Alberta Government

Interpretive Guideline #12

Issued: November 2015 / Revised July 2016

Governance, Investment and Funding Policies

This guideline is designed to explain the provisions of the *Employment Pension Plans Act* (the Act) and the *Employment Pension Plans Regulation* (the Regulation) as they relate to the creation and maintenance of plan governance, investment and funding policies. This guideline summarizes the legislative requirements that apply to the subject matter, and includes additional details to outline the Superintendent of Pensions (the Superintendent) expectations and requirements where such authority has been provided by the Act and Regulation. Finally, the guideline outlines best practices and policies that the Superintendent expects from provincially regulated pension plans.

The Act and Regulation should be used to determine specific legislative requirements. Any legal authority of this Guideline rests in the areas in which the legislation delegates authority to the Superintendent to accept a proposal or action.

What is Governance

Governance is the process which determines who has power, who makes decisions, how other players make their voices heard and how accountability is achieved.

In the establishment and maintenance of a pension plan, a properly operating governance structure is required given the implied trust and the fiduciary relationship between the administrator and the plan members.

A well-constructed governance policy that is followed by the administrator provides greater security for the benefits promised and provides the administrator with a resource when questions of liability come into play.

Legislated Requirements

The Act requires that every pension plan must have a written:

- governance policy (Section 42);
- statement of investment policies and procedures (Section 43)(unless investments are directed by plan members under a defined contribution provision); and
- funding policy (Section 44), if the plan has a benefit formula provision in its plan text document.

Sections 53, 54 and 55 of the Regulation set out the topical matters that must be covered by each policy respectively.

It is part of the role and functions of the administrator to ensure that the applicable policies are established and that they are reviewed regularly to ensure that the provisions are relevant.

Governance Policy

On or before December 31, 2016, an administrator of a pension plan must ensure that the governance policy is established as under section 42 of the Act. Section 53 of the Regulation sets out the areas that must be covered when developing a governance policy:

53(a) sets out the structures and processes for overseeing, managing and administering the plan;

(b) explains what those structures and processes are intended to achieve;

(c) identifies all participants who have authority to make decisions in respect of those structures and processes, and describes the roles, responsibilities and accountabilities of those participants;

Items to consider for the above 3 points include:

- Is the plan governed by a Board of Trustees or is the employer plan sponsor the party with final authority on matters related to the plan?
- If there is a Board of Trustees, how is it structured and how are trustees chosen?
- What compensation is paid to Trustees and how are the compensation rates determined and by whom? How is compensation paid disclosed in the plan's financial statements and communicated to plan members? Is compensation based on an annual or monthly basis and/or on a per meeting basis? Is compensation disclosed on a board aggregate basis or itemized by each board member? Is compensation payable to each Trustee paid by the sponsoring organization (e.g. the employer or union) or by the plan, either directly to the Trustee or to their sponsoring organization?
- Is there an employee pension committee and, if so, how is it chosen?
- Who is the day to day administrator (the plan sponsor or a third party administrator)?
- Who holds the assets of the pension fund (insurance company or trust company or combination)?
- What is the purpose of each of the parties listed? This should indicate why one was chosen over another (e.g. insurance company versus trust company) thus demonstrating that due diligence was taken in making a selection.
- What is the reporting structure and who has final authority?
- What decision making authority has been delegated and to whom?

(d) sets performance measures and establishes a process for monitoring, against those performance measures, the performance of each of the participants identified in clause (c) in those structures and processes who has the authority to make decisions in relation to those structures and processes;

Items to consider:

- What are the expectations of the parties involved in the plan administration?
- Who is responsible for assessment of those expectations?
- How and when will assessment be done?

(e) establishes procedures to ensure that the plan administrator and, as necessary, any other participants in those structures and processes have access to relevant, timely and accurate information;

Items to consider:

Access to information is key to the performance of duties. The governance document should outline who has access to which information and what protocols are in place if on occasion someone needs access to additional information.

(f) establishes a code of conduct for the administrator and a procedure to disclose and address conflicts of interest;

Item to consider:

The governance policy should include a code of conduct for the administrator and should clearly outline what constitutes a conflict of interest and how it should be dealt with.

(g) identifies the educational requirements and skills necessary to perform the duties associated with those structures and processes;

Items to consider:

Functions such as plan administration require certain education, skill sets and credentials. The governance policy should indicate what those skill sets are for each of the parties noted in the structure section of the policy and how these will be measured when persons or parties are hired or appointed. In addition, the policy should define if the skills are required in order to be appointed to a decision-making body, or may or must be acquired following appointment as well as the time frame to acquire these skills and how training is to be provided and assessed.

(h) identifies material risks that apply to the plan and establishes internal controls to manage those risks;

Items to consider:

Plan risk is something that all plan sponsors and administrators should be cognizant of. This should be a key factor when making decisions about the plan. There are various types of risk depending upon the type of plan, the maturity of the plan, the nature of the plan sponsors and the nature and mobility of plan members. All key factors should be identified and a process for coping with the risk should be stated

(i) establishes a process for the resolution of disputes involving members and other persons who are entitled to benefits under the plan.

Items to consider:

The policy should outline a dispute resolution process when there is a difference between the plan administrator and someone who is entitled to benefits from the plan. Should there be an internal appeal process and, if so, how would that work?

The policy should also state who is responsible for the establishment and maintenance of the policy and how the policy can be amended.

Further assistance in establishing an effective governance policy, can be found in the Canadian Association of Pension Supervisory Authorities (CAPSA) Guideline No. 4 – Pension Plan Governance Guidelines and Self-Assessment Questionnaire.

Once the main governance policy is established, there are two other policies that need to be dealt with investment and funding.

Statement of Investment Policies and Procedures (SIPP)

Unless the investment of funds is directed by the plan members in respect of their accounts, the plan must have a SIPP. If some of the funds are invested by the members and some by the employer then the plan must have a SIPP with respect to those funds invested by the employer.

With respect to a plan with a benefit formula provision or if funds related to the defined contribution provision are invested by the employer, the SIPP should have greater detail. Section 54 of the Regulation lists the items that should be addressed.

> **54(1)** Subject to subsection (4), the administrator of a pension plan must, before the plan is registered, ensure, on behalf of the plan, that a written statement of investment policies and procedures is established.
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> **(2)** In establishing the statement referred to in subsection (1), the administrator must have 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, including, without limitation, the following:
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> (a) categories of investments, including derivatives;
>
> (b) diversification of the investment portfolio;
>
> (c) asset mix and the basis on which that mix was determined, including by reference to volatility 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 investments;
>
> (g) the method of, and the basis for, the valuation of investments that are not regularly traded at a public exchange;
>
> (h) related party transactions permitted under section 17 of federal Schedule III and the criteria to be used to establish whether a transaction is nominal or immaterial to the plan.
>
> **(3)** The statement referred to in subsection (1) must include
>
> (a) a description of the factors to which the administrator had regard when establishing the statement, and
>
> (b) how those factors were applied to establish the policies and procedures set out in the statement.

(4) If investments are entirely directed by the members, a statement of investment policies and procedures is not required.

In the case a defined contribution provision where members make the choice as to how their funds are invested, a SIPP is not required. Nonetheless, consideration should be given as to what and how many investment options are to be provided by the plan. Documenting how the investment options were chosen is a prudent measure for an administrator to take along with awareness and supporting rationale for the fees payable by the member for each investment option. Documenting which default investment was chosen and why it was chosen is also a good measure to demonstrate due diligence with respect to the administration of the plan fund.

The policy should also state who is responsible for the establishment and maintenance of the policy and how the policy can be amended.

Funding Policy

The purposes of the funding policy are:

- to define for the plan sponsor the level and timing of funding they wish to commit to (e.g. minimum standards, full funding of all liability costs, and the degree and pace at which funding objectives are to be achieved including the plan sponsor's tolerance for risk and variability in returns.), and
- to provide the plan actuary with sufficient insight into the plan sponsor's funding philosophy.

Section 55 of the Regulation requires an administrator of a pension plan to ensure that the funding policy established is established and that it does the following:

55(a) sets out the funding objectives for the plan as it relates to the following items:

(i) benefit security;

(ii) benefit levels;

(iii) if applicable, stability of contributions;

(iv) if applicable, contribution levels;

(b) identifies the material risks that impact the plan's funding requirements, the tolerances for those risks, and establishes internal controls to manage those risks;

(c) sets out expectations for the going concern funded ratio and, if applicable, the solvency ratio of the plan;

(d) sets out the expectations for the amortization of unfunded liabilities and, if applicable, solvency deficiencies;

(e) sets out the expectations for the reduction of benefits under section 20(2) of the Act, in the event that the circumstances of the plan require a reduction of benefits for

(i) a jointly sponsored plan,

(ii) a negotiated cost plan, or

(iii)a target benefit provision;

(f) sets out the expectations for the utilization of actuarial excess and surplus;

(g) establishes a standard for the frequency of actuarial valuation reports, whether or not those actuarial valuation reports are filed with the Superintendent.

The policy should also state who is responsible for the establishment and maintenance of the policy and how the policy can be amended.

For further assistance in establishing a funding policy, please refer to CAPSA Guideline No. 7 – Pension Plan Funding Policy Guideline.

The governance, investment and funding policies are "living documents". They should be reviewed, and where applicable, revised, on a regular basis. They should also be referred to when decisions are being made with respect to plan administration, investment and funding to ensure decisions are consistent with the policies that have been set. If a decision made or action taken varies with the policies, the policies should be revised to reflect the change in policy or proper documentation explaining the one time variance should be in place.

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