ACPM/ACARR
The Association of Canadian Pension Management
L'Association canadienne des administrateurs de régimes de retraite

June 8, 2011

Christian Nordin
Policy Manager,
CAPSA Secretariat
c/o Financial Services Commission of Ontario
5160 Yonge Street, Box 85
Toronto, ON
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Dear Sirs,

Re: CAPSA Consultation on the Draft Guidelines on Pension Plan Prudent Investment Practices and Self-Assessment Questionnaire, and the Draft Guidelines on Pension Plan Funding Policy

Thank you for the opportunity to provide comments on the above named proposals.

The ACPM is the informed voice of retirement income providers for Canadians.

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.

General Comments

We have reviewed the three documents and offer the following comments.

Our overall impression of the three documents is that they require editing to make them more effective. There is repetition and redundancy throughout all three.

We would strongly suggest some sort of introductory section outlining the various types of pension plans and their characteristics. We believe this would benefit the users of these guidelines as it would provide context and recognize the unique requirements that may exist for each of these plan types.

Pension Plan Funding Policy Guideline

Our overall observation of the Guideline is that it inadequately describes the relationship between the funding policy and the investment policy. For example, in the "Purpose of the Funding Policy" section it is indicated that the "plan's investment policy" should be considered when establishing the Funding Policy. We would argue that the Funding Policy is the first step and the Investment Policy should take into consideration the terms of the Funding Policy. Examples of items that should drive the Funding Policy include the plan liabilities, sponsor risk tolerance and cash flow projections.

In addition, we suggest that Letters of Credit be explicitly mentioned as a tool available to the sponsor for the funding of the plan.

Why is there no mention of jointly sponsored plans in the "Pension Plan Funding Principles and Objectives" section?

In the section that deals with the "Purpose of the Funding Policy" other items that should be considered for the purpose of the policy include surplus entitlement under the law, the terms of the plan, and member communications; treatment of contribution holidays under the law, the terms of the plan and member communications; and asset and liability matching in fund investments.

In the "Dual Role of the Employer as Plan Sponsor and Plan Administrator" section it is surprising to us that a "duty of good faith" standard has been introduced (second paragraph, Page 4) applicable to the plan sponsor. We think this has the potential of creating a conflict as the employer (as plan sponsor) does not have a fiduciary responsibility and is entitled to act in its own best interest.

In the section entitled "Developing a Funding Policy" on Page 5, second bullet, we suggest that the word "will" be changed to "should help to".

In "Elements of a Funding Policy" on Page 6, Item 4 "plan's" should be replaced with "plan sponsor's" in the sentence "It should describe the plan's tolerance for volatility in funding requirements."

Finally, we do not agree with the suggestion of "scenario testing" in the Funding Policy as too much detail will be involved if specifics are given and if not, there will be too many generalities to make the information useful.

Pension Plan Prudent Investment Practices Guideline

We feel the Guideline is repetitive and could be redrafted to be made more concise.

We are concerned about the inclusion of plan beneficiaries to "monitor and assess investment management practices" (Prudent Person Rule – last paragraph on Page 6). It should be sufficient for plan beneficiaries to understand their plan benefit, be assured that the benefit is adequately funded and understand what the risks are related to them receiving their entitlement. Establishing an inappropriate and unachievable expectation is counter-productive to the purpose of the Guidelines as the majority of plan beneficiaries will not possess the expertise to be able to monitor and assess investment management practices.

We would suggest that explicit reference to the CAP Guidelines be made where appropriate. For example, the section entitled “Prudent Investment Practices” does not appear to recognize the unique attributes of defined contribution plans such as the fact that investment risk essentially lies with the plan member, not the plan administrator.

The dynamic nature of the relationship between the investment policy and the funding policy needs to be more explicit as it is important for plan sponsors and administrators to understand the connection between them.

In the “Investment Policy/Statement of Investment Policies & Procedures” section, Page 7, first bullet in the third paragraph, we suggest that the point should read “identify the kinds of investments that could be held” (changing “should” to “could”). The prescriptive nature of “should” is restrictive to potential investment opportunities that could benefit the plan while meeting prudent investing objectives.

In the “Monitoring” section of the Guideline, the monitoring practices for investments are listed. We would suggest that the order of these practices be changed so that investment performance is not the first practice. Investment performance should be the result of the other practices.

There is significant overlap between the draft Policy and the OSFI Guidelines on developing a SIPP. Due to the adoption of the federal investment rules in most provinces, that Guideline is used by most Plan administrators. It would be helpful to integrate the two documents.

Self-Assessment Questionnaire on Prudent Investment Practices

There are items included in the Questionnaire that go beyond investments, for example, overall governance, administration and funding. The focus should be on investment only.

As the Guideline is very repetitive so is the Questionnaire. We would suggest that the streamlining of both would make them more useful to plan sponsors and administrators.

We question the requirement of documentation of a plan administrator’s self assessment to determine their “knowledge, skill and expertise to fulfill its investment function internally” (Page 4, Section 3). This goes beyond best practice.

We have the same comment for Item 1 on Page 6.

We believe that the requirement on Page 12, Item 5 should be eliminated. The due diligence is up front in choosing the appropriate professional in the first place, not at the end when the work is done and the recommendations are being presented.

On Page 14, Item 4, last bullet “are poor” should be replaced with “do not meet the expected targets over a stated period of time” (same on Page 17, Item 4, third last bullet).

On Page 15, end of Item 4, last bullet “decisions” should be replaced with “policy and performance”.

Should there be any questions, we make ourselves available at your convenience.

Sincerely,

Bryan D. Hocking
Chief Executive Officer