GUIDELINE No. 8

DEFINED CONTRIBUTION PENSION PLANS GUIDELINE

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1.0 INTRODUCTION

1.1 Application

The Defined Contribution (DC) Pension Plans Guideline (the Guideline) applies to DC pension plans, and to pension plans with DC components.

This Guideline supplements existing CAPSA guidance related to DC plans and reflects the expectations of regulators regarding the operation of a DC plan, regardless of the regulatory regime applicable to the plan. CAPSA guidelines are voluntary in nature and are intended to support the continuous improvement and development of industry practices.

This Guideline does not replace or replicate any legislative or regulatory requirements. Stakeholders are responsible for meeting any applicable legal requirements, including any legal or legislative requirements that may extend beyond the scope of this Guideline.

1.2 Purpose

The DC Pension Plans Guideline;

- Sets out guidance related to DC plans that has previously been released by CAPSA.
- Outlines and clarifies the rights and responsibilities of plan administrators, employers, plan sponsors, service providers, fund holders and members with respect to DC pension plans.
- Provides DC plan administrators with guidance regarding tools and information to provide to members while they are members of the plan and when they are choosing amongst retirement options.
- Clarifies what constitutes an adverse amendment for DC pension plans or plans with DC components.

1.3 Existing CAPSA Guidance Related to DC Pension Plans

CAPSA Guideline No. 3 - Guidelines for Capital Accumulation Plans

In May 2004, the Joint Forum of Financial Market Regulators released the Guidelines for Capital Accumulation Plans (CAP Guidelines). CAPSA adopted the document as *CAPSA Guideline No. 3: Guidelines for Capital Accumulations Plans*.

A Capital Accumulation Plan is defined in the CAP Guidelines as "a tax assisted investment or savings plan that permits the members of the CAP to make investment decisions among two or more investment options offered within the plan…established by an employer, trade union, association or any combination of these entities for the benefit of its employees or members… Examples of a CAP include a defined contribution registered pension plan; a group registered retirement savings plan or registered education savings plan; and a deferred profit sharing plan."

The CAP Guidelines provide guidance on:

- Setting up a CAP.
- Investment information and decision-making tools for CAP members.
- Introducing the Capital Accumulation Plan to CAP members.
- Ongoing communication to CAP members
- Maintaining a CAP.
- Terminating a CAP or terminating a CAP member's participation.

CAPSA Guideline No. 4 - Pension Plan Governance Guidelines and Self-Assessment Questionnaire

In October 2004, CAPSA released its *CAPSA Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire*, to assist plan administrators in fulfilling their governance responsibilities by achieving and maintaining good governance practices.

CAPSA subsequently released a *Frequently Asked Questions* (FAQ) companion document in June

2005, to provide plan administrators with general guidance, additional clarification and examples related to the guideline and self-assessment questionnaire.

CAPSA Guideline No. 5 - Guideline on Fund Holder Arrangements

In March 2011, CAPSA released *CAPSA Guideline No. 5: Guideline on Fund Holder Arrangements*, which clarifies the nature of fund holder arrangements and related responsibilities.

In relation to DC pension plans, the Fund Holder Arrangement Guideline addresses the responsibilities of the fund holder and multiple fund holders.

CAPSA Guideline No. 6 - Pension Plan Prudent Investment Practices Guideline, the companion Self-Assessment Questionnaire on Prudent Investment Practices

In November 2011, CAPSA released *CAPSA Guideline No. 6: Pension Plan Prudent Investment Practices Guideline* and its companion document the *Self-Assessment Questionnaire on Prudent Investment Practices*.

The Prudent Investment Practices Guideline is intended to help plan administrators demonstrate the application of prudence to the investment of pension plan assets. Although the emphasis on pension plan asset investment varies depending on the type of plan, the guideline is relevant to all plan types, including DC pension plans.

The self-assessment questionnaire was designed to help plan administrators review the investment practices of the pension funds for which they have responsibility, to assist the plan administrator in satisfying the requirements of the prudent person rule, and to identify areas of strength and areas for improvement. DC pension plan administrators are encouraged to consider all the sections in this questionnaire, rather than limiting their assessment to Section 8 (Defined Contribution Pension Plans).

2.0 RESPONSIBILITIES RELATED TO DC PENSION PLANS

The primary purpose of this section is to outline the responsibilities of various parties in relation to the DC pension plan.

2.1 Responsibilities of the Plan Administrator

Plan 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.

The plan administrator has fiduciary and other responsibilities to plan members, beneficiaries and other stakeholders which are outlined in the Pension Plan Governance Guideline.

The DC pension plan and pension fund must be administered and invested in accordance with applicable pension standards legislation, the Income Tax Act (ITA) and pension plan documents. Certain operational management tasks may be delegated to third-party service providers, as selected by the plan administrator. However, the plan administrator remains responsible for overseeing the discharge of these tasks by monitoring the activities of the third-party service provider. Any delegation of tasks should be clearly documented. (For further details, see *CAPSA Guideline No. 4*.)

The plan administrator is also responsible for:

- Introducing the plan to members.
- Providing investment information and decision-making tools to members, if it is a CAP.
- Providing on-going communication to members.
- Maintaining the plan and the pension fund.
- Ensuring that termination of either the plan or a member is done in accordance with the requirements of the legislation and the terms of the DC pension plan.
- Filing the required documents with the pension regulator.

- Ensuring employees are enrolled in the plan as required in accordance with the terms of the DC pension plan.
- Selecting and monitoring of third-party service providers.
- Selecting and monitoring investments options to be made available in the DC pension plan.

The information (and documentation) that the plan administrator is responsible for providing to members should be written using plain language and in a format that assists in readability and comprehension.

2.2 Responsibilities of the Employer

> **Employer** – a business or party that employs members for remuneration and who is required to make contributions to the DC pension plan on behalf of members.

The employer is responsible for deducting and remitting contributions to the pension fund, within the time periods and in the amounts required by applicable pension standards legislation, the terms of the DC pension plan and any collective agreements. By fulfilling this responsibility, the employer meets its funding obligation and ensures the pension fund's assets are held separate and apart from its own assets. The employer is also responsible for keeping accurate and up-to-date records on each member's service and earnings, and any other information that is required by the plan administrator. In addition, the employer must provide this information to the plan administrator in a timely manner.

2.3 Responsibilities of the Plan Sponsor

> **Plan sponsor** – the individual or entity responsible for designing and establishing the DC pension plan and setting the benefit structure for various classes of members. The plan sponsor is often the employer.

When DC pension plan sponsors decide to establish a plan, they assume certain responsibilities in their role as the DC pension plan sponsor. The DC pension plan sponsor is responsible for establishing the pension plan, and for ensuring that it always has a plan administrator. They may also be responsible for making amendments to the pension plan and deciding if it should be wound up.

The DC pension plan sponsor should ensure that decisions about establishing and maintaining the plan, any amendments to the plan and information about how those decisions are made, are properly documented and that the documents are retained.

2.4 Responsibilities of Third-Party Service Provider

> **Third-party service providers** – an entity or individual retained to perform some or all of the plan administrator's duties.

To the extent that the responsibilities of the plan administrator or plan sponsor are delegated to a service provider, the service provider is responsible for following these Guidelines and any applicable legal requirements.

Service providers should have the appropriate level of knowledge and skill to perform the tasks delegated to them and to provide any advice within their area of expertise which may be requested by the plan administrator.

2.5 Responsibilities of the Fund Holder

> **Fund holder** – the financial institution or party that is retained by the plan 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 ITA) and the terms of the DC pension plan.

The fund holder holds all or part of the pension fund's assets exclusively for the DC pension plan. (For further details, see *CAPSA Guideline No. 5*.)

2.6 Responsibilities of the Members

Member – an individual who has benefits accumulated in a DC pension plan.

For DC pension plans which allow members to make investment choices for their individual DC accounts, members are responsible for making investment decisions within the plan and for using the information and decision-making tools made available to assist them in making those decisions.

DC plan members are accountable for investment decisions they make within the plan and are responsible for continually assessing whether their retirement needs and goals will be achieved. They should consider obtaining qualified investment advice in addition to using any information or tools the plan administrator may provide. They should also notify the plan administrator of errors in their personal data which they identify and keep their investment instructions to the plan up to date.

Depending on whether the plan permits members to make investment choices, examples of decisions made by DC pension plan members would include:

- If permitted by the terms of the DC pension plan, determining the amount they will contribute to the plan.
- Selecting investments.
- Determining the amount they will invest in any particular investment option.
- Determining whether they need to change their investment options.
- Review and select options at termination and file all documents with the plan administrator.

3.0 INFORMATION FOR MEMBERS DURING ACCUMULATION PHASE

DC plan administrators should consider providing members with information and tools at key intervals (e.g. when members join the plan and periodically thereafter) to assist them in determining their retirement needs and goals, and how they may achieve their goals.

The CAP Guidelines provide guidance on the information that should be provided to members during the accumulation phase. This guidance includes:

- Providing information to new plan members
- Providing investment information and decision-making tools for members
- Providing ongoing communication to members

Sections 3.1 through 3.3, below, are intended to supplement the information provided in the CAP Guidelines.

The responsibility of providing this additional information to members rests with the plan administrator, although the delivery of this information may be delegated to third party service providers.

3.1 Information Regarding Investment Choices

Some DC pension plans allow members to make investment choices for their individual DC accounts, although the plan usually provides a limited number of options from which these choices can be made. In other DC pension plans, the plan administrator is responsible for the investment decisions. In all cases, the investments must comply with the rules set out in pension standards legislation and the ITA.

For plans which allow members to make investment choices, plan administrators should provide to members:

- Sufficient detail on the investment options available in the plan so they can make informed investment decisions.
- Information on any changes to the investment options available.
- Information on how their contributions will be invested if they do not provide investment instructions (e.g. the default investment option).

For plans which do not allow members to make investment decisions, plan administrators should provide to members information on how their contributions will be invested.

3.2 Information Regarding Contributions

Each jurisdiction has minimum legislative requirements regarding disclosure, and this guidance is in addition to these minimum requirements (where differences exist).

Plan administrators should provide information which includes:

- Formulae for member's required contributions (if applicable) and an explanation of how to select or change a contribution rate (if members must elect a contribution rate within a particular range).
- Formulae for employer contributions.
- Timing of member and employer contributions.
- Treatment of voluntary contributions (if permitted).
- How interest and earnings on contributions are to be applied.
- How and when contributions are vested and locked-in and an explanation of what these terms mean.
- How and in what circumstances contributions can be withdrawn.
- Amounts deducted by the employer from member's remuneration, and other amounts due to the pension fund by the employer.
- Description of how any transfers into the fund will be treated.
- Explanation of options regarding maximizing employer matching contributions.

3.3 Information and Tools Regarding Projected Account Balance at Retirement

Plan administrators should consider providing members with information and tools to help them understand and estimate their plan benefits on retirement.

Plan administrators should consider providing members, periodically, with an estimate or a general illustration of the accumulated value of the member's account at retirement, as well as an estimate or example of the benefit that may result from the accumulated value.

Members should be informed that statements regarding projected account balances and future benefits are estimates only, and the assumptions used in the estimates should be clearly stated.

In addition, plan administrators should describe to members the purpose of the pension plan. Members should be informed that other sources of benefits or savings may be necessary to achieve their retirement income goals.

4.0 INFORMATION FOR MEMBERS WHO ARE APPROACHING THE PAYOUT PHASE

Each jurisdiction has specific legislative requirements for the information to be provided to a member on cessation of membership. Section 7 of the CAP Guidelines also provides guidance on communicating to members regarding termination of participation in a plan, including retirement.

The CAP Guidelines state that the following information should be provided:

- Options available to the member;
- Any actions the member must take;
- Any deadlines for member action;
- Any default options that may be applied if no action is taken; and
- The impact that the termination of plan membership will have on each investment option.

This information, where applicable, should also be provided to members of plans where no investment choice is available during the accumulation phase.

The information in Section 4.1 is intended to supplement the information provided in the CAP Guidelines.

4.1 Information Regarding Retirement Products

It is expected that the plan administrator will provide information regarding all of the regulated retirement products available to members with respect to the payout phase, which may include (depending on legislation in each jurisdiction, subject to change):

- Locked-in Retirement Account (LIRA) or Locked-in Registered Retirement Savings Plan (Locked-in RRSP);
- Locked-In Retirement Income Fund (LRIF);
- Life Income Fund (LIF);
- Life Annuity Contract;
- Prescribed Registered Retirement Income Fund (pRRIF); and
- Variable Benefit.

Plan administrators should provide information which assists members in making informed decisions which strike a balance between protection from the risks inherent in the various products and achieving target replacement rates.

Members should be provided with information regarding any unlocking options which may be available at the time of retirement.

Before making an election, members should consider obtaining qualified investment advice in addition to using any information provided by the plan administrator.

> For further details on the information and general features regarding retirement products that plan administrators may provide to members, see: *CAPSA Reference Document: Registered Retirement Products for DC Plan Members*.

5.0 INFORMATION FOR MEMBERS DURING THE PAYOUT PHASE

The only time that the plan administrator is responsible for ongoing communication during the payout phase is when the payout product is a variable benefit.

Where a variable benefit is permitted in a jurisdiction, pension standards legislation details the information that the plan administrator must provide to the variable benefit owner. A provider of a variable benefit could also look to the relevant sections of the CAP Guidelines in determining what information should be provided.

In the case of all other retirement products, the information provided to the plan owner will be stipulated by the institution holding the funds according to legislative requirements.

6.0 ADVERSE AMENDMENTS FOR DC PENSION PLANS

Adverse amendments are amendments which adversely affect the prospective benefits, rights or obligations of members or other persons entitled to payments from the fund.

Although not an exhaustive list, the following may be considered to be adverse amendments for DC pension plans by some jurisdictions:

- Reduction of employer and/ or increase in employee contributions.
- Changes in expense allocation (e.g., who pays for administrative expenses).
- Changes to possible member retirement age.
- Lengthening vesting requirements (e.g., immediate to two years).

6.1 Disclosure of Adverse Amendments for DC Pension Plans

Some jurisdictions may require the DC plan administrator to provide written notice to certain parties such as affected members and other plan beneficiaries, and trade unions (if applicable), before an adverse amendment is registered. These could include but are not limited to:

- Deferred vested member.
- Active member.
- Retired member.
- Surviving pension partner (e.g. spouse of a deceased member) who is entitled to or is receiving a benefit from the plan;
- Former pension partner who is entitled to benefits from the plan due to a property settlement due to a breakdown in a spousal relationship.
- Beneficiary of a deceased member who has not yet been paid out.
- Trade union of affected member.

Plan administrators should normally provide a written explanation of the amendment within a prescribed time limit required by the appropriate legislation.