governance Risk	There has been no plan examination conducted for this plan, so there is no direct information to assess governance risk. The activities to finish the windup and settle benefits will likely be delegated to a service provider.
5. Sponsor/Industry Risk	There is a possibility that the plan sponsor could become insolvent before fully funding the windup deficit.
6. Other Risks	
a) PBGF Coverage	The average pension to retired members is more than double the amount covered by the PBGF and the average accrued pension for active members is about 40% higher than the PBGF covered amount. Therefore if the sponsor does not fully fund the windup deficit then there could be a large reduction to members' pensions. In addition, there is a large potential exposure for the PBGF.

Conclusions and Actions

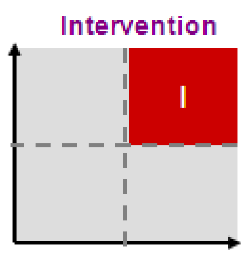
This transaction was initially flagged as a “high risk” transaction by the system based screening tool. The primary reasons were the low wind up funded ratio, very large windup deficit, and the negative business/industry outlook.

The plan is significantly underfunded on a windup basis with a windup funded ratio of approximately 54%. There is a risk of sponsor insolvency which would leave the plan with a windup deficit of approximately $147 million as of December 31, 2010. Furthermore, the level of pensions indicates that members would be at risk of substantial reductions since a significant percentage of their pensions exceed the PBGF limit.

Of concern is the investment risk (primarily matching risk) and FSCO should take whatever measures it can to minimize the investment risk in the plan. This includes discussions with the administrator about restructuring the investment portfolio to more closely match the liabilities of the plan.

Another risk that FSCO can try to manage is the funding risk associated with late or unremitted contributions. FSCO should ensure that the sponsor continues to make the required contributions to the plan for funding the windup deficit within the prescribed timelines. Prompt action should be undertaken if non-compliance is identified.

The “high risk” classification for this transaction is confirmed. A dedicated team is established to manage the wind up of the plan.



Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

Previous Consultations and Legislative Proposals

This page provides links to 2005, 2006, 2008, 2009 and 2010 consultation papers and proposed legislation related to the regulation of Ontario pension plans under the *Pension Benefits Act* and related legislation. Links to the consultation papers and proposed legislation of other jurisdictions are provided for your convenience.

2010

Prince Edward Island government tables bill to protect private sector pension plans

Prince Edward Island introduced the new Pension Benefits Act for first reading on December 2, 2010. An extensive consultation with stakeholders will take place throughout the upcoming months before being brought forth for second reading.

Bill 135 - Helping Ontario Families and Managing Responsibly Act, 2010

On November 18, 2010, the Ontario government introduced for first reading Bill 135.
Schedule 8 of the bill contains an amendment to the Financial Services Commission of Ontario (FSCO) Act, 1997 which allows the Superintendent to delegate to FSCO employees the exercise of powers and performance of duties that are delegated to the Superintendent in an agreement under section 100 of the Pension Benefits Act (PBA). Section 100 deals with the new multi lateral pension plan agreement.
Schedule 15 of the bill contains a proposed amendment to the PBA to repeal clause 42(1)(c), which enables a former member of a pension plan to transfer the commuted value of his or her deferred pension for the purchase of a life annuity on June 30, 2011. A related amendment to section 42 of the PBA provides that if the commuted value of the former member's deferred pension is greater than the amount that the Income Tax Act permits to be used to purchase the former member's life annuity, the excess amount is payable to the former member.

Bill 120 - Securing Pension Benefits Now and in the Future Act, 2010

On October 19, the Ontario Government introduced Bill 120 and gave it first reading. This Bill implements changes announced by the minister on August 24, 2010. The changes to the Ontario Pension Benefits Act include changes to types of benefits and pension plans, funding requirements, entitlement to surplus, Pension Benefit Guarantee Fund, administration of pension plans, regulatory oversight and enforcement, other technical and complementary amendments and a review of the PBA and regulations.

Ontario Government news release - Further Strengthening Pensions

On August 24, 2010 the Ontario Government issued a news release and a technical backgrounder providing further information about the additional steps being taken to strengthen Ontario's pension system. The documents include information about the broad package of reforms that Ontario will propose this fall.

CAPSA Consultation Update– Draft guideline on Fund Holder Arrangements

In response to stakeholder requests, CAPSA has extended the comment period for the draft guideline on Fund Holder Arrangements to September 15, 2010. Stakeholders are encouraged to participate in this consultation process. A copy of the draft guideline, guideline table and letter to stakeholders are available on the CAPSA website (www.capsa-acor.org).

Federal Government released draft regulations

On May 3, 2010, the federal government released draft regulations, which propose changes to the defined benefit plan funding provisions and the federal investment rules. The proposed changes will affect pension plans that are registered under the Pension Benefits Standards Act, 1985 with the Office of the Superintendent of Financial Institutions.

Please note: Ontario has adopted the federal investment rules as they read on December 31, 1999 for the investment of pension fund assets. The draft regulations propose the removal of the quantitative limits which previously applied to the real estate and resource property investments. For the proposed changes to be effective for pension plans registered in Ontario they would have to be specifically adopted by the Ontario government.

CAPSA Consultation - Draft guideline on Fund Holder Arrangements

On May 4, 2010, CAPSA released a draft Guideline on Fund Holder Arrangements for stakeholders' review and comment. A copy of the Guideline, Guideline Table and Letter to stakeholders are available for download or printing on the CAPSA website (www.capsa-acor.org). The deadline for submissions is July 30, 2010.

Amendments to the Pension Benefits Standards Act, 1985 (PBSA)

On March 29, 2010, the federal Government tabled Bill C-9, An Act to implement certain provisions of the budget tabled in Parliament on March 4, 2010 and other measures. Part 9 of the Bill contains most of the proposed changes to the PBSA announced by the Government on October 27, 2009.

Manitoba News Release - Province Overhauls Pension Benefits Act

On March 26, 2010, Manitoba released changes to its Pension Benefits Act and regulations that would strengthen and update the legislation.

Changes to the Pension Benefits Act, R.S.O. 1990 (PBA)

On March 25, 2010, Bill 16 passed first reading. The Bill implements the 2010 budget measures and enacts or amends various Acts including the PBA.

2010 Ontario Budget Delivered

On March 25, 2010, the Ontario Budget was delivered. The budget proposes changes to Ontario's tax and pension systems. For pension related matters, see chapter III of the budget (or pages 151, 167-174 in PDF format).

Alberta Starts Pension Consultation

Alberta has launched a public consultation on how to strengthen the province's retirement income system and how to expand pension coverage for those not covered by a workplace pension. The deadline for feedback is April 16, 2010.

Nova Scotia Consultation

The Nova Scotia Department of Labour and Workforce Development released a discussion paper on March 5, 2010 to gather more input from employers, employees, unions and industry about private-sector pension-plan management. The deadline for submission is April 15, 2010.

British Columbia Consultation - Ways to strengthen the pension system and expand pension coverage

On February 2, 2010, the British Columbia government released an online consultation to seek public input on ways to strengthen the pension system and expand pension coverage. The deadline for submission is April 1, 2010.

CAPSA Consultation Update– Prudence Standard in Pension Plan Funding and Investment

The comment period for the consultation paper The Prudence Standard and the Roles of the Plan Sponsor and Plan Administrator in *Pension Plan Funding and Investment* has been extended to **April 30, 2010** to provide stakeholders with more opportunity to participate in the consultation process**.** The consultation paper is available for download or printing on the CAPSA website (www.capsa-acor.org).

2009

Changes to the Pension Benefits Act, R.S.O. 1990

On December 9, 2009, Bill 236 - Pension Benefits Amendment Act, 2009 passed first reading. The Bill amends the Pension Benefits Act in connection with several matters, including: benefits for members and others who are entitled to payments out of pension plans; asset transfers between pension plans; partial wind ups of pension plans; surplus-sharing agreements; the administration of pension plans; the powers of the Superintendent; and certain terminology used in the Act. Further information is available from the Ministry of Finance.

CAPSA Consultation – Prudence Standard in Pension Plan Funding and Investment

The Canadian Association of Pension Supervisory Authorities (CAPSA) released a consultation paper The Prudence Standard and the Roles of the Plan Sponsor and Plan Administrator in Pension Plan Funding and Investment on November 30, 2009.

CAPSA is interested in receiving feedback on the paper, and has included specific questions in the paper to guide comments. The deadline for submissions has been extended to April 30, 2010. The consultation paper is available for download or printing on the CAPSA website (www.capsa-acor.org).

Federal Pension Proposals Released

On October 27, 2009, the federal government released pension reform proposals aimed at improving the federal private pension legislative and regulatory framework. Other technical amendments are also proposed.

Manitoba releases Proposed Pension Regulations

Manitoba has released proposed amendments to the regulations that result from 2005 changes to its Pension Benefits Act*.* Comments on the proposed regulations may be submitted until August 15, 2009.

Call for Retirement Summit

An August 6, 2009 news release includes a call from the premiers for a national summit on retirement income.

Ontario Budget 2009 Delivered

On March 26, 2009, the Ontario budget was delivered. The budget proposes changes to Ontario's tax and pension systems.

Nova Scotia Pension Review Panel releases Final Report

On January 27, 2009, the Nova Scotia Pension Review Panel released its final report.

Law Commission of Ontario's final report on division of pensions upon marriage breakdown

The Law Commission of Ontario has released its final report on the division of pensions upon marriage breakdown.

Consultation on Pension Plans Regulated by the Office of the Superintendent of Financial Institutions (OSFI)

January 9, 2009 - The Financial Division of the Department of Finance has released a discussion paper - Strengthening the Legislative and Regulatory Framework for Private Pension Plans Subject to the *Pension Benefits Standards Act, 1985* (PBSA).

The consultation includes, in part, a request for comments on ways to improve the regulatory framework governing pension investment. Ontario has, by reference in the Pension Benefits Act (PBA), adopted the federal investment rules, and this portion of the consultation may be of special interest to pension plans which are subject to the PBA. Comments are to be provided by interested parties by March 16, 2009.

2008

Ontario Solvency Funding Relief

December 16, 2008 - The Ontario government is proposing to introduce legislation this spring to provide pension plans with temporary solvency funding relief.

Consultation on Locked-In Accounts

December 1, 2008 - Ontario Ministry of Finance initiates consultation on regulatory changes for locked-in accounts.

Alberta and British Columbia release report of Joint Expert Panel on Pension Standards

November 28, 2008 - The Alberta and British Columbia governments have released the report of the Joint Expert Panel on Pension Standards.

Family Law Reforms and Pensions

On November 24, 2008, Bill 133 - Family Statute Law Amendment Act passed first reading. Bill 133 includes provisions concerning the division of pensions on marriage breakdown.

Expert commission on pensions delivers final report

On November 20, 2008, the Ontario government announced receipt of A Fine Balance: Safe Pensions, Affordable Plans, Fair Rules, the final report from the Expert Commission on Pensions. The province is seeking feedback on the report from Ontarians, with a written comment period ending February 27, 2009.

CAPSA Releases Report on Regulatory Principles for a Model Law

On October 31, 2008, CAPSA released the final report on its work on Regulatory Principles for a Model Pension Law. The report is available for download or printing on the CAPSA website (www.capsa-acor.org).

CAPSA In-Person Consultation in Ontario

The CAPSA Secretariat has confirmed the dates for the in-person consultation sessions across Canada. The Ontario consultation is scheduled for Monday December 1, 2008. Further details and registration information are available on the CAPSA website, or from Daniel Padro by calling 416-590-7034.

CAPSA Consultation - Multi-Jurisdictional Pension Plans

The Canadian Association of Pension Supervisory Authorities (CAPSA) released a proposed Agreement Respecting Multi-Jurisdictional Pension Plans on October 21, 2008.

CAPSA is interested in receiving feedback on the proposed Agreement, in particular on its practical application. The deadline for submissions is January 30, 2009. The consultation paper is available for download or printing on the CAPSA website (www.capsa-acor.org).

Nova Scotia Pension Review Panel releases Interim Position Paper

On October 17, 2008, the Nova Scotia Pension Review Panel released an Interim Position Paper providing tentative answers to the questions posed in their Discussion Paper, and seeking further comments from interested stakeholders.

2007

No consultations or legislative proposals were posted in 2007.

2006

Pension Sector Cost Recovery Proposal

FSCO is proposing to implement an assessment process, commencing with its 2007/08 fiscal year, to ensure that FSCO's expenditures for the pension sector are fully recovered. This new process will replace the current Annual Information Return (AIR) fee.

The proposed new cost recovery process retains the structure of the current AIR fee as a base assessment for each plan. The only noteworthy changes are to have an assessment adjustment assigning shortfalls/surpluses on a pro rata basis to the base assessment, and to have the new assessment collected through an invoice instead of with the AIR.

Comments on FSCO's Pension Sector Cost Recovery Proposal Size: 29 kb may be made by **August 18, 2006** to the attention of:

Gino Marandola
Senior Manager, Operations
Financial Services Commission of Ontario
5160 Yonge St., 4th Floor, Box 85
Toronto, ON M2N 6L9

Tel: 416 226-7820
Fax: 416 226-7777

Email: gino.marandola@fsco.gov.on.ca

Expert Commission Established

On November 9, 2006, the government of Ontario announced the appointment of an expert commission to carry out province wide consultations on possible changes to the Pension Benefits Act. The commission is to be chaired by Harry Arthurs, a noted academic and labour lawyer. Other commission members are Ian Markham, Kathryn Bush, Bob Baldwin and Murray Gold. The commission is expected to report back in the summer of 2008.

The commission's areas of focus will include:

- pension plan funding and surplus;
- the Pension Benefits Guarantee Fund;
- full and partial plan wind ups, plan splits and mergers;
- asset transfers between pension plans; and
- funding of defined benefit multi-employer pension plans.

Information about the commission, its terms of reference and contact information is available at www.pensionreview.on.ca.

Surplus Sharing Regulation Extended

On November 9, 2006, the regulation to extend subsections 8 (1) and (2) of Regulation 909 to December 31, 2009 was filed as O. Reg. 509/06. The regulation will be published in The Ontario Gazette on November 25, 2006.

2005

Mandatory Retirement

In June 2005, the Ontario Minister of Labour introduced Bill 211, *An Act to amend the Human Rights Code and certain other Acts to end mandatory retirement*. The Act received Royal

Assent on December 12, 2005, to take effect one year after this date (except for section 7 which amended the *Workplace Safety and Insurance Act, 1997*).

Current Consultations and Proposed Legislation

Canadian Association of Pension Supervisory Authorities CAPSA

Guideline on Fund Holder Arrangements

Prepared by the Canadian Association of Pension Supervisory Authorities (CAPSA)

May 4, 2010

TABLE OF CONTENTS

INTRODUCTION

In October 2004, the Canadian Association of Pension Supervisory Authorities (CAPSA) released *Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire* to assist pension plan administrators in meeting their governance responsibilities, by achieving and maintaining good governance practices.

Good pension plan governance requires control mechanisms that encourage good decision making, proper and efficient practices, clear accountability, and regular review and evaluation. It contributes to positive pension plan performance and demonstrates due diligence by the plan administrator. This *Guideline on Fund Holder Arrangements* highlights good governance practices related to fund holder arrangements of the pension plan and pension fund.

Please note that this draft guideline has been prepared to contribute to the consistent development and maintenance of fund holder agreements in all Canadian jurisdictions. The draft guideline does not reflect the official position of any provincial or federal government or agency.

PURPOSE

One of the major participants in the operation of a pension fund is the fund holder. There are two basic types of fund holder arrangements: trusts and insurance contracts. However, both types of arrangements have changed significantly since the 1960s, when pension legislation first appeared and details of fund holder arrangements tended to become more complicated. This paper arises from the need to clarify the nature of fund holder arrangements and their related responsibilities.

This guideline focuses on fund holder arrangements by:

- Expanding on *Guideline No. 4* by highlighting the governance principles related to fund holder arrangements.
- Identifying the permitted types of fund holder arrangements.
- Discussing the respective roles and responsibilities of key players.
- Providing stakeholders with information on what the regulator looks for when examining fund holder arrangements.

FUND HOLDER PRINCIPLES

When dealing with the pension fund's assets and fund holder arrangements, the plan administrator should abide by the following principles:

1. Hold the pension fund's assets – regardless of investment type – exclusively for the pension plan.
2. Keep the pension fund's assets separate and apart from the employer's assets.
3. Ensure that the pension fund's assets are held separate and apart from the fund holder's assets, except when permitted by applicable pension legislation.
4. Act in a fiduciary role in relation to the pension fund. If a function is delegated to a third party, that party also needs to act in a fiduciary role as required by the appropriate legislation in respect to the delegated function.

5. Ensure that the respective roles, duties, responsibilities and obligations of all parties providing services related to operation of the pension fund are clearly defined and understood.

KEY PLAYERS IN FUND HOLDER ARRANGEMENTS

The key players in fund holder arrangements are the:

- **administrator** – the individual, group, body or entity that is ultimately responsible for the oversight, management and administration of the pension plan and its pension fund, as well as the investment of the pension fund. This function includes, but is not limited to, selecting and monitoring the activities of third-party service providers.
- **fund holder** – the financial institution or party that is retained by the administrator to hold the pension fund's assets in accordance with the terms of the fund holder agreement(s), the requirements of legislation (including the Income Tax Act) and the terms of the pension plan.
- **custodian** – the financial institution that holds some or all of the pension fund's assets pursuant to an agreement with the fund holder. (Although the custodian is not a fund holder, the fund holder may also be a custodian.)

Other important players in various aspects of administering, investing and managing the pension fund's assets include:

- **employer** – a business or party that employs plan members for remuneration and who is required to make contributions to the pension plan on behalf of plan members, collect contributions (if any) from plan members and remit them to the pension fund.
- **plan sponsor** – the individual or entit(y)ies that is responsible for designing the pension plan, setting the benefit structure for various classes of plan members, and for establishing, amending or terminating the pension plan.
- **third-party service provider** – the entity (or entities) or individual(s) that is/are retained by the administrator to perform some or all of the delegated duties (that the administrator is required to perform) associated with the pension plan and pension fund.

Note: Any one of the players listed above may act in more than one role. Therefore, it is important to know in *which role* each player is acting when decisions are being made.

- **regulator** – the provincial or federal jurisdiction in which pension plans are registered, and that oversees the application of pension legislation (provincial or federal) to pension plans.
- **Canada Revenue Agency** – the agency that administers the provisions of the Income Tax Act (Canada), (ITA) that require compliance by pension plans and fund holder arrangements.

RESPONSIBILITIES RELATED TO THE PENSION FUND'S ASSETS

All parties that are involved in the administration and investment of the pension fund have an obligation and duty to perform their functions with prudence and due diligence.

The primary purpose of this section is to expand on Principle No. 5, by outlining the responsibilities of various parties in relation to the pension fund's assets. This discussion will clarify the manner in which each party, who is involved with the pension plan's assets, has a role and responsibility of adhering to the five principles that are outlined in this guideline.

2.1 Responsibilities of the Employer

With respect to the pension fund's assets, the employer's responsibility is to remit contributions to the pension fund, within the time periods and in the amounts required by applicable pension legislation, the terms of the pension plan and the relevant terms of any collective agreements. By fulfilling this responsibility, the employer meets its funding obligation and helps ensure that the pension fund's assets are held separate and apart from its own assets (Principle No. 1). The employer is also responsible for keeping accurate and up-to-date records on each plan member's length of service and earnings, and any other information that is required by the administrator. In addition, the employer must provide this information to the administrator in a timely manner.

Note: For matters such as establishing, amending or terminating the pension plan, and determining plan provisions, the employer is entitled to act in its own best interests, subject to the terms of the pension plan, applicable legislation and any relevant collective agreement.

2.2 Responsibilities of the Plan Sponsor

The plan sponsor is the individual or entity that is responsible for establishing the pension plan, and for ensuring that it always has an administrator. The plan sponsor is also responsible for making amendments to the pension plan and deciding if it should be wound up. If the pension plan is wound up, the administrator is responsible for ensuring that it is wound up in accordance with the requirements of applicable pension legislation and pension plan documents.

Note: The plan sponsor is entitled to make decisions about the pension plan (e.g., pension plan amendments, whether to continue the pension plan, etc.) that are in the business' best interests, subject to the terms of the pension plan, applicable legislation and any relevant collective agreement. While the plan sponsor will often be the employer, other parties may take on this role (e.g., the plan sponsor is the corporate parent of the employer or a union). In these circumstances, it is appropriate for the plan sponsor's actions to reflect its responsibilities – and not those of the employer.

2.3 Responsibilities of the Administrator

The administrator is responsible for the overall administration of the pension plan, and the administration and investment of the pension fund. The pension plan and pension fund must be administered and invested in accordance with applicable pension legislation, the ITA and pension plan documents. (For a concise list of requirements for each jurisdiction, see Table 1 – Who is the Administrator.)

When acting as an administrator, a party is held to a fiduciary standard of care (Principle No. 4). (For a concise list of requirements for each jurisdiction, see Table 1 – Role of the Administrator as a Fiduciary.) In this fiduciary role, the administrator must carry out its duties in a manner that:

- Treats plan members and beneficiaries fairly and in an even-handed manner.
- Conforms to the fiduciary standard of care, as set out in applicable legislation (i.e., the standard of care, skill and diligence of a prudent person).

- Interprets the pension plan's terms fairly, impartially and in good faith.
- Prevents personal interests from being in conflict with those of plan members and beneficiaries.
- Ensures that plan members and beneficiaries receive the benefits that were promised to them (within the scope of the administrator's authority).

Note: For the purpose of this guideline, the term "fiduciary" is understood to include "trustee" and signifies a legal relationship in which a high standard of care must be exercised when dealing with the interests of another person.

2.3.1 Responsibilities Regarding the Pension Fund and Fund Holder

One of the administrator's primary duties is to select one or more fund holders to manage the pension fund, and to ensure that the pension fund is administered and invested in accordance with relevant pension plan documents, applicable pension legislation and the ITA. The administrator's duties in relation to the pension fund and the fund holder also include, but are not limited to:

- Ensuring that the pension fund's assets (when held by a fund holder), are held under an agreement that complies with applicable pension legislation. (This includes abiding by Principle No. 3, which requires the pension fund's assets to be held separate and apart from the fund holder's assets.) (For a concise list of requirements for each jurisdiction, see Table 1 – Who Can Hold Funds and Type of Agreement/Contract.)
- Making sure that the duties, roles and expectations of all relevant parties are clearly set out in the fund holder agreement (Principle No. 5).
- Monitoring and supervising the fund holder's activities relating to the delegated functions
- Filing true copies of the fund holder agreement, and all amendments or replacements, with the Canada Revenue Agency and the regulator on a timely basis.
- Remitting or ensuring proper remittance of contributions to the pension fund.
- Providing investment direction to the fund holder – if the fund holder is also responsible for investing some or all of the pension fund's assets – through provisions in the pension plan's Statement of Investment Policies and Procedures (SIP&P).
- Giving investment direction to an investment manager – if the investment manager is responsible for making investment choices for some or all of the pension fund's assets – through provisions in the SIP&P.
- Ensuring that the administrator, or a third-party service provider that acts on its behalf, has a process in place to monitor the pension fund's overall investments for compliance with the legislative requirements, the SIP&P and any other policies established by the administrator.
- Making sure that the pension fund's investments comply with applicable pension legislation and the ITA.
- Monitoring the activities of the fund holder to ensure that the pension fund's assets are administered in accordance with the fund holder agreement, the SIP&P and applicable pension legislation.

- Ensuring that the fund holder has sufficient information regarding contribution remittances to perform its duties as required by pension legislation (e.g., contribution reporting is required in Alberta and Ontario).
- Directing the fund holder regarding payments that need to be made from the pension fund.
- Executing the fund holder agreement(s).

This list indicates that a high level of conduct is required by an administrator. (For a concise list of requirements for each jurisdiction, see Table 1 – Administrator duties relevant to the fund holder responsibilities.)

2.3.2 Delegation of Duties by the Administrator

Although the administrator may delegate some or all of its functions to third-party service providers, it is ultimately responsible for monitoring them, to ensure that the delegated duties are being performed accurately and in a timely manner. The administrator is also responsible for making sure that all of its actions, and those of any service providers to which it has delegated functions, meet the appropriate standard of care and compliance requirements. Further, a third-party administrator, where required by applicable legislation, may be required to act in a fiduciary capacity when performing delegated duties. (For more information on this topic, refer to *Governance Guideline No. 4,* which outlines certain expectations about how administrators should conduct themselves from a governance perspective.)

2.3.3 Governance Matters Regarding the Pension Fund

The administrator should comply with the governance principles that are outlined in Governance *Guideline No. 4* and summarized below:

- Have clear documentation for each action that is taken.
- Ensure that appropriate records are kept by the fund holder.
- Conduct a regular review of performance measures.
- Maintain written policies on documentation, recordkeeping, costing and pension fund investment.
- Monitor and assess fees to make sure they are reasonable and competitive.

For single-employer pension plans, the same party often takes on multiple roles (i.e., the roles of the administrator, employer and plan sponsor). For multi-employer pension plans, the same party often acts in the roles of administrator and fund holder, while Quebec-registered pension plans require the same party to act in the roles of the administrator and fund holder. Although the same party is acting in multiple roles, it has different duties and obligations when it acts in each of these capacities.

For example, when this party acts as the administrator, it is a fiduciary that must conform to a high standard of care when dealing with the interests of plan members and beneficiaries. While acting in the role of the employer or plan sponsor, it is not acting as a fiduciary. In these situations, it is important and sometimes difficult to clearly distinguish between the two roles.

A number of possible scenarios regarding these duties are set out below.

Example 2.3.3

The list below provides examples of situations where a party has more than one role regarding the pension plan.

1. In a single-employer pension plan, the employer may also be the plan sponsor and administrator.
2. A single-employer pension plan may include a number of related employers where one employer acts as the plan sponsor and administrator on behalf of all of the employers.
3. In a multi-employer pension plan, the board of trustees often acts as both the administrator and fund holder (trustee). In addition, the plan sponsor may be the union.
4. In Quebec, the pension committee acts as both the administrator and trustee. Therefore, it also acts as the fund holder. However, the employer will generally still have the plan sponsor role.
5. In Ontario, a pension committee may act as the administrator, but not the trustee. Therefore, it cannot act as the fund holder. When the pension committee acts as the administrator, it would enter into an agreement with the fund holder.

2.4 Responsibilities of the Fund Holder

The fund holder is the financial institution or party that is retained by the administrator to hold all or part of the pension fund's assets exclusively for the pension plan. If the fund holder is a trustee, any investment from the pension fund that can be registered, must be registered in the name of the trust for the pension plan. If an investment cannot be registered, it must be invested in a name that clearly indicates it is held in trust for the pension plan. If the fund holder is not a trustee, any investments of the pension fund must be held by a financial institution, in a name that clearly indicates they are held on behalf of the pension plan.

The fund holder is responsible for:

- Holding funds in a manner that is required by applicable pension legislation and the ITA. Typically, the fund holder must be a trust company, an insurance company, or another entity that is permitted by applicable legislation. (For a concise list of requirements for each jurisdiction, see Table 1 – Who Can Hold Funds and Type of Agreement/Contract.)
- Acting under the terms of a fund holder agreement that meets the requirements of applicable pension legislation. Typically, the agreement must be a trust agreement or an insurance contract. (For a concise list of requirements for each jurisdiction, see Table 1 – Who Can Hold Funds and Type of Agreement/Contract.)
- Reporting omissions or delays in contribution remittances to the regulator, as required by applicable pension legislation. (For a concise list of requirements for each jurisdiction, see Table 1 – Fund Holder Duties.)
- Meeting the reporting and recordkeeping responsibilities that are set out in the fund holder agreement.
- Providing direction on the investment of the pension fund's assets, unless this duty is delegated under the agreement, in accordance with the pension plan's SIP&P, applicable pension legislation and the ITA.

- Ensuring that the pension fund's assets are held separate and apart from the employer's and fund holder's assets – except if it is permitted under applicable pension legislation (Principles No. 2 and 3).
- Ensuring that the pension plan's funds are held exclusively for the pension plan (Principle No. 1) and that the fund holder has clear, accurate and up-to-date records that reflect this requirement.

If the administrator has delegated fund holder functions that involve his/her own fiduciary duties, the fund holder is obligated to conduct itself as a fiduciary.

Example 2.4

In a typical defined contribution pension plan where the fund holder agreement is an insurance contract (e.g., a group annuity policy), the fund holder arrangement would be made up of one or more documents and involve:

- An insurance contract – that is issued to the administrator (typically the plan sponsor) by an insurance company – *and provides* underlying guaranteed and market-based (segregated fund) investment options.
- A services agreement between the administrator and the insurance company, that sets out the recordkeeping and reporting duties of the insurance company, and the fees associated with those duties.

2.5 The Custodian

The fund holder may perform custodial duties for the pension fund, or may delegate some or all of those duties to a custodian.

The custodian holds the pension fund's assets pursuant to a contract between (a) the custodian and the fund holder, or (b) the custodian and a trustee, board of trustees, or pension committee acting as the fund holder. The custodian must maintain records that indicate the ownership of an investment, so it can be traced back to the pension plan that owns the investment.

Note: When a custodian is retained by a board of trustees for a multi-employer pension plan or a pension committee for a Quebec-registered pension plan, its role of fund holder should be clearly documented in the fund holder arrangement.

2.5.1 Responsibilities of the Custodian

The custodian's responsibilities are generally solely related to the safekeeping and servicing of the pension fund's assets. The custodian is responsible for holding these assets in accordance with the terms of the custodial agreement, and must be capable of segregating the pension plan's assets (Principles No. 2 and 3), and meeting the reporting and recordkeeping requirements of the custodial agreement. A custodian does not have legal title to assets and does not have the same tax reporting obligations. In addition, the custodian is retained through a contract and only owes duties to the party that retained its services.

Example 2.5.1

If a board of trustees (or a Quebec pension committee) is the administrator, it may also perform the role of fund holder (trustee), and will usually enter into a custodial agreement with a financial institution. In this case, the custodial agreement will often resemble an agreement between the administrator and fund holder, as described in section 2.4. As the custodian, the financial institution must follow the directions of the board of trustees – who is acting in this case, in the role of fund holder, although, the board of trustees will carry out many other responsibilities in the role of administrator.

2.6 The Third-Party Service Provider

The third-party service provider is an entity or individual that is retained by the administrator and to whom the administrator delegates the responsibility to perform some or all of the delegated duties of the administrator that are associated with the operation of the pension plan and pension fund. Third-party service providers may include insurance companies, consulting firms, recordkeepers, investment managers and any other entities that provide services to the administrator.

2.7 The Regulator

The regulator is the agency or entity that was set up pursuant to provincial or federal pension legislation, to regulate pensions in a particular jurisdiction in accordance with applicable pension legislation.

2.8 Canada Revenue Agency

Canada Revenue Agency is the agency that administers the provisions of the ITA that require compliance by pension plans and pension funds – including requirements that apply to the fund holder and investments of the pension fund.

3.0 Roles and Responsibilities of Multiple Fund Holders

The administrator may retain multiple fund holders for one pension plan. In this situation, the administrator is required to negotiate fund holder agreements with each fund holder, which take into account the duties and obligations that are included in applicable pension legislation.

Multiple fund holders are most frequently retained by pension plans that offer benefits under a defined benefit *and* defined contribution provision. In this case, the administrator will often engage one fund holder for the defined benefit portion (most often a trust company) and a second fund holder for the defined contribution portion (generally an insurance company). Larger or more complex pension plans may also have multiple fund holders.

Example 3.0

A fund holder arrangement for a pension plan that offers benefits under both a defined benefit and defined contribution provision can be structured in the following ways:

Fund Holder Agreement Options

a) The administrator establishes a contract or trust with each fund holder.

b) The administrator and trustee establish a trust agreement that sets out the trustee's duties regarding the trust fund. Both the defined benefit and defined contribution components of the pension fund are held in the trust fund.

c) A trust agreement between the administrator and trustee sets out the trustee's duties regarding the trust fund. The defined benefit component of the pension fund is held in the trust fund and the defined contribution component is held by the trustee – through an insurance contract that was issued to the trustee by an insurance company– as an asset of the trust fund. This insurance contract has underlying guaranteed and market-based (segregated fund) investment options.

Services Agreement Options

a) A services agreement is made between the insurance company, administrator and trustee. It sets out the insurer's information reporting duties to the trustee and the administrator's right to provide instructions to the insurance company.

b) A services agreement is made between the plan sponsor and insurance company. It sets out the insurer's recordkeeping and reporting duties regarding plan members, for the defined contribution component of the pension plan and the fees associated with those duties.

In all of these situations, the administrator, insurance company and trustee will want to ensure that their roles and responsibilities are clearly defined and understood.

A pension plan may have multiple fund holders for other reasons, such as a merger of pension plans, or transferring a group of plan members from another pension plan. If fund holder arrangements become very complex, the administrator must ensure that all fund holders are performing all duties that are required by applicable legislation, and that the pension fund, as a whole, is being invested in accordance with legislative requirements.

REGULATOR EXAMINATIONS AND REVIEW OF FUND HOLDER ARRANGEMENTS

When a regulator examines a pension plan's fund holder arrangements, the focus is on compliance with relevant legislation and sound governance processes. This examination will vary based on the circumstances giving rise to the review. During the course of its review activities, the regulator will consider some or all of the compliance criteria, as well as other relevant issues when it:

- Examines fund holder arrangement documentation to determine the type of arrangement and to confirm that there are appropriate documents to support the arrangements whether it is:
  - a trust, governed under the appropriate jurisdiction;
  - an insurance contract; or
  - another permitted fund holder arrangement.

- Verifies that the administrator has undertaken due diligence in the selection and monitoring of fund holders and third party service providers.
- Verifies that the administrator has a process in place to monitor the investment of assets for compliance with legislative requirements and that the process is being followed.
- Examines the custodial documentation.
- Looks for written documentation that specifies which responsibilities have been delegated, who made the delegations and who received the delegated responsibilities.
- Examines any related party transactions to confirm if they are permitted.
- Considers what records have been created to document the retention of service providers and their respective duties.
- Confirms if there are documents that provide direction for internal employees who are engaged in the fund holder selection process.
- Determines the type of agreements and committee mandates that are in place for service providers and employees.
- Establishes how service provider payments and performance are documented.
- Verifies if the administrator regularly reports back to the plan sponsor’s board of directors, or the delegated body (if required), regarding agents, consultants and other service providers that are being used.
- Establishes if the plan sponsor’s board of directors or delegated body has an overall policy on the retention of agents, consultants and other service providers.
- Determines whether a conflict of interest policy has been considered and if the resulting decision is documented.
- Confirms if the conflict of interest policy is being followed.
- Considers whether documents are easy to access and if they are stored in one central location.
- Contemplates to what extent plan documents are being reviewed, updated and followed.

GLOSSARY OF TERMS

administrator – the individual, group, body or entity that is ultimately responsible for the oversight, management and administration of the pension plan and its pension fund. This function includes, but is not limited to, selecting and monitoring the activities of third-party service providers.

Canada Revenue Agency (CRA) – the agency that oversees the provisions of the Income Tax Act (ITA) that require compliance by pension plans and fund holder arrangements.

custodian – the financial institution that holds some or all of the pension fund's assets pursuant to an agreement with the fund holder. (Although the custodian is not a fund holder, the fund holder may also be a custodian.)

employer – a business or party that employs plan members for remuneration and who is required to make contributions to the pension plan on behalf of plan members, collect contributions (if any) from plan members and remit them to the pension fund.

fund holder – the financial institution or party that is retained by the administrator to hold the pension fund's assets in accordance with the terms of the fund holder agreement(s), the requirements of legislation (including the Income Tax Act) and the terms of the pension plan.

fund holder agreement – a written agreement (or agreements) between the administrator and the fund holder that sets out the services that will be provided by the fund holder, to support the administration and investment of the pension fund's assets.

fund holder arrangements – arrangements that are made for the administration and investment of the pension fund. They include, but are not limited to, the fund holder agreement(s), custodial agreement, third-party services agreements, and other services agreements.

Income Tax Act (ITA) – refers to Canada's Income Tax Act (1985, c.1 (5^{th} Supp.)) and includes its regulations.

pension fund – the total amount of assets that are held in trust by one or more fund holders, or in an insured arrangement to support the benefits of a pension plan.

plan members/beneficiaries – the individuals that participate in the pension plan and have an immediate or deferred benefit entitlement under the pension plan.

plan sponsor – the individual or entity that is responsible for designing the pension plan, setting the benefit structure for various classes of plan members, and for establishing, amending or terminating the pension plan.

regulator – the provincial or federal jurisdiction in which pension plans are registered, and that administers the application of pension legislation (provincial or federal).

third-party service provider – the entity (or entities) or individual(s) that is/are retained by the administrator to perform some or all of the delegated duties (that the administrator is required to perform) associated with the pension plan and pension fund.

APPENDIX A

This appendix provides an overview of who may be the administrator, funder holder or custodian, and therefore hold a position in the management and administration of a pension fund.

A. Administrator

Depending on the requirements of applicable pension legislation and the ITA, the administrator may be any one of the following:

a) the plan sponsor;

b) a board of trustees (most common in multi-employer pension plans);

c) the employer;

d) a pension committee;

e) a separate party appointed by the plan sponsor to be the administrator;

f) an insurance company (in the case of a "simplified" pension plan or contract);

g) the party that is appointed by the regulator or government (whichever is applicable) to be the administrator;

h) the entity that is named the administrator, pursuant to applicable pension legislation and the ITA; or

i) any other party that is named the administrator, as permitted by applicable pension legislation.

To learn about the requirements for each jurisdiction, regarding who can be the administrator of a pension plan, see Table 1 – Who is the Administrator.

B. Fund Holder

Pension legislation and the ITA dictate that the pension fund must be held in the name of the pension plan by one of the following:

a) an insurance company licensed to do business in Canada under an insurance contract;

b) a trust – that is governed by a written trust agreement – with a trust corporation in Canada;

c) a group of individual trustees where there are:

   - three or more individuals, and
   - at least three of these trustees reside in Canada, and
   - at least one trustee is not a connected person, or a partner of the employer, or a proprietor of the employer's business (note: this type of fund holder must have a custodian to hold the pension fund's assets); or

d) any other party that is permitted by pension legislation.

To learn about the requirements for each jurisdiction, regarding who can be the fund holder of a pension plan, see Table 1 - Who can hold funds and type of agreement/contract.

C. Custodian

Pension legislation requires that the pension fund be held separate and apart from the employer's and fund holder's assets, and be in the name of the pension plan.

The custodian is a financial institution that holds some or all of the pension fund's assets, pursuant to a custodial services agreement with the fund holder.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
Federal	**Act 7(1)** CB MEPP • a board of trustees Non-CB MEPP • a pension committee Single employer • the employer or if CB, board of trustees – if agreements require it Simplified Pension Plan • a financial institution	**Act 8(3)** Shall administer the plan and fund as a trustee for the employer, and the members/former members/others entitled to benefits. **Act 8(4)** Standard of care – prudent person. **Act 8(5)** Shall invest assets – prudent person. Includes provisions to deal with: • special knowledge and skills • ability to rely on professionals • conflict of interest	**Act 7.4** Shall, in accordance with the Act and Regs., administer the plan and fund and file required documents. **Act 8(5)** Shall invest assets – prudent person. **Act 9.1(1)** Advise fund holder of expected remittance. **Act 9.1(2)** If the administrator is not the employer, advise the Superintendent of late/non-remittance. **Reg. 7 and 7.1** Maintain record of investments and establish/maintain SIPP. **Reg. 10** Is liable for late contributions with interest.	**Act 8(1)** Deemed trust **Reg. 11(1)(a)** Insurance contract or trust agreement.	**Act 9.1(2)** If the administrator is not the employer, advise the Superintendent of late/non-remittance.	**Act 8(1) and(2)** • Money in the pension fund and contributions deducted/due but not yet remitted **5(4) of the Solvency Funding Relief Regs. 2009** • Difference in payments if using smoothing in excess of 110%. Applies in bankruptcy and is ongoing.	**Act 10 and Reg. 11 (1)(a)**
Alberta	**Act 10, 11 and 12** CB MEPP • a board of trustees Non-CB MEPP • a board of trustees or employer delegated under the agreement	**Act 13 (5)** Stand in a fiduciary capacity in relation to members, former members and others entitled to benefits.	**Act 13(1), (2), (3), (4) and (6)** • Administer the plan. • Administer the plan in compliance with the Act. • Ensure that all plan documents are in compliance with the Act. • Have actuarial valuations of DB provisions performed as required by the Act.	**Act 49(1)** Held by: (a) an insurance company under a contract for insurance; (b) a trust in Canada governed by a written trust agreement under which the trustees are: (i) a trust corporation or corporation incorporated by or under a statute of	**Act 50(3)** Notify superintendent of non-remittance.	**Act 51** Contributions are deducted and due but not yet remitted **Act 52 and 53** Security interest on bankruptcy of the employer	**Act 19(1)(a)(iii)**

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	Single employer • the employer or a board of trustees		**Act 14** File all documents that are required by the Act **Act 15** Comply with disclosure requirements **Act 76(3)** Wind-up the plan **Reg. 51** Establish and maintain a SIPP	Parliament or of the Legislature of a province or territory to provide pensions to employees, or (ii) subject to subsection (1.1), 3 or more individuals at least 3 of whom reside in Canada and at least one of whom is not a significant shareholder, partner or employee of the employer or a proprietor of the business of the employer. (c) a society established under the Pension Fund Societies Act; (d) a person pursuant to the Government Annuities Act (Canada);or (e) a combination of the persons referred to in 2 or more of the above categories. 1.1 A fund holder consisting of a trust to which subsection 1(b)(ii) applies. Must hold the pension fund through a Custodian.			
British Columbia	**Act 1(1) and 7** MEPP • a board of trustees Single employer • a board of trustees or	**Act 8(5)** • Stand in a fiduciary capacity in relation to members, former members and others entitled to benefits. • Prudent person • Ultimate responsibility for	**Act 8** • Administer the plan. • Administer the plan in compliance with the Act. • Ensure that all plan documents are in compliance with the Act.	**Act 42(1)** Held by: a) an insurance company under a contract for insurance; b) a trust agreement under which the trustee is:	**Reg. 43(5)** Notify superintendent of non-remittance	**Act 43.1** Contributions deducted and due but not yet remitted	**Act 14(2)(a)(iii)**

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	the employer	administration (even if some duties are delegated). • No conflict of interest.	• Have actuarial valuations of DB provisions performed as required by the Act. **Act 9** • Filing requirements. **Act 10** • Disclosure requirements. **Act 14** • Plan registration **Act 15** • Plan amendments **Act Part 4** • Terminate the plan.	• a trust company, or • a board of trustees; c) a society under Pension Fund Societies Act; d) a person pursuant to the Government Annuities Act; e) the B.C Pension Corporation with respect to public sector pension plans.			
Saskatchewan	**Act 2(1)(b)** "administrator" means: (i) in the case of a specified multi-employer plan, a board of individuals who are trustees of the plan; (ii) in the case of a plan that is not a specified multi-employer plan, either: (A) the employer; or (B) where it is specified in the plan that the employer is not to be the administrator, a board of trustees or a similar body	**Act 11(2)** While acting in the capacity of administrator, the administrator of a plan: (a) stands in a fiduciary relationship to members, former members and any other persons entitled to benefits pursuant to the plan; (b) holds in trust for the benefit of members, former members and other persons entitled to benefits pursuant to the plan, any fund established or contract arising pursuant to the plan; (c) shall act in good faith and in the best interests of members, former members and other persons entitled	**Act 11** • Administer plan in accordance with the Act. • File required documents. **Act 13** Disclosure **Act 16** Registration of plan **Act 17** Amendment of plan **Act 53 and 56** Plan termination	**Act 41** Held by: (a) an insurance company under a contract for insurance; (b) a trust agreement under which the trustee is: • a trust company, or • a board of trustees; (c) a society under the *Pension* Fund Societies Act; (d) a fund holder as permitted by the Income Tax Act (Canada).	**Act 42(3)** Notify the Superintendent of non-remittance.	**Act 43** Contributions are deducted and due, but not yet remitted.	**Act 16(1)(a)(iii)**

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	constituted in accordance with the terms of the plan; or (iii) a person who has been appointed administrator of a plan by the superintendent pursuant to section 58.	to benefits pursuant to the plan; and (d) shall not prefer the interests of one person entitled to benefits pursuant to the plan over the interests of any other person so entitled.					
Manitoba	**Act 28.1(1)-(1.2)** The administrator may be: (a) a pension committee (for plans with > 50 members); (b) the employer; (c) a trustee; (d) a member of a board of trustees of the plan; (e) the insurer (for SMPPPs); or (f) a person appointed by an Order.	**Act 28.1(2)-(11)** (a) The administrator of a pension plan shall exercise the care, diligence and skill in the administration of the plan and in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person; (b) The administrator of a pension plan shall invest the assets of the pension fund, and manage those investments, in accordance with the regulations and in a manner that a reasonable and prudent person would apply in investing and managing a portfolio of investments of a pension fund; (c) Unless a pension plan otherwise provides, an administrator who uses a non-financial criterion to formulate an investment policy or to make an investment decision does not thereby commit a breach of trust or contravene this Act if, in formulating the policy or making	**Act 18(2)** File documents required under the Act and regulations **Act 21-25** Ensure the plan's documentation complies with the Act and regulations. **Act 26** Ensure • investments are made and administered • funding of benefits according to the Act and regulation. **Act 26(4)-(4)** If terminated, ensure wind-up is according to Act and regulations. **Act 29-30** Provide required disclosure to members, other beneficiaries and stakeholders.	**Reg 3.19** Held by: (a) an insurance company under a contract for insurance between the company and the administrator; (b) a trust company incorporated under the laws of Canada or of a province or territory of Canada; (c) a trust under a written trust agreement under which there are three or more trustees: (i) each of whom is an individual, (ii) at least 3 of whom reside in Canada, and (iii) at least one whom is none of the following: (A) the employer, (B) a significant shareholder of the employer, (C) if the employer is a partnership, a member of that partnership, (D) an officer or	**Act 28(6)** Notify superintendent of non-remittance.	**Act 28** Hold contributions deducted and due in trust for payment into the pension plan.	**Reg 2.3(2)(a)** All supporting documents of the plan. i.e. trust deed or agreement, insurance contract.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		the decision, he or she has complied with subsections the Act; (d) The administrator of a pension plan shall use in the administration of the plan and in the administration and investment of the pension fund all relevant knowledge and skill that the administrator possesses or, by reason of the administrator's profession, business or calling, ought to possess; (e) An administrator of a pension plan shall not knowingly permit the administrator's interest to conflict with the administrator's duties and powers in respect of the plan and the pension fund; (f) Where it is reasonable and prudent in the circumstances so to do, the administrator of a pension plan may employ or appoint one or more agents to carry out any act required to be done in the administration of the plan and in the administration and investment of the pension fund; (g) An administrator of a pension plan who employs or appoints an agent shall personally select the agent and be satisfied of the agent's suitability to perform the act for which the agent is employed or appointed, and the administrator shall carry out such supervision of the agent as is prudent and reasonable;		employee of the employer; (d) a corporation established by an Act of Parliament or of the Legislature of a province or territory of Canada to administer one or more public sector pension plans; (e) a pension fund society under the Pension Fund Societies Act (Canada); (f) the Government Annuities Act (Canada).			

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		(h) An employee or agent of an administrator is also subject to the standards that apply to the administrator; (i) The administrator of a pension plan is not entitled to any benefit from the pension plan other than pension benefits, ancillary benefits, a refund of contributions, and fees and expenses related to the administration of the pension plan and permitted by the common law or provided for in the pension plan; (j) An agent of the administrator of a pension plan is not entitled to payment from the pension fund other than the usual and reasonable fees and expenses for the services provided by the agent in respect of the pension plan.					
Ontario	**Act 8** The administrator may be: (a) the employer ; (b) a pension committee with representatives of both employer(s) and members; (c) a pension committee with only member representatives; (d) the insurance company if it guarantees all plan benefits; (e) for multi-employer pension plans, a board of trustees where at	**Act 22 (1)(2)(3)(4)** • Exercise the same care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. • Use all relevant knowledge and skills that the administrator possesses, or ought to possess, by reason of profession or business, in the administration and investment of the pension	**Act 22 (5)(7)** The administrator may employ agents(s) to carry out duties of the administrator where reasonable and prudent to do so, be satisfied of the agent's suitability and shall supervise agents. **Act 19** Ensure the pension plan and pension fund are administered; • in compliance with the Act and Regs; • in accordance with filed documents acknowledged by the Superintendent.	**Act 22(6) Reg. 54** Specifies that a pension fund trustee be one or a combination of the following: (a) a government; (b) an insurance company; (c) a trust in Canada governed by written agreement under which the trustees are: (i) a trust company (Loan and Trust Corporations Act), or (ii) 3 or more individual trustees, minimum 3 Canadian residents, minimum 1 independent	**Act 22(8)** Fund holder duties are the duties that the administrator delegates to the fund holder in its capacity as agent of the administrator. **Act 56.1** Notify the Superintendent of non-remittance of contributions when due, or non-receipt of summary of	**Act 57** • The administrator has a lien on the employer's assets equal to amounts deemed to be held in trust by the employer, including: (a) Employee contributions received by the employer and not yet paid into the fund. (b) Employer contributions	**Act 9(2)** The administrator files a certified copy of the documents that create and support the pension fund. **Act 12(3)** The administrator files a certified copy of each document and changing documents that

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
	least 50% of members and majority of member representatives are Cdn. citizens or landed immigrants; (f) a corporation, board, agency or commission given plan administration responsibility by Act of Legislature; (g) a person appointed by the Superintendent as the administrator for plan wind up (see also Act 71); or (h) a prescribed person or entity.	fund. This specifically applies to members of the pension committee, the board of trustees, or a board, agency or commission given plan administration responsibility by the Act of Legislature. • Shall not knowingly permit the administrator's interests to conflict with the administrator's duties and powers in respect to the pension fund. This specifically applies to members of the pension committee, or the board of trustees. **Act 22(9)** Clarifies that prohibition against the administrator receiving benefits from the plan other than benefits under plan terms (or fees permitted by common law or plan terms) applies equally to members of the pension committee or the board of trustees. **Act 22 (8)** Standards for the administrator also apply to agents and employees.	**Act 9, 12, 20, 21 & Regulation** File: • initial registration documents including fund holder documents and amendments to the documents; • regular filings, including annual information returns, investment information summary, actuarial reports and actuarial information summary, financial statements (including audited financial statements); • reciprocal transfer agreements and other information as required by the PBA and Regulation. **Act 25, 26, 27, 28 and 29** Provide information to members and access to plan and fund documents. **Act 56, 56.1** Ensure all plan contributions are paid when due; notify the Superintendent of non-payment; provide the fund holder a summary of contributions that are required to be made to the plan. **Act S. 62** Ensure investments are in accordance with the Act and Regulations. **Reg. 76** File year end financial statements	of contributing employer (enumerated as not significant shareholder, not partner etc.), or (iii) a corporate pension society (Pension Funds Society Act); (d) instruments under the Government Annuities Act; (e) a board, agency, commission or corporation given plan administration responsibility by the Act of Legislature.	contributions required to be made to the plan.	due and not yet paid into the fund. (c) On windup, employer contributions are accrued to the windup date, but not yet due.	create and support the pension fund.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
			and the audited statement if the pension fund has more than $3 million in assets. **Reg. 78** Establish a SIP&P.				
Quebec	**Act 147** A pension committee	**Act 150** The pension committee acts in the capacity of a trustee. **Act 151** • Standard of prudence, diligence and skill that a reasonable person would exercise in similar circumstances. • The administrator must act with honesty and loyalty in the best interest of the members or beneficiaries. **Act 158** The administrator may not exercise his powers in his own interest, or in the interest of a third person, nor may he place himself in a situation of conflict between his personal interest and the duties of his office. **Act 151.1** Presumed to have acted with prudence where it acted in good faith on the basis of an expert's opinion. **Act 154** If the pension committee chooses carefully, provides clear	**Civil code 1306** • Preserve the fund and make it productive. • Increase the patrimony. **Civil Code 1308** Comply with the obligations imposed on him by law or by the text of the plan. **Examples:** • Act. 161 – Transmit the Régie annual statement drawn up • Act. 166 – Call an annual meeting • Act. 169 – Establish and adopt a written investment policy • Act. 112-113 – Provide statements to members and beneficiaries • Act. 111 – Provide a summary of the pension plan • Act. 26 - Transmit notice of amendment to plan members • Act. 19 – Ask for registration of the amendment • Act. 119 – Ask an actuary to prepare the actuarial valuation and transmit the valuation to the Régie	**Act 6** Except in the case of an insured plan, contributions and derived income are held in a pension fund.(This fund is a trust patrimony.) **Civil Code 1261** The trust patrimony, consisting of the property transferred in trust, constitutes a patrimony by appropriation, autonomous and distinct from that of the settler, trustee or beneficiary and in which none of them has any real right.	**Act 51** The pension committee notifies the Superintendent of non-remittance.	**Act 49** Contributions and accrued interest are due, but not yet remitted.	

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		instructions and supervises his work, he is not responsible for the error or omission on the part of the delegate or service providers and representatives who exercise a discretionary power.					
New Brunswick	**Act 1** • The administrator is the person who administers the plan.	**Act 14(1) and (2)** Shall ensure the pension plan and fund are administered in accordance with the Act, Regs. and filed documents. **Act 17(1)** Standard of care for administration and investment – prudent person. **Act 17 and 18** Includes provisions to deal with: • special knowledge and skill • ability to rely on professionals • conflict of interest	**Act 14(1) and (2)** Shall ensure the pension plan and fund are administered in accordance with the Act, Regs. and filed documents. **Act 10(1) and 11(1)** File for registration of the plan and amendments. **Act 15** File AIRs. **Act 23** Disclosure of information requirements. **Act 49** • Take all necessary steps to ensure contributions are made to fund. • Advise the Superintendent of non-remittance of contributions. **Act 53** May commence court proceedings to obtain payment of contributions that are due. **Reg. 9** Ensure that actuarial valuations	**Reg. 11** The pension fund shall be administered by one or a combination of the following: (a) an insurance company (b) a trust agreement under which the trustee is • a trust company • a board of trustees • a society under the Pension Fund Societies Act (c) a person, board, agency, commission or other body made responsible by an Act of the Legislature.	**Act 49(7)** Notify the Superintendent of non-remittance.	**Act 51** • Money received from an employee is deemed to be held in trust for the employee until it is paid into the pension fund. • Money withheld through payroll deductions is deemed to be money received from employee. • The employer is deemed to hold in trust for beneficiaries of the plan, an amount equal to employer contributions due by not paid into fund. • If the plan is wound-up, the employer is deemed to hold in trust an amount equal to contributions accrued but not yet	**Act 10(2)** An application for registration of a pension plan must include certified copies of the documents that create and support the pension fund.

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			are performed. **Reg. 44** Establish, adopt and follow an SIPG.			due. • The administrator has a lien and charge on the employer's assets for amounts deemed to be held in trust. **Act 51(6)** Deemed trust provisions apply whether or not money is kept separate and apart from the employer's other money.	
Nova Scotia	**Act (1)** The administrator is the person who administers the plan. **Act 14** The administrator must be: (a) the employer, (b) a pension committee, (c) an insurance company for guaranteed benefits, (d) a board of trustees for a MEPP, or (e) a person appointed by the Superintendent.	**Act 29** • Act with care, diligence, knowledge and skill. • Must exercise the same care, diligence and skill in the administration and investment of the pension fund that a person of ordinary prudence would exercise in dealing with the property of another person. • Use all relevant knowledge and skill that the administrator possesses, or ought to possess, in the administration of the pension plan and the administration and investment of the pension fund. • Shall not knowingly permit the administrator's interest	**Act 15** Apply for registration of the plan. **Act 18(1) and (3)** Apply for registration of plan amendments and file a copy of each document that changes the documents that support the plan and the fund. **Act 26** • To ensure the pension plan and pension fund are administered in accordance with the Act and regulations. • To ensure the plan is administered in accordance with the filed plan documents. **Act 27** File Annual Information Returns and additional reports (Reg. 12	**Act 29(4A)** The pension fund trustee may only be as prescribed. **Reg. 55** The fund must be administered by one or more of: (a) a government; (b) an Insurance company; (c) a trust agreement under which the trustee is: • a trust company • a board of trustees • a corporation under the Pension Fund Societies Act (d) the Canadian Government Annuities Act; (e) an agency that is responsible under an Act of Legislation.	**Act 45** Notify the Superintendent of non-remittance. **Act 67** Every person engaged in the investment of the fund shall ensure the money is invested in accordance with the Act and regulations.	**Act 46 – Not deemed trust** Requires unremitted contributions to be held in trust.	**Act 16(i) and (j)** Plan documents must set out a mechanism for establishing and maintaining the pension fund, and a mechanism for paying for the cost of administering of the pension plan and pension fund.

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
		to conflict with the administrator's duties and powers in respect of the pension fund. **Act 67** Every person engaged in the investment of the fund shall ensure the money is invested in accordance with the Act and regulations.	and 13 for actuarial valuation reports). **Act 28** File reciprocal transfer agreements. **Act 29** May hire agents. **Act 31, 32, 33, 34 and 35** Comply with requirements for disclosure to members. **Act 45** Provide notice to the Superintendent of non-remittance. **Act 46** • Contributions are to be held in trust. • The administrator has a lien on the employer's assets for unremitted contributions. **Act 64** Commence proceedings in court for non-remittance. **Act 73** The administrator must provide notice of wind-up. **Act 75** The administrator must file a wind-up report. **Act 77** The administrator must provide statements on wind-up.				

Jurisdiction	Who is the Administrator?	Standard of Care or Fiduciary Role of the Administrator Relevant to the Pension Fund	Administrator Duties Relevant to Fund Holder Responsibilities	Who Can Hold Funds and Type of Agreement or Contract	Fund Holder Duties	Deemed Trust Provisions	Filing Requirements for Fund Holder Arrangements
			Schedule I – Regulations The administrator must establish, review, amend and distribute a statement of investment policies and procedures. **Schedule III** The administrator must comply with restrictions regarding investment of the pension fund.				
Newfoundland	**Act 12(1)** Administrator Single employer • the employer; • a pension committee; • an insurance company; • a board, agency, commission or other body responsible for the administration of the plan. **Act 12(2)** • A pension committee for plans > than 49 members **Act 13 – MEPP** • a pension committee • a board of trustees	**Act 14** Administer the pension plan and fund as a trustee for the employer, members and former members.	**Act 14** (i) Administer the plan. (ii) Administer the plan in compliance with the Act. (iii) If employer is not the administrator of the plan, provide the administrator with information that is required in order to comply with the terms of the plan. (iv) Inform the Superintendent of Pensions of any changes to administration. **Reg. 4 (1) and (2)** File reciprocal transfer agreements. ‘ **Reg. (5)** Reporting as per DB provision.	**Act 15** Maintained by: (a) a government; (b) an insurance company; (c) a trust agreement under which the trustee is: (i) a trust company (ii) 3 or more individuals (iii) a corporate pension society under the Pension Fund Societies Act (d) a board, agency, commission or corporation responsible under an Act of the Legislature.	**Act 31** Notify the Superintendent of non-remittance. **Reg. 39(3)** Maintain current records identifying the plan's investments and the investments' names.	**Act 32 (1), (2) and (3**) (1) money in the pension fund; (2) contributions deducted and other amounts that are due but have not been remitted; (3) applies to ongoing, bankruptcy and termination.	**Act 16** **Act 31** **Directive No. 1 (2)(b**)
ITA/R	**ITA147.1(6**) • a person; • a body of persons; or • a majority of persons	Ultimate responsibility for the overall operation of the plan and compliance with the legislation	**ITA147.1(7)** • Administer in accordance with the terms of the plan as registered.	**ITR8502(g) and 6(e) under IC72-13R8** • an insurance company; • a trust in Canada;	• Ensure proper accounting of plan funds. • Ensure	• No such provision for registered pension plans	• Trust agreement or insurer contract

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	must reside in Canada, unless permitted **in writing** by the Minister to be a non-resident administrator.		• Notify the Minister of the name and address of the administrator and changes thereto.	• a pension corporation; • arrangement administered by the Gov. of Canada or Gov. of a province; • any combination of the above.	information returns required by the ITA/R are filed, if applicable.	exists.	(including application). • T3P form to be filled out with respect to a trust agreement.

May 4, 2010

Dear Pension Industry Stakeholder:

Re: CAPSA Consultation on the Draft Guideline on Fund Holder Arrangements

On behalf of the Canadian Association of Pension Supervisory Authorities (CAPSA), we are pleased to release the enclosed draft *Guideline on Fund Holder Arrangements* for your review and comment.

This consultation is part of CAPSA's strategic initiative to identify emerging issues and coordinate efforts to address such issues. One such issue is fund holder arrangements.

As a result, CAPSA set up the Fund Holder Arrangements Committee to:

(i) review existing legislative requirements regarding who can hold pension funds and what the fund holder agreements must contain,
(ii) compare these requirements with what is currently in use, and
(iii) clarify the roles and responsibilities related to fund holder arrangements.

After reviewing various legislative requirements, and in discussions with representatives from fund holder agencies, it became apparent that there is an opportunity to clarify the types of documents that may be used as fund holder agreements and the roles and responsibilities of the key players in a pension plan with respect to fund holder arrangements.

Building on CAPSA Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire, the Fund Holder Arrangements Committee prepared a draft guideline to provide guidance to pension plans of all types and sizes, in all jurisdictions of Canada, with their fund holder arrangements. The Guideline on Fund Holder Arrangements is intended to promote compliance and consistency in establishing and maintaining pension plan fund holder arrangements

CAPSA would appreciate your comments on the draft guideline.

Please forward your written comments on the CAPSA draft Guideline on Fund Holder Arrangements to:

Christian Nordin
Acting Policy Manager
CAPSA Secretariat
c/o Financial Services Commission of Ontario
5160 Yonge Street, Box 85

Toronto ON M2N 6L9
E-mail: capsa-acor@fsco.gov.on.ca

Electronic copies of submissions would be preferred. We look forward to receiving your comments by July 30, 2010. Questions arising from this consultation may be directed to the CAPSA Secretariat.

Please note that this draft guideline has been prepared to contribute to the consistent development and maintenance of fund holder arrangements in all Canadian jurisdictions. The draft guideline does not reflect the official position of any provincial or federal government or agency.

Yours very truly,

Mario Marchand
Chair, CAPSA
Régie des rentes du Québec

Mark Prefontaine
Chair, Fund Holder Arrangements Committee
Deputy Superintendent of Pensions
Alberta Finance and Enterprise

Appendix B
Members of CAPSA Fund Holder Arrangements Committee

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THE COUNCIL
OF THE FEDERATION

PREMIERS AGREE ON EI REFORMS
AND CALL FOR A RETIREMENT INCOME SUMMIT

REGINA, August 6, 2009 – Premiers agreed on the urgent need to modernize the Employment Insurance system to support a modern workforce in a modern economy and called for a national summit on retirement income.

Modern Employment Insurance Program

Premiers agreed that the following principles should be used to modernize the EI system:

1. EI should build a temporary bridge to get workers through these challenging economic times. A renewed emphasis on training should be a critical component of the reform. The federal government must increase its allocation to training, other active employment measures and maternity benefits, under the *Employment Insurance Act.*

2. EI should provide Canadians with equitable support regardless of where they live.

3. The program should be simplified and streamlined to have fewer than the current 58 EI regions.

4. Reforms must not reduce access or benefits from the current standards.

5. The program must be affordable and sustainable and financed through a stand-alone and independent fund.

National Summit on Retirement Income

Premiers called for urgent attention to the issue of how private and public retirement plans can better meet the needs of Canadians as they retire. They called on the federal government to host a national summit on retirement income.
Finance Ministers have established a Research Working Group on Pension Coverage and Retirement Incomes. Premiers welcomed this as a good first step. However, due to the urgent nature of this issue, Premiers directed Finance Ministers to report on possible options for reform by the private sector and governments by the end of the year.

The national summit should be conducted by 2010 and should bring together provinces and territories, the federal government and interested stakeholders and experts to discuss possible options to improve saving options for Canadians and to encourage greater saving.

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For more information:

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PENSION SECTOR
COST RECOVERY PROPOSAL

PROPOSAL

The Financial Services Commission of Ontario (FSCO) is proposing to implement an assessment process to ensure FSCO's expenditures for the pension sector are fully recovered.

GENERAL BACKGROUND

FSCO was established in July 1998 under the *Financial Services Commission of Ontario Act, 1997* (FSCO Act). FSCO is committed to improving regulatory effectiveness and efficiency of resource utilization. One of FSCO's objectives is to have full cost recovery from each of the regulated sectors. FSCO's operations and branches are divided into "cost centres" for financial and administrative purposes. For cost centres whose time and budgets are dedicated 100% to a given sector, their entire costs are assigned to that sector. Where cost centres perform activities that relate to more than one sector, the costs are allocated to the appropriate sectors.

Section 25 of the FSCO Act states that the Lieutenant Governor in Council may assess the FSCO regulated sectors with respect to all expenses and expenditures that the Ministry, the Commission and the Tribunal have incurred and made in respect to that sector.

FSCO's Current Pension Sector Cost Recovery

Currently, the cost of regulating the pension sector in Ontario is recovered solely through fees set by the Minister of Finance and published in the Minister's Schedule of Fees under the *Pension Benefits Act*. At the present time, most of the fees are generated by the Annual Information Return (AIR) fee, however, there is no certainty that these fees would cover the entire cost of the sector in any given year since AIR fees are based on a flat rate per member and former member. As a result of the fixed nature of these fees, costs may be over- or under-recovered in any given year. FSCO has no authority to credit pension plans with any amounts collected through fees in excess of costs. Conversely, no means exists for collecting under-recovered amounts from pension plans. Shortfalls are made up from the Consolidated Revenue Fund of the Government while surpluses are paid into it.

Proposed Pension Sector Cost Recovery Process

The proposed new assessment process would ensure that FSCO generates neither a surplus nor a shortfall with respect to pension sector costs.

In order to determine pension sector costs, FSCO proposes calculating the full expenditures for the sector, then subtracting the fees and charging the remaining amount through an assessment.

FSCO is accountable to the Government through a number of mechanisms that are described later in this paper.

The proposed new cost recovery process retains the current AIR fee structure as a base assessment for each plan based on the current AIR fees. **The only noteworthy changes to the current process are to collect the current AIR fees through an assessment rather than the AIR and to have an assessment adjustment assigning shortfalls/ surpluses on a pro rata basis to the base assessment.**

This paper describes the proposed new process and invites comments from pension stakeholders on the proposal.

Comments may be made by **August 18, 2006** to the attention of:

Gino Marandola
Senior Manager, Operations
Financial Services Commission of Ontario
5160 Yonge St. 4th Floor, Box 85
Toronto ON M2N 6L9
Tel: 416 226-7820 Fax: 416 226-7777
Email: gmarando@fsco.gov.on.ca

FSCO's COST RECOVERY PRINCIPLES

The proposed pension cost recovery process has been developed in accordance with the following FSCO cost recovery principles:

Cost recovery will not exceed forecasted expenditures for each sector and FSCO will be accountable for the efficiency and quality of the services delivered.

Cost recovery will be fair and reflect the use of FSCO resources.

Cost recovery will enable reasonable predictability of regulatory costs.

Cost recovery will be simple to administer.

Cost recovery will be flexible and easily modified.

Accountability

Each year, FSCO must obtain its spending authority through the Government budgetary process. Spending authority is granted based on closely monitored organizational needs and Government priorities.

FSCO also reports quarterly to the Government on the status of its spending.

Under Section 14 of the FSCO Act, the Office of the Auditor General shall examine annually the accounts and financial transactions of the Commission. The audited financial statements are published in FSCO's annual report.

Finally, each year FSCO must send to the Minister of Finance and publish in the Ontario Gazette a Statement of Priorities for the coming year. As part of that document, FSCO provides its stakeholders with a Report Back on the initiatives and projects for the previous year.

PROPOSED NEW COST RECOVERY PROCESS

The AIR fee structure, based on plan membership with a rate of $6.15 per member and $4.25 per former member, coupled with a minimum charge of $250 per pension plan and a maximum charge of $75,000 per pension plan, has proven to be fair and reflects the use of FSCO resources. FSCO allocates about 80-85% of its pension resources to defined benefit (DB) plans and approximately 15-20% to defined contribution (DC) plans. These percentages generally correspond to the amount of fees generated by DB plans (about 80%) and DC plans (about 20%).

Furthermore, the AIR fee structure based on plan membership has proven to be a good proxy for a user-pay system. This is because there is a strong, positive correlation between membership, activity based transactions, and fees. Generally, plans with a higher membership generate more transactions, and the higher the plan membership, the higher the AIR fees (assessments).

FSCO would be using the same membership data as appeared on the latest AIR prepared by the pension plan administrator.

Under the proposed assessment process, pension plans would continue to file their AIR six months following the end of the plan's fiscal year for DC plans, and nine months following the end of the fiscal year for DB plans.

The total amount to be assessed would be the pension sector cost for FSCO's previous fiscal year less the aggregate of all fees (e.g. plan registration fees) collected during the fiscal year. This is the net pension sector cost.

The assessment as proposed would be done in two parts. First, FSCO would calculate a base assessment at the rate of $6.15 per member plus $4.25 per former member, subject to a minimum of $250 and a maximum of $75,000 (the pension plan membership would be taken from the latest AIR). FSCO would then compare the amount calculated by the base assessment with the net pension sector cost. If the net pension sector cost is greater or less than the base assessment, an assessment adjustment would be used to calculate the additional amount to be recovered or credited. The adjustment would be based on each plan's pro rata share of the base assessment.

Beginning in **September 2008**, FSCO proposes sending to each pension plan administrator an assessment that would be payable within 30 days. The assessment for each plan would indicate the base assessment and the assessment adjustment. The assessment would be for FSCO's costs in the previous fiscal year.

Example

For both DB and DC plans, the assessment would be calculated as follows, based on the following assumptions for a given fiscal year:

The net pension sector cost is $9.9 million.
The base assessment raises $9 million from the pension sector.
There is a shortfall of $900,000 ($9.9 million - $9 million).
The % shortfall is 10% ($900,000/$9 million). Therefore each plan would be required to pay an assessment adjustment of 10% over their base assessment.

If Plan A, based on its membership, is assessed the minimum base assessment of $250, then Plan A's total assessment would be $275 ($250 plus an assessment adjustment of $25).

If Plan B, based on its membership, is assessed the base assessment of $17,500, then Plan B's total assessment would be $19,250 (17,500 plus an assessment adjustment of $1,750).

If Plan C, based on its membership, is assessed the maximum base assessment of $75,000, then Plan C's total assessment would be $82,500 ($75,000 plus an assessment adjustment of $7,500)

Similarly, if it is assumed that the pension sector cost was only $8.1 million, the base assessment would generate a surplus of $900,000 or 10%.

Then Plan A's total assessment would be $225 ($250 minus an assessment adjustment of $25).
Then Plan B's total assessment would be $15,750 (17,500 minus an assessment adjustment of $1,750).
Then Plan C's total assessment would be $67,500 ($75,000 minus an assessment adjustment of $7,500).

TRANSITION

The proposed process would begin with FSCO's 2007-08 fiscal year. That would mean that pension plans with a fiscal year end after March 31, 2007 would no longer remit an AIR fee with their AIR return.

If implemented, the transition to the cost recovery process will be communicated to the pension sector and will be posted on FSCO's website.

Next Steps

Following the close of the comment period, FSCO will evaluate all submissions.

Following this evaluation, if FSCO determines to proceed with the proposal, FSCO will seek Government approval to implement this assessment process.

Content on this page has been transferred from the Financial Services Commission of Ontario (FSCO) site as a PDF for reference. Links that appear as related content have also been transferred and can be found at the end of this document.

FAQs on Rules for Ontario Locked-In Accounts

Last Updated: December 31, 2010

On July 27, 2007, significant changes to the rules that govern locked-in accounts in Ontario were enacted under Ontario Regulation 416/07, which is made under the Pension Benefits Act (PBA). This was followed by additional changes under Ontario Regulation 239/09 in June 2009, which has further altered the rules for Ontario locked-in accounts.

The following frequently asked questions (FAQs) provide answers to some of the questions that have arisen as a result of these changes, and consolidate and update all previous FAQs that were posted since July 2007. The notation after each answer provides the date that each FAQ was posted. In the future, each new or amended FAQ will have its own notation.

Locked-in Accounts Include:

- Old Life Income Funds (refer to LIFs that are governed by Schedule 1 of R.R.O. 1990, Regulation 909);
- Locked-In Retirement Income Funds;
- New Life Income Funds (refer to LIFs that are governed by Schedule 1.1 of R.R.O. 1990, Regulation 909); and
- Locked-In Retirement Accounts.

FAQs are Grouped Under the Following Sections:

- Old Life Income Funds (Old LIFs)
- Locked-In Retirement Income Funds (LRIFs)
- New Life Income Funds (New LIFs)
- Locked-In Retirement Accounts (LIRAs)
- Information for Financial Institutions
- Option to Transfer Money from a Locked-in Account to an Unlocked Vehicle
- Unlocking a Locked-in Account if you are a Non-Resident of Canada
- Effects of Changes on Other Unlocking Applications

Summary of the Most Significant Changes

The list below summarizes the most significant changes to the locked-in rules that have come into effect since July 2007.

- On January 1, 2008, the New LIF was introduced. Owners of New LIFs are able to receive more flexible payments from the fund and have a time-limited opportunity to withdraw or transfer to an unlocked account a percentage of the funds that were transferred into the New LIF.

- As of January 1, 2008, money in a locked-in account may be transferred directly to an unlocked account upon the death of its owner, or if the owner is over the age of 55 and only has a small amount of money in his or her account.

- As of January 1, 2008, owners of locked-in accounts who are non-residents of Canada —as determined by the Canada Revenue Agency for the purpose of the federal Income Tax Act — may apply to unlock and withdraw the money in their accounts two years after they have departed from Canada.

- After December 31, 2008, Old LIFs and LRIFs are no longer available for purchase.

- Effective January 1, 2011, the rules for Old LIFs and LRIFs will be harmonized with the rules for New LIFs.

- Effective January 1, 2011, the rules that govern LIRAs will be consolidated into the new Schedule 3 under R.R.O. 1990, Regulation 909.

- Effective January 1, 2011 owners of Ontario Schedule 1 LIFs or LRIFs may withdraw or transfer up to 50% of the money - January 1, 2011 to April 30, 2012.

- Financial institutions are required to provide notice to their existing clients of all changes to the rules that govern locked-in accounts.

Note: These FAQs use “LIF formula” to refer to the maximum amount that can be paid from a LIF or an LRIF in accordance with Schedule 1 or 1.1 (LIF) or Schedule 2 (LRIF).

How to Contact FSCO

If you have a question or require assistance, you can reach the Financial Services Commission of Ontario’s contact centre by telephone at 1-800-668-0128 (call toll-free) or (416) 250-7250 (in Toronto), or by email at contactcentre@fsco.gov.on.ca.

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FAQs on Old Life Income Funds (LIFs)

Q1. I own an Old LIF. How will the changes to the rules for locked-in accounts affect me?

A1. As a result of the changes to the rules that govern locked-in accounts:

- As of January 1, 2009, you cannot transfer any money into your Old LIF from any other sources.
- You can keep your Old LIF past age 80 and are no longer required to purchase a life annuity with the funds from your Old LIF.
- You can keep your Old LIF, but effective January 1, 2011 the rules for Old LIFs will be harmonized with those that govern New LIFs.
- As of January 1, 2011, the maximum amount of income paid each year from your Old LIF will be the greater of the amount you would have received under the formula in Schedule 1 under Regulation 909, or the investment earnings from the previous year.
- From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in your Old LIF to a Registered Retirement Savings Plan (RRSP) or a Registered Retirement Income Fund (RRIF) using Form 5.3. - 12/2010

Q2. Can I still buy an annuity with the funds from my Old LIF?

A2. Yes, you can buy an annuity with the funds from your Old LIF at any age. - 07/2007

Q3. How do I calculate the maximum amount I can be paid from my Old LIF each year?

A3. For 2010, the maximum income payment is still based on the LIF formula in the regulations (LIF formula). This LIF formula takes into account the amount in your account as of January 1st multiplied by a percentage that changes each year based on your age. The percentage for each age can be found in a table that FSCO publishes in December of each year. Starting in 2011, your maximum income payment will be the greater of the amount earned under the LIF formula, or your Old LIF’s investment earnings from the previous year. -05/2010

Q4. What are my options if I want to transfer money out of my Old LIF?

A4. You can transfer money from an Old LIF to a New LIF, or to an insurance company to purchase a life annuity. Effective January 1, 2011 you can withdraw or transfer up to 50% of the money in an Old LIF - January 1, 2011 to April 30, 2012. - 12/2010

Q5. I want to use the money in my Old LIF to purchase a New LIF. How will my income payments from the Old LIF and New LIF be affected when I make the purchase?

A5. Transferring money from your Old LIF to a New LIF does not affect the maximum amount of income that could be paid from the Old LIF during the year of transfer. To ensure that you receive the maximum income payment possible for that year, you should arrange to receive **all** payments that you are entitled to get from the Old LIF, **before** you make the transfer.

After you purchase the New LIF with the funds from your Old LIF, the amount of income you can be paid from your New LIF for the rest of the year is set to zero. - 05/2010

Q6. Can I transfer any money into my Old LIF?

A6. No. You can no longer transfer money into an Old LIF, even if it comes from another Old LIF. - 05/2010

Q7. Can I withdraw or transfer any money from my Old LIF in addition to my annual income payment?

A7. From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to apply to withdraw or transfer up to 50 per cent of the money in your Old LIF to an RRSP or RRIF using Form 5.3. - 12/2010

Q8. What happens if I own an Old LIF when I die?

A8. If you own an Old LIF when you die, your surviving spouse is entitled to the full amount of money that is in your Old LIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF if the transfer is permitted by the federal Income Tax Act.

If you do not have a surviving spouse on the date of your death, or if your spouse has waived his/her entitlement to the death benefit payment, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your Old LIF. - 05/2010

Q9. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A9. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, **on or after the day you become 55 years old**. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q10. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A10. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q11. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A11. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- **FAQs on Rules for Ontario Locked-In Accounts**

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FAQs on Locked-in Retirement Income Funds (LRIFs)

Q1. I have an LRIF. What will happen to it as a result of the changes to the rules for locked-in accounts?

A1. As a result of the changes to the rules that govern locked-in accounts:

- As of January 1, 2009, you cannot transfer any money into your LRIF from any other source.
- After December 31, 2010, you will no longer be able to carry forward any unused maximum income payment amounts to future years and add it to future maximum income payment amounts.
- You can keep your LRIF, but effective January 1, 2011 the rules for LRIFs will be harmonized with those that govern New LIFs.
- As of January 1, 2011, the maximum amount of income paid each year from your LRIF will be the greater of the amount you would have received under the formula in Schedule 2 under Regulation 909, or the investment earnings from the previous year.
- From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in your LRIF to an RRSP or RRIF using Form 5.3. -12/2010

Q2. How do I calculate the maximum amount I can be paid from my LRIF each year?

A2. For 2010, the maximum income payment is based on the LRIF's investment earnings for the previous year. Starting in 2011, the maximum income payment will be the greater of the amount earned under the LIF formula or your LRIF's investment earnings for the previous year.

Starting in the 2011 fiscal year, you will no longer be able to carry forward any unused maximum income payment amounts to future years' maximum income payment amounts. -05/2010

Q3. What are my options if I want to transfer money from my LRIF?

A3. You can transfer the money that is in your LRIF to a New LIF, or to an insurance company to purchase a life annuity. Effective January 1, 2011 you can withdraw or transfer up to 50% of the money in an LRIF - January 1. 2011 to April 30, 2012 *.* -12/2010

Q4. I want to use the money in my LRIF to purchase a New LIF. How will my income payments from the LRIF and New LIF be affected when I make the purchase?

A4. Transferring money from your LRIF to a New LIF does not affect the maximum amount of income that could be paid from the LRIF during the year of transfer. To ensure that you receive the maximum income payment possible for that year, you should arrange to receive **all** payments that you are entitled to get from the LRIF, **before** you make the transfer.

After you purchase the New LIF with the funds from your LRIF, the amount of income you can be paid from your New LIF for the rest of the year is set to zero. **-**05/2010

Q5. Can I transfer money into my LRIF?

A5. No. You can no longer transfer money into an LRIF, even if it comes from another LRIF. -05/2010

Q6. Can I withdraw or transfer any money from my LRIF in addition to my annual income payment?

A6. From January 1, 2011 to April 30, 2012, you will have a one-time opportunity to apply to withdraw or transfer up to 50 per cent of the money in your LRIF to an RRSP or RRIF using Form 5.3. -12/2010

Q7. What happens if I own an LRIF when I die?

A7. If you own an LRIF when you die, your surviving spouse is entitled to the full amount of money that is in your LRIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF, where it is permitted by the federal Income Tax Act.

If you do not have a surviving spouse on the date of your death, or if your spouse has waived his/her entitlement to the death benefit payment, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your LRIF. -05/2010

Q8. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A8. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, **on or after the day you become 55 years old**. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q9. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A9. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q10. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A10. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- FAQs on Rules for Ontario Locked-In Accounts

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FAQs on New Life Income Funds (LIFs)

This page provides frequently asked questions that relate to new LIFs.

General Information on New LIFs

Q1. Who may purchase a New LIF?

A1. You may purchase a New LIF in the following three situations:

1. If you are the owner of an Old LIF, LRIF or LIRA, you may transfer the funds from this account into a New LIF.
2. If your employment ended and either your plan allows you to move the funds from your pension plan into a locked-in account, or the PBA permits you to move the funds from your pension plan into a locked-in account in certain circumstances (such as a plan wind up).
3. If you are the former spouse of a pension plan member who is entitled to transfer these funds, you may transfer the commuted value of the pension funds into a New LIF. -05/2010

Q2. What are the most significant features of the New LIF?

A2.

1. *The ability to keep the New LIF past age 80.* If you choose to receive the maximum income payment each year, the money in your New LIF will be used up by age 90. However, if any money remains in the New LIF at age 90, you may keep it and continue to withdraw income from it in the future.
2. *A higher income payment*. The maximum annual income payment will be the greater of the amount you could be paid under the LIF formula and the New LIF's investment earnings from the previous year.
3. *The ability to withdraw or transfer money from the New LIF.* As of January 1, 2010, you can withdraw or transfer to an RRSP or RRIF up to 50 per cent of any amount that you transferred into the New LIF after December 31, 2009, if you apply to do so within 60 days of

the transfer. (Before January 1, 2010, the maximum amount that could be withdrawn or transferred was 25 per cent of the amount that you transferred into the New LIF, if you applied to do so within 60 days of the transfer.)

4. *The ability to withdraw or transfer an additional 25 per cent before December 31, 2010.* You may apply to withdraw or transfer an additional 25 per cent of the total amount of money that was transferred into your New LIF before January 1, 2010. To qualify for this withdrawal, you must submit your application before December 31, 2010. - 05/2010

Q3. If I purchase a New LIF with money from a locked-in account (Old LIF, LRIF or LIRA), does my spouse need to consent to the purchase, if he/she already provided consent when the original locked-in account was purchased?

A3. Yes, you must get your spouse's consent. This rule applies any time you move money from one type of locked-in account (e.g., Old LIF, LRIF or LIRA) to another (e.g., New LIF). The only exception is if you move your money into the same type of locked-in account (e.g., you use money from a New LIF to purchase another New LIF). -05/2010

Q4. How is the maximum annual income payment calculated in the first year of a New LIF, taking into account the ability to withdraw or transfer up to 50 per cent of the funds?

A4. The maximum annual income payment for the first year is based on the amount of money you have in the New LIF at the start of the New LIF's fiscal year, regardless of any subsequent withdrawals.

Example: a New LIF was purchased with $100,000 that was transferred from a LIRA on the date of purchase. Fifty days later, the owner withdraws 50 per cent of the funds, which leaves $50,000 in the New LIF. Based on this example, the maximum annual income payment would be based on $100,000, as the fiscal year begins on the date money was transferred into the New LIF. However, it is important to note that if the money to purchase the New LIF came from an Old LIF, LRIF or another New LIF, the maximum annual income payment amount for the New LIF for that fiscal year would be zero. -05/2010

Q5. Does the New LIF allow me to carry forward any unused portion of the maximum annual income payment for future years (similar to what has been allowed under the LRIF)?

A5. No, the New LIF does not have a carry forward feature. -07/2007

Q6. What are my options if I want to transfer money out of my New LIF?

A6. You may transfer money to another New LIF or use the money to purchase an annuity. Note that you cannot transfer money from a New LIF to a LIRA. -07/2007

Q7. My retirement savings are currently in a locked-in account in the form of non-redeemable GICs that will not mature for a few years. Can I transfer this money to a New LIF in its GIC form?

A7. Under Ontario's pension laws, you are entitled to transfer money out of your locked-in account to another locked-in account (including a New LIF) without having to cash it in. However, you can only make this transfer if an "in-kind" transfer is allowed under the terms of your contract with your financial institution. You should check with your financial institution to find out what issues might arise. -07/2007

Q8. What is the date that my New LIF is established? Is it the date I signed the application, the date the financial institution deposits the money, or some other date?

A8. The New LIF is established on the date the financial institution accepts the application, as determined by the financial institution. This could be the same date that you signed the application, and it could precede the date on which money is actually transferred into the New LIF. -07/2007

Q9. Can an Old LIF simply be converted into a New LIF?

A9. No. The New LIF is a completely different type of locked-in account than an Old LIF, in the same way that an LRIF is a different type of locked-in account than a LIF. If an owner of an Old

LIF wants a New LIF, he/she must purchase a New LIF by transferring money from the Old LIF into a New LIF. The Old LIF cannot simply be converted into a New LIF.

However, on January 1, 2011, the rules for Old LIFs, LRIFs and New LIFs will become harmonized. All three funds are essentially similar, except that owners of Old LIFs and LRIFs will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in their account. The rules for determining the maximum annual income payment from Old LIFs, LRIFs and New LIFs will be identical. The maximum income payment for all three funds will be the greater of the amount calculated under the LIF formula, or the fund's investment earnings from the previous year. - 09/2010

Q10. I want to transfer money from a New LIF to another New LIF. When must the financial institution transfer the money?

A10. The financial institution that administers a New LIF must agree to transfer money to another New LIF within 30 days of the date you made the application. Note that this does not apply to a transfer of assets that are held as securities and whose term of investment extends beyond the 30 day period. In that situation, you should discuss the transfer with your financial institution. -07/2007

Q11. If I transfer money into a New LIF after January 1, 2011, will I be able to withdraw or transfer up to 50 per cent of the amount that was transferred into the fund?

A11. It depends on where the money came from. The withdrawal or transfer option is not open to you if the money was transferred from an Old LIF, LRIF or another New LIF. If the money was transferred from a LIRA or a registered pension plan, you may apply to withdraw or transfer up to 50 per cent of the money that was transferred into the New LIF.

Q12. If I transfer money from an Old LIF or LRIF to a New LIF after January 1, 2011, will I still be paid an annual amount?

A12. Yes. During the year, you must be paid at least a minimum amount as income from the Old LIF or LRIF. When transferring money from an Old LIF or LRIF to a New LIF, you should ensure that you have been paid at least the minimum income amount from the Old LIF or LRIF before the transfer, or leave sufficient assets in the Old LIF or LRIF to be paid at least the minimum income amount from it that year. The income amount payable to you from the Old LIF or LRIF is not affected by the fact that you can no longer apply to withdraw or transfer up to 50% of the money that was transferred into the New LIF.

Q13. Between January 1, 2011 and April 30, 2012, owners of Old LIFs or LRIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How is this amount determined?

A13. The total market value of the assets in the fund is based on the amount that is stated in the owner's most recent statement that was issued by the financial institution at the time of the application. The statement must be dated within one year of the date that the application is made.

Q14. What happens if I own a New LIF when I die?

A14. If you own a New LIF when you die, your surviving spouse is entitled to the full amount of money that is in your New LIF. This money may be paid out as an unlocked lump sum after your death, or may be transferred to your spouse's own RRSP or RRIF, where it is permitted by the federal Income Tax Act. If you do not have a surviving spouse, or if your spouse has waived his/her entitlement to the death benefit payment on the date of your death, your named beneficiary or estate (if there is no named beneficiary) is entitled to receive the amount in your New LIF. - 05/2010

Q15. Will FSCO continue to publish a table that sets out the maximum annual income payment schedule?

A. 15. Yes. FSCO publishes a table of the maximum annual income payment percentages for different ages in December of each year. The maximum annual income amount that may be paid from a New LIF is the greater of the amount earned under the LIF formula and the New LIF's investment earnings from the previous year. The LIF formula takes into account the amount in your account as of the start of the New LIF's fiscal year, multiplied by a percentage that changes each year based on your age. - 05/2010

Q16. At what age can I apply to withdraw the money in my locked-in account because it is a small amount?

A16. You can apply to withdraw all the money in your locked-in account (LIRA, LIF or LRIF) under the small amount category, on or after the day you become 55 years old. The small amount requirement means that the total value of all assets in all your Ontario locked-in accounts must be less than 40 per cent of the Year's Maximum Pensionable Earnings (YMPE) for that calendar year. -03/2014

Q17. Why are there only three columns in the 2016 Maximum Annual Income Payment Amount Table for an Ontario Old LIF, New LIF or LRIF in FSCO Policy L200-415 (instead of the 4 columns in prior years)?

A17. The maximum annual payment percentage is based on the age attained during the year in question. FSCO has, therefore, made minor changes to the table to streamline the information provided. -12/2015

Q18. Does the change in the Canada Revenue Agency minimum withdrawal amount impact the maximum amount that can be withdrawn?

A18. No. The Canada Revenue Agency's reduction of the minimum withdrawal amount has no impact on the maximum withdrawal amounts. The Pension Benefits Act provides the maximum amount that may be withdrawn from the locked-in account. Each year, FSCO publishes a policy that includes a table of percentages that must be used to calculate the maximum annual income amount that may be paid out from the locked-in account. -12/2015

More information:

- FSCO Policies on Locked In Accounts
- FAQs on Rules for Ontario Locked-In Accounts

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Unlocking, Withdrawals and Transfers from New Life Income Funds (LIFs)

This page provides frequently asked questions that relate to the unlocking, withdrawal and transfer from new LIFs.

Q1. How does the unlocking, withdrawal and transfer from the New LIF work?

A1. The owner of a New LIF has a time-limited option to withdraw in cash or transfer to an RRSP or RRIF a percentage of any money that is transferred into the New LIF. (This option will be referred to below as a "withdrawal or transfer". See the next question for the percentage that may be withdrawn). The money that is transferred to the New LIF may be from an Old LIF, LRIF, LIRA, or a Registered Pension Plan (RPP). Fund transfers from another New LIF are not entitled to the unlocking, withdrawal or transfer option, unless the funds are transferred from the other New LIF due to a relationship breakdown between two spouses.

If money was transferred from an Old LIF or LRIF before January 1, 2011, the New LIF owner can withdraw or transfer an amount up to the prescribed percentage. However, no money can be withdrawn or transferred from the New LIF in relation to transfers from an Old LIF or LRIF that are made after December 31, 2010.

For transfers from a LIRA or RPP, the owner can withdraw or transfer an amount up to the prescribed percentage after every transfer.

However, if assets are transferred from one New LIF to another New LIF, or from an annuity to a New LIF, no money can be withdrawn or transferred from the New LIF that receives the money. - 05/10

Q2. If money was transferred into my New LIF, what percentage of the money may be withdrawn or transferred?

A2. Before January 1, 2010, the amount that could have been withdrawn or transferred was 25 per cent of the "total market value of the assets" that were transferred into the New LIF. Effective January 1, 2010, this limit was changed to 50 per cent of the "total market value of the assets" that were transferred into the New LIF.

Note: the questions and answers below use the 50 per cent limit unless noted otherwise. - 05/10

Q3. How is the "total market value of the assets" for the 50 per cent withdrawal or transfer determined?

A3. The "total market value of the assets" transferred into the New LIF is determined on the date the money was transferred into the New LIF. That date should be available from your financial institution. Any increase or decrease in the value of the New LIF after the transfer is not taken into account.

Example: You transferred a sum of money into your New LIF on January 9, 2010 and then applied to withdraw 50 per cent of the funds on February 1, 2010. In this example, the 50 per cent is based on the amount that was transferred into your New LIF on January 9, 2010. - 05/10

Q4. Is there an age restriction on who can apply for a withdrawal or transfer from the New LIF?

A4. No. However, a person's age does play a role in determining the earliest date on which that person could purchase a New LIF. An individual may purchase a New LIF at any time during the calendar year that precedes the year in which he/she would have been entitled to start receiving pension payments from the pension plan from which the money used to purchase the New LIF originated.

Example: if your pension plan starts providing pension payments at age 55, you could purchase a New LIF at any time during the year that you turn 54. - 05/10

Q5. Can a person who owns a New LIF and is under 55 years of age apply for a withdrawal or transfer to an RRSP of up to 50 per cent of the money (i.e., the total market value of the assets) transferred into the New LIF?

A5. Yes, as long as he or she makes the application within 60 days from the date the money was transferred into the New LIF from a registered pension plan or LIRA (or from the LIF or LRIF of a spouse or former spouse if the money was transferred under the terms of a Family Law Act order, family arbitration award or a domestic contract). However, there is an age-related restriction relating to the earliest date that an individual can purchase a New LIF. (For more information on this age restriction, please refer to the section on age restriction in FSCO's Policy on New LIFs). -02/13

Q6. What is the deadline for applying for a 50 per cent withdrawal or transfer from a New LIF? How and where do I apply?

A6. You must apply to the financial institution that administers the New LIF into which the money was transferred, within 60 days from the date the money was transferred. The application must be made using FSCO pension Form 5.2, but it must be submitted to your financial institution (not to FSCO). - 05/10

Q7. What happens if I do not submit the 50 per cent withdrawal or transfer application within the required 60 days? Do I get another opportunity to submit the application?

A7. No. If you do not submit an application to withdraw or transfer 50 per cent of your money in a New LIF within the required 60 days, you will not have another opportunity to take advantage of this provision in relation to that transfer. - 05/10

Q8. What is the time limit for a 50 per cent withdrawal or transfer application?

A8. Every time money is transferred into a New LIF from a pension plan, LIRA, Old LIF or LRIF (but not from an annuity or another New LIF), you have 60 days to apply for a withdrawal or transfer of up to 50 per cent of the amount that was transferred into the New LIF. The 60 days begins on the date the money is transferred into the New LIF, not the date the New LIF was opened. If you are not sure about this date, please check with your financial institution. Your financial institution is required to make the payment or transfer to you within 30 days of receiving your completed application form and accompanying documents. - 05/10

Q9. Is the 50 per cent withdrawal or transfer from the New LIF in addition to the maximum amount that I can receive as income for the year?

A9. Yes. The 50 per cent withdrawal or transfer amount is in addition to the maximum amount that can be paid from the New LIF as income. The annual maximum and minimum income payment from a New LIF always relates to the balance of the New LIF at the beginning of its fiscal year. - 05/10

Q10. Does the 50 per cent withdrawal or transfer require any changes to the provisions of pension plans?

A10. No, the 50 per cent withdrawal or transfer under the New LIF does not require any pension plan changes. To apply for the 50 per cent withdrawal or transfer, you are required to submit an application to the financial institution that holds the New LIF — not the pension plan from which the money originated. - 05/10

Q11. Can the 50 per cent withdrawal or transfer be made from the existing locked-in account (e.g., LIRA, Old LIF, LRIF) prior to the transfer to the New LIF?

A11. No. The 50 per cent withdrawal or transfer must come from the New LIF after the money has been transferred into it. - 05/10

Q12. If an individual has already purchased a life annuity with locked-in money, is it possible to switch back to a New LIF to take advantage of the 50 per cent withdrawal or transfer?

A12. It may be possible to convert the unexpired part of a guaranteed life annuity and purchase a New LIF with the proceeds. However, the 50 per cent withdrawal or transfer option would not apply to the transferred money, as it only applies to money that is transferred into a New LIF directly from a pension plan, LIRA, Old LIF or LRIF — not to money that is transferred from an annuity or another New LIF. - 05/10

Q13. I own a New LIF with Company A. If I transfer all the money from the New LIF to another New LIF with Company B, can I apply to withdraw or transfer up to 50 per cent of the amount that was transferred into the New LIF with Company B?

A13. No. You cannot apply for a 50 per cent withdrawal or transfer for money that is transferred from one New LIF to another New LIF, unless the transfer was made under the terms of an order under the *Family Law Act*, a family arbitration award, or a domestic contract as defined in Part IV of that Act. - 05/10

Q14. I transferred $100,000 from a LIRA into a New LIF on January 2, 2010. By the time I applied for the 50 per cent withdrawal or transfer, the value of the New LIF decreased to $90,000. Which amount do I use to determine the withdrawal or transfer?

A14. The market value of the LIRA on the date that you transferred the money into the New LIF determines the amount that can be withdrawn or transferred. In this case, you can withdraw or transfer 50 per cent of $100,000, which equals $50,000. - 05/10

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FSCO Policies on Locked In Accounts
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Additional 25 per cent Withdrawals or Transfers from New Life Income Funds (LIFs)

This page provides frequently asked questions that relate to additional 25 per cent withdrawals or transfers from new LIFs.

Q1. Who is allowed to apply for an additional 25 per cent withdrawal or transfer from a New LIF and what are the circumstances?

A1. To apply for an additional 25 per cent withdrawal or transfer from a New LIF, you must have transferred money into your New LIF on or before December 31, 2009. The additional withdrawal or transfer is based on 25 per cent of the total market value of all assets that were transferred into the New LIF on or before December 31, 2009. In addition, the application must be submitted between January 1 and December 31, 2010. - 05/10

Q2. How do I apply to withdraw or transfer an additional 25 per cent from my New LIF?

A2. To apply, you must complete FSCO pension **Form 5.1.1** and submit it to the financial institution that holds your New LIF. Please do not send the application to FSCO. - 05/10

Q3. How do I determine the "total market value of all assets" for the additional 25 per cent withdrawal or transfer?

A3. The "total market value of all assets transferred into the fund on or before December 31, 2009" is based on the date the money was transferred into the New LIF. To determine that date, contact your financial institution. Note that any increase or decrease in the value of the New LIF after the transfer was made will not be taken into account.

Example: If you transferred $100,000 into a New LIF in 2009 and then applied for an additional 25 per cent withdrawal in January 2010, the 25 per cent is based on $100,000. - 05/10

Q4. I bought a New LIF in 2009, but missed the chance to withdraw or transfer 25 per cent of the money that was transferred into it. When I apply for the additional 25 per cent withdrawal or transfer in 2010, can I also apply for the first 25 per cent?

A4. No. You cannot also apply for the first 25 per cent withdrawal or transfer, since that application must have been submitted within 60 days of the transfer. That time period cannot be extended. - 05/10

Q5. I transferred money into a New LIF in 2009 and withdrew 25 per cent of the funds. Since my spouse consented to that withdrawal, does he/she also need to consent to the additional 25 per cent withdrawal or transfer?

A5. Yes, your spouse must consent to your application to withdraw or transfer an additional 25 per cent of the funds from your New LIF. - 05/10

Q6. I transferred $40,000 into a New LIF with Company A in July 2009, and then withdrew $10,000 (25 per cent of the funds) in September 2009. In January 2010, I transferred $30,000 (the full amount of the funds from the New LIF) to a New LIF with Company B. Can I apply to withdraw or transfer an additional 25 per cent from the New LIF with Company B in 2010?

A6. No. The amount you can withdraw or transfer is based on the total of all amounts that were transferred into the New LIF with Company B ***before 2010***. In this example you did not transfer any money into the New LIF with Company B before January 1, 2010. If you wanted to withdraw or transfer an additional 25 per cent, you should have applied for a withdrawal or transfer from the New LIF with Company A ***before*** the money was transferred to the New LIF with Company B. - 05/10

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Transitional Information for Transfers to New Life Income Funds (LIFs) between December 2009 and January 2010

These FAQs address some of the questions that arose from transactions in late 2009 and early 2010 as a result of the changes that came into effect on January 1, 2010.

Q1. I want to transfer money to a New LIF and then apply to withdraw or transfer a percentage of the funds in my New LIF. What determines whether I can apply for 25 or 50 per cent?

A1. The key date is **the date the money was transferred into your New LIF.** If money was transferred into your New LIF **before January 1, 2010**, you had 60 days from the date of the transfer to apply to withdraw or transfer up to 25 per cent of the funds that were transferred into the New LIF. Once the 60 day period expired, you could not apply for that original 25 per cent withdrawal or transfer. However, you can still apply to withdraw up to an additional 25 per cent of the funds in your New LIF. To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010.

If money was transferred into your New LIF **after December 31, 2009**, you can apply to withdraw or transfer up to 50 per cent of the funds that were transferred into the New LIF. To apply, you need to complete FSCO pension Form 5.2 and submit it to the financial institution that holds your New LIF within 60 days of the date the money was transferred into your New LIF.

If you are not sure of the date that your money was transferred into your New LIF, check with your financial institution. - 05/10

Q2. I transferred $50,000 into a New LIF on December 20, 2009. I applied for and obtained a withdrawal of 25 per cent of the funds ($12,500) on December 22, 2009. In 2010, what application can I make and for how much?

A2. You can apply to withdraw or transfer up to an additional 25 per cent of the total amount that was transferred into your New LIF prior to January 1, 2010. Therefore, you may apply to withdraw or transfer $12,500 (25 per cent of $50,000). Any increase in the value of the New LIF is not taken into account for the purpose of this application.

To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010. - 05/10

Q3. I transferred $50,000 into a New LIF on December 20, 2009. I did not apply for a withdrawal or transfer by the end of 2009. In 2010, what applications can I make and for how much?

A3. Since the money was transferred into your New LIF prior to January 1, 2010, you had the opportunity to make two separate applications.

For the first 25 per cent, you could have applied to withdraw or transfer up to 25 per cent of the money that was transferred into your New LIF on December 20, 2009. However, since the 60 day application period expired on February 18, 2010, you can no longer apply for the first 25 per cent withdrawal or transfer.

You can still apply to withdraw or transfer up to an additional 25 per cent of the money that was transferred into your New LIF on December 20, 2009. This 25 per cent is based on the amount that was transferred into your New LIF prior to January 1, 2010 ($50,000 x 25 per cent = $12,500). Any increase in the value of the New LIF is not taken into account for the purposes of this application. To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010. - 05/10

Q4. I arranged to open a New LIF in December 2009 and $50,000 was transferred into it on January 5, 2010. I want to apply for a withdrawal or transfer in 2010. What application can I make and for how much?

A4. You can apply to withdraw or transfer up to 50 per cent of the amount that was transferred into your New LIF on January 5, 2010. Therefore, you may apply to withdraw or transfer $25,000 (50 per cent of $50,000). Any increase in the value of the New LIF is not taken into account for the purpose of this application. To apply, you need to complete FSCO pension Form 5.2 and submit it to the financial institution that holds your New LIF within 60 days of the date the money was transferred into your New LIF (no later than 60 days from January 5, 2010). Once the 60 day period expires, you cannot apply to withdraw or transfer any money from your New LIF. - 05/10

Q5. I transferred $100,000 into a New LIF with Company A in March 2008 and withdrew 25 per cent of the money ($25,000) on April 1, 2008. From April 1, 2008 to September 1, 2009, the New LIF increased in value to $80,000. On September 1, 2009, I transferred all the funds in the New LIF with Company A ($80,000) to another New LIF with Company B. Starting in January 2010, can I apply for an additional 25 per cent withdrawal or transfer from the New LIF with Company B? Which form should I use, what is the deadline for my application, and what amount is the 25 per cent based on?

A5. You may apply to withdraw or transfer up to an additional 25 per cent from the New LIF with Company B. The 25 per cent is based on the total amount that was transferred into the New LIF with Company B before 2010, and includes any amount that was transferred from another New LIF. In this example, the total amount that was transferred into the New LIF with Company B before January 1, 2010 was $80,000. Therefore, you can withdraw or transfer up to $20,000 (25 per cent of $80,000). To apply, you need to complete FSCO pension Form 5.1.1 and submit it to the financial institution that holds your New LIF no later than December 31, 2010. - 05/10

Q6. I transferred $40,000 into a New LIF with Company A in July 2009 and withdrew $10,000 (25 per cent of the money) in September 2009. In January 2010, I transferred $30,000 (the remaining money in the New LIF) to a different New LIF with Company B. In 2010, can I apply to withdraw or transfer an additional 25 per cent from the New LIF with Company B?

A6. No. The amount you can withdraw or transfer is based on the total of all amounts that were transferred into the New LIF with Company B **before 2010**. Since you did not transfer any money into the New LIF with Company B before January 1, 2010, you cannot withdraw or transfer an additional 25 per cent of the funds. If you wanted to withdraw or transfer an additional 25 per cent, you should have applied for a withdrawal or transfer from the New LIF with Company A **before** the money was transferred to the New LIF with Company B. -05/10

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FAQs on Locked-in Retirement Accounts (LIRAs)

This page provides information relating to LIRAs.

Q1. Have the rules that govern LIRAs changed? Where can I find the LIRA rules?

A1. The rules that govern LIRAs have not yet changed. However, effective January 1, 2011, all the LIRA-related provisions in R.R.O. 1990, Regulation 909 will be consolidated into a new Schedule 3, which is similar to the schedules for LIFs and LRIFs. - 05/10

Q2. What is the earliest age on which payments from a life annuity purchased from a LIRA can begin?

A2. The earliest age that an individual can purchase a LIF or LRIF is generally 55 but could be earlier depending upon the age at which members may receive a benefit under the terms of the pension plan from which the money originated. Payments from a LIF or a LRIF must begin no later than the end of the second fiscal year of the LIF or LRIF. Accordingly, the money in the LIRA can be transferred to the LIF or LRIF at age 54 or earlier if the plan so provides. -06/05

Q3. If money in a LIRA is used to purchase a LIF or LRIF, what are the earliest and latest dates that money can be transferred?

A3. The earliest age that an individual can purchase a LIF or LRIF is generally 55 but could be earlier depending upon the age at which members may receive a benefit under the terms of the pension plan from which the money originated. Payments from a LIF or a LRIF must begin no later than the end of the second fiscal year of the LIF or LRIF. Accordingly, the money in the LIRA can be transferred to the LIF or LRIF at age 54 or earlier if the plan so provides. -06/05

Q4. Can funds in an Ontario LIRA be transferred to a RRIF?

A4. No. The proceeds from an Ontario LIRA must be used to provide either a life annuity, a LIF or a LRIF so that the owner will receive regular payments when his or her earnings have stopped. Since one can outlive a RRIF, transferring the money in a LIRA to a RRIF would not achieve this objective. -06/05

Q5. Can money in an Ontario LIRA be transferred or combined with locked-in money from another jurisdiction?

A5. Because some of Ontario's statutory requirements differ from those of other Canadian pension jurisdictions, the contract for an Ontario LIRA will likely differ from the contract for a LIRA of another jurisdiction. Consequently, locked-in money that is required to be administered in accordance with the Ontario PBA may not be transferred to or combined with a locked-in account of another pension jurisdiction. -06/05

Q6. Does the holding of an investment which is not redeemable before maturity restrict the date on which the owner of a LIRA may purchase a life annuity, LIF or LRIF with the money in the LIRA?

A 6. Owners of LIRAs may purchase an annuity, LIF or LRIF before the expiry of the term of an investment at the discretion of the financial institution. Owners making investment decisions should be mindful that the Canada Revenue Agency requires that by age 71, all RRSPs including LIRAs, must be used to purchase a life annuity, LIF or LRIF -06/05

Q7. Can money in a LIRA be released to fund the purchase of a home under the federal government

A7. No. In Ontario, money in LIRAs cannot be loaned to buy a house to take advantage of the federal Home Buyers' Plan. -06/05

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FAQs for Financial Institutions

This page provides financial institutions with information relating to Old Life Income Funds (Old LIFs), new Life Income Funds (New LIFs) and Locked In Retirement Income Funds (LRIFs).

Old LIFs and New LIFs

Q1. What information are financial institutions required to disclose to their Old LIF clients?

A1. Financial institutions were required to inform their Old LIF clients of the following on or before September 30, 2010:

- After December 31, 2010, Old LIF owners can no longer transfer money from an Old LIF to a LIRA.
- Between January 1, 2011 and April 30, 2012, owners of Old LIFs can make a one-time application to withdraw or transfer up to 50 per cent of the total market value of the assets they have in their Old LIFs. Applications for this withdrawal or transfer will not be accepted after April 30, 2012.
- On or after January 1, 2011, the maximum amount that may be paid from the Old LIF as income each year will be the greater of the amount under the LIF formula or the fund's investment earnings for the previous year.

Financial institutions are also required to include in their annual statements to their clients the amounts of any withdrawals that were taken out of the Old LIF in the previous year. - 05/10

Q2. Between January 1, 2011 and April 30, 2012, owners of Old LIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How do we determine this amount?

A2. The total market value of the assets in the Old LIF is based on the amount in the most recent statement that was issued by the financial institution when the application was made. The statement must be dated within one year of the date the application was made. - 05/10

Q3. A client applied for withdrawal of an additional 25 per cent from his New LIF in January 2010 using FSCO pension Form 5.1.1. Section 8.1(1) under Schedule 1.1 under Regulation 909 provides that the 25 per cent is based on "the total market value of all assets transferred into the fund on or before December 31, 2009". How do we determine this amount?

A3. "The total market value of all the assets transferred into the fund on or before December 31, 2009" is the market value of the assets that were transferred in relation to each particular transfer, and is determined as of the date of the relevant transfer. You do not take into account any increase or decrease in the value of the New LIF after the money was transferred into it. - 05/10

Q4. In January 2010, a client transferred $100,000 into her New LIF and applied to withdraw 50 per cent of the total market value of the transferred assets to her RRSP using FSCO pension Form 5.2. Section 8(2.1) under Schedule 1.1 under Regulation 909 provides that the 50 per cent is based on "the total market value of the assets transferred into the fund in relation to a transfer of assets made on or after January 1, 2010". How do we determine this amount?

A4. "The total market value of the assets transferred into the fund in relation to a transfer of assets made on or after January 1, 2010" is the amount that was transferred into her New LIF on the relevant transfer date. This amount should be available in your records. You do not take into account any increase or decrease in the value of the New LIF after the money was transferred into it. - 05/10

Q5. When money is transferred into a New LIF, does the financial institution that administers the New LIF need to be aware of the source of that money? Does the prior locked-in vehicle's original date of purchase need to be validated?

A5. The financial institution that administers the New LIF will have to determine what kind of locked-in vehicle (e.g., a pension plan, annuity, LIRA, Old LIF, New LIF or LRIF) the money was transferred from. This is because the 50 per cent withdrawal or transfer under the New LIF after January 1, 2010 only applies to money that comes from a pension plan, LIRA, Old LIF or LRIF. It does not apply to an annuity or an existing New LIF.

It is not necessary for the financial institution that is receiving the money, to know the date on which any prior locked-in vehicle was purchased by the owner. - 05/10

Q6. If money is transferred to a New LIF from another New LIF, Old LIF or LRIF, is the financial institution required to keep track of the investment income that is earned by the transferring fund for the fiscal year up to the date of the transfer?

A6. The financial institution that administers the New LIF that received the transferred funds must be aware of the investment returns that are attributable to the transferring fund's fiscal year, up to the date of transfer. This information is required so that the financial institution can calculate one of the possible maximum income payment amounts for the New LIF's next fiscal year.

For example, if money was transferred from an LRIF to a New LIF on December 1, 2008, and $500 of investment income was earned in the LRIF's 2008 fiscal year prior to the transfer, the financial institution must ensure it determines and records the $500. In addition, this amount must be used to calculate the maximum income amount that is payable from the New LIF in 2009. - 07/07

Q7. Can a financial institution simply convert an Old LIF into a New LIF? If not, will the New LIF require a new specimen plan number, or can the Old LIF's specimen number be used?

A7. A New LIF is a completely different type of locked-in account than an Old LIF, in the same way that an LRIF is a different type of locked-in account from a LIF. Effective January 1, 2008, financial institutions were permitted to offer two distinct types of Ontario LIFs – Old LIFs and New LIFs. If an owner of an Old LIF wants a New LIF, he/she must purchase a New LIF by transferring money from the Old LIF into a New LIF. The Old LIF cannot simply be converted into a New LIF.

However, on January 1, 2011, the rules for Old LIFs, LRIFs and New LIFs will become harmonized. All three funds are essentially the same, except that owners of Old LIFs and LRIFs will have a one-time opportunity to withdraw or transfer up to 50 per cent of the money in their account. The rules for determining the maximum annual income payment from Old LIFs, LRIFs and New LIFs will be identical. The maximum income payment for all three funds will be the greater of the amount calculated under the LIF formula, or the fund's investment earnings from the previous year.

Specimen plan numbers appear to be an issue for the Canada Revenue Agency (CRA), but not for FSCO. You may wish to contact the CRA's Registered Plan Directorate at 1-800-267-3100 to discuss this question. - 09/10

Q8. If an individual merges two LIRA accounts from two different financial institutions into a New LIF, the funds are likely to be transferred into the New LIF at different times. Should the receiving financial institution determine the calculation for the 50 per cent withdrawal or transfer when each amount is received separately, or base it on the total amount when both are received? Is the individual entitled to a second 50 per cent withdrawal or transfer after the second transfer is made?

A8. The 50 per cent withdrawal or transfer applies to each individual transfer of money into the New LIF. Each time a sum of money is transferred into the New LIF from a LIRA, LRIF, Old LIF or pension plan, the New LIF owner has 60 days from the date of the transfer to apply to the financial institution to withdraw or transfer up to 50 per cent of the amount that was transferred into the New LIF. For each withdrawal or transfer, a separate application has to be made. - 05/10

Q9. If an individual wants to transfer in-kind securities from a locked-in account (other than a New LIF) into a New LIF, and the securities are received by the New LIF on different days, on what date can the individual apply for the 50 per cent withdrawal or transfer?

A9. If an individual makes a single transfer of funds which are invested in securities into a New LIF, the assets related to that transaction may be deposited into the New LIF on different dates. This is because those assets are being transferred in-kind from other locked-in accounts. The date of transfer for the 50 per cent withdrawal or transfer application is based on the last date on which any of those assets are actually transferred into the New LIF. The individual has 60 days from that date to make his or her application.

In such a case, the financial institution that administers the New LIF must inform the individual prior to making the transfer that he/she will only be able to apply for the 50 per cent withdrawal or transfer after the last deposit of assets has been received by the financial institution. The financial institution also needs to advise the owner once the transfer has been completed. - 05/10

Q10. If a client applies for a 50 per cent withdrawal or transfer from his/her New LIF, when is the financial institution required to pay or transfer the money?

A10. The financial institution is required to make the payment or transfer within 30 days of receiving the completed application form and accompanying documents from the owner of the New LIF. - 05/10

Q11. How are investment returns in a particular year calculated if there has been a 50 per cent withdrawal or transfer from a LIF?

A11. Follow the steps below to easily calculate investment returns that are attributable to a particular fiscal year for a LIF:

1. Take the balance in the LIF at the end of the fiscal year.
2. Subtract the balance in the LIF at the start of the fiscal year.
3. Add the value of any money that was withdrawn or transferred out of the LIF anytime during the fiscal year (e.g., income payments to the client, transfers of money to other accounts, unlocking application amounts that were moved out, etc.).
4. Subtract the value of any new money that was deposited into the account anytime during the fiscal year (e.g., amounts transferred into the account from other accounts, etc.).

Example:

On January 1st the balance in the New LIF was $50,000 and on December 31st of the same year the balance in the New LIF was $60,000. The owner received a $5,000 payment from the New LIF during the year as his annual income payment. That year, he also transferred $3,000 from a LIRA into his New LIF, and withdrew 50 per cent of that amount ($1,150).

To calculate this client's investment return for the year, you would do the following:

- $60,000 (balance on December 31)
- **Minus** $50,000 (balance on January 1);
- **Plus** $6,150 ($5,000 income payment and $1,150 unlocked amount that was withdrawn);

- **Minus** $3,000 (transfer received from LIRA);
- **Equals** $13,150 (the investment income).

Therefore the client's investment return for the year was $13,500. - 05/10

Q12. If a client with an Old LIF wants to use this money to purchase a New LIF, does the financial institution have to pay out the minimum annual income amount from the Old LIF? Does it also need to set the maximum income payment amount for the New LIF to zero?

A12. If money is transferred from an Old LIF to a New LIF, any minimum amount that is required to be paid out of the Old LIF under the federal Income Tax Act must be paid out of the Old LIF before the end of its fiscal year. No money can be paid out of the New LIF during the fiscal year when the transfer occurred. - 07/07

LRIFs

Q13. What information are financial institutions required to disclose to their LRIF clients?

A13. Financial institutions must inform LRIF owners of the following ***at the beginning of the fiscal year of the fund that ends on December 31, 2010:***

- They will not be able to receive payments for all or part of any unused income payment amounts that were carried forward from a previous year.
- As of January 1, 2011, LRIF owners who choose to be paid less than the maximum annual income amounts will not be able to carry forward the difference and add it to their maximum income payment amounts for future years.

Financial institutions must inform LRIF owners of the following ***on or before September 30, 2010:***

- After December 31, 2010, they can no longer transfer assets from an LRIF to a LIRA.
- Between January 1, 2011 and April 30, 2012, they may make a one-time application to withdraw or transfer up to 50 per cent of the total market value of the assets that are in their LRIF fund(s). Applications for this withdrawal or transfer will not be accepted after April 30, 2012.

- On or after January 1, 2011, the maximum amount that may be paid from the LRIF as income each year will be the greater of the amount under the LIF formula or the fund's investment earnings from the previous year.

Financial institutions are also required to include in their clients' annual statements the amounts of any withdrawals that were taken out of the fund in the previous year. - 05/10

Q14. Between January 1, 2011 and April 30, 2012, owners of LRIFs may apply to withdraw or transfer up to 50 per cent of the total market value of the assets in the fund. How do we determine this amount?

A14. The total market value of the assets in the fund is based on the amount in the most recent statement that was issued by the financial institution at the time of the application. The statement must be dated within one year of the date the application was made. - 05/10

More information:

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FSCO Policies on Locked In Accounts

FAQs on Rules for Ontario Locked-In Accounts

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FAQs: Option to Transfer Money from a Locked-in Account to an Unlocked vehicle

This page addresses questions relating to the option to transfer money from a locked-in account to an unlocked vehicle.

Q1. How have the rules for transfers of locked-in accounts changed?

A1. Effective January 1, 2008, owners of locked-in accounts have new transfer options in the following two situations:

1. If the owner of a locked-in account dies, his/her surviving spouse will be able to transfer the survivor benefit directly to his/her own RRSP or RRIF, where permitted by the federal Income Tax Act. (Under the previous rules, the surviving spouse could only take the benefit in a lump sum.)
2. If the owner of a locked-in account is older than 55 and has less than 40 per cent of the Year's Maximum Pensionable Earnings under the Canada Pension Plan in all of his/her locked-in accounts, the owner may transfer the entire amount directly to his/her own RRSP or RRIF, rather than receive it in a lump sum. - 07/07

Q2. When the owner of a locked-in account dies, is her/her surviving spouse required to take the full value of the survivor benefit in cash, or transfer it to an RRSP or RRIF? Is the surviving spouse allowed to take part of the survivor benefit in cash and transfer part of it to an RRSP or RRIF?

A2. When the survivor benefit is paid, the surviving spouse is required to fully withdraw or transfer the entire amount of the locked-in account into his/her own RRSP or RRIF. The surviving spouse cannot withdraw part of the survivor benefit in cash and transfer the remaining amount to an RRSP or RRIF. - 05/10

Q3. Is the survivor benefit required to go to the surviving spouse, or can it go to a named beneficiary?

A3. The survivor benefit must be paid to the owner's spouse. It can only be paid to the owner's named beneficiary in the following three situations:

- if the spouse waived his/her entitlement to a survivor benefit;
- if the owner of the locked-in account and his/her spouse were living separate and apart on the date of the owner's death due to a breakdown in their relationship; or
- If the owner of the locked-in account had no spouse when he/she died.

If there is no named beneficiary, then the survivor benefit would be paid to the owner's estate.
- 05/10

Q4. Can I transfer 50 per cent of the funds from my New LIF to a spousal RRSP or a spousal RRIF?

A4. Ontario's pension laws allow owners of New LIFs to transfer up to 50 per cent of the funds to any RRSP or RRIF. The law does not prohibit you to transfer that money to a spousal RRSP or a spousal RRIF. However, there may be restrictions under the federal Income Tax Act for such a transfer. Questions about the tax impact of this type of transfer should be directed to the Canada Revenue Agency's Individual Income Tax Inquiry Line at 1-800-959-8281. - 05/10

More information:

- FSCO Policies on Locked In Accounts
- FAQs on Rules for Ontario Locked-In Accounts

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FAQs on Unlocking a Locked-in Account if you are a Non-Resident of Canada

This page provides frequently asked questions on the unlocking of a locked in account for a non-resident of Canada.

Q1. How do the locked-in account rule changes impact non-residents of Canada?

A1. Effective January 1, 2008, a locked-in account owner who is a non-resident of Canada — as determined by the Canada Revenue Agency for the purposes of the federal Income Tax Act — may apply to unlock and withdraw all the money in his/her locked-in account two years after departing Canada. - 05/10

Q2. I am a non-resident of Canada. How do I apply to unlock the money in my locked-in account(s)?

A2. If you satisfy the Canada Revenue Agency's (CRA) requirements for being a non-resident of Canada, you need to complete and sign FSCO pension Form 5. You then need to submit the form to the financial institution that holds the locked-in account(s) and ensure that it is accompanied by the following:

- A written determination from the CRA that states you are a non-resident of Canada for the purposes of the Income Tax Act.
- Written consent from your spouse or a certification that you do not have a spouse.

If you are interested in finding out if you qualify, you can find more information on the CRA's website. Make sure you take a look at the criteria that the CRA uses for determining if a person is a non-resident of Canada. Read NR73-Determination of Residency Status (Leaving Canada) and Residency Status. - 07/07

Q3. I understand that as a non-resident of Canada I can apply to unlock and withdraw all of the money in my locked-in account after living abroad for two years. Can I make this application at any age? If I already used the money in the locked-in account to purchase an annuity can I still apply?

A3. If you satisfy the Canada Revenue Agency's (CRA) requirements for being a non-resident of Canada, you can unlock and withdraw money from your locked-in account(s) at any age. These rules only apply to money that is held in an Ontario locked-in account when you submit FSCO pension Form 5. If you already purchased an annuity with money that was previously in your locked-in account, you will not be able to apply to take money out of your annuity. - 05/10

More information:

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FAQs on the Effects of Changes on Other Unlocking Applications

This page provides information relating to other unlocking applications.

Q1. Will the changes to the rules that effect locked-in accounts impact the requirements for withdrawing money due to financial hardship or shortened life expectancy?

A1. The changes to the rules that effect locked-in accounts will not change the rules for unlocking your locked-in account due to financial hardship or shortened life expectancy. However, there is one exception that affects financial hardship unlocking. With the introduction of the Ontario Child Benefit in the 2007 Ontario Budget, the section of the regulations under the Pension Benefit Act that exempts certain sources of income from an individual's total income — which is used to calculate eligibility for a low income financial hardship withdrawal — will now also exempt the new benefit. - 07/07

Q2. If I withdrew 50 per cent of the money that was in my New LIF, can I still apply to unlock the funds in my New LIF due to financial hardship or any other unlocking criteria?

A2. Yes, applications for unlocking due to financial hardship or other unlocking criteria can still be made. - 05/10

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