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CAPSA releases revised CAP guideline

On September 9, 2024, the Canadian Association of Pension Supervisory Authorities (CAPSA) released Guideline No. 3, Guideline for Capital Accumulation Plans (“Guideline”). The Guideline, which replaces an earlier version released in 2004 (“2004 Guideline”), reflects industry developments in the intervening decades, and represents CAPSA’s view of leading practices for the management of capital accumulation plans (CAPs).

The Guideline is intended to outline the views of Canadian pension regulatory authorities on:

- The responsibilities of CAP sponsors, administrators, service providers, and members;
- Industry best practices for CAP maintenance and administration; and
- Information to be provided to CAP members.

This *FYI* provides an overview of the Guideline, and its implications for CAP sponsors, members, and service providers.

Application of the Guideline

The Guideline defines CAPs as tax-assisted investment or savings plans/programs where members make investment decisions for their individual accounts from two or more options selected by the CAP sponsor.

The examples of CAPs provided in the Guideline expand upon those provided in the 2004 Guideline and are split between plans with and without a retirement savings/income focus. In addition to defined contribution (DC) pension plans, and RRSPs, CAPs with a retirement or savings focus now include TFSAs, LIRAs, LIFs, and RRIFs. A DC plan is a CAP whether it provides post-employment variable benefit payment options, such as LIF-like payments.

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RESPs and first home savings accounts (FHSAs) are considered CAPs without a retirement or savings focus.

Depending on plan type, a CAP can be established by an employer (or former employer), trade union or association, financial institution, board of trustees or pension committee, or licensed administrator. The last example is only applicable to pooled registered pension plans (PRPPs) and voluntary retirement savings plans (VRSPs).

Stakeholder responsibilities

The Guideline sets out the specific responsibilities of CAP sponsors, service providers, and members.

- All **sponsors** have responsibilities to plan members, which may include fiduciary responsibilities. In the case of DC plans, sponsors are subject to the duty of care set out in the applicable pension standards legislation. The responsibilities of CAP sponsors include setting up the CAP, determining its key features, selecting service providers, maintaining records, and providing information to members. Where third-party service providers are engaged to perform specific tasks, the sponsor retains ultimate responsibility for CAP oversight. Where a sponsor relies heavily on third-party service providers, their primary activities are typically limited to communicating with members and supervising the plan's service providers and investments.
- **Service providers** engaged by a CAP sponsor must have the appropriate level of knowledge and skill to perform their assigned tasks, which should be clearly documented. Where interacting with members, service providers should clearly indicate whether they are providing investment advice. They should also inform the sponsor, and members where appropriate, if they will benefit monetarily (beyond disclosed fees) from decisions made by the sponsor and/or members.
- CAP **members** are expected to use the information and materials they receive to understand all aspects of their participation in the plan. The Guideline notes that members should obtain investment advice from a qualified individual in addition to what they may receive from the sponsor and/or service provider(s). Member responsibilities include making decisions about contributions and investment options, using education materials provided, and deciding which decumulation options best suit their situation.

Setting up a CAP

- **Purpose.** The sponsor should clearly document the plan's purpose in terms of its intended outcome for members. The terms of the plan should be consistent with its purpose, and with what is communicated to members.
- **Governance framework.** Each CAP's governance framework should be appropriate for its size, complexity, and other characteristics of both the plan and its sponsor. The Guideline lists the recommended components of a governance framework, including a

description of the roles, responsibilities, and accountabilities of the parties involved in plan governance.

- **Automatic features.** The sponsor should consider whether to establish one or more automatic features for the CAP, such as automatic enrollment and/or contribution escalation. Where used, these features should be disclosed to members at enrollment or when the CAP is amended, particularly where there is an ability to opt-out. If an automatic feature has a direct impact on a CAP member, reasonable advance notice should be provided.
- **Service providers.** Where a sponsor determines that it does not have the necessary knowledge and/or skills to carry out some of its responsibilities, it should engage one or more service providers. The sponsor should establish criteria for selecting service providers, including those listed in Section 2.1.5. Sponsors should document any tasks and/or functions delegated to service providers.
- **Investment options.** The CAP's investment options should be selected by the plan sponsor, subject to any limitations imposed by applicable legislation. The Guideline lists the factors sponsors should consider when choosing investment options, including any default option(s), discussed below. The governance burden increases with the number of investment options offered. Each CAP's sponsor is responsible for monitoring ongoing investment performance, and reviewing the options offered. Members should be given "reasonable opportunities" to transfer among available investment options. Where the administrative costs of such transfers are passed along to members, they should be communicated in advance.
- **Default option(s).** Sponsors should establish a policy outlining what will happen if a member does not make an investment choice within a specific period and describe the default investment option that will apply to that member's assets. The Guideline lists the factors that should inform the selection of the default option(s), including the purpose of the CAP and its intended outcomes, and the degree of diversification provided by the default option. The policy should be disclosed to members before any action is required.
- **Record maintenance and retention.** The records related to CAP member accounts and plan administration and governance processes should be retained by the sponsor or a service provider. The sponsor should also consider the controls necessary to protect members' personal information. Sponsors should also establish a records retention policy for the plan, which should include a description of the types of records to be retained, how they will be retained and secured, and retention schedules.

Member education

The Guideline outlines the responsibilities of CAP sponsors in educating members about their plan. Sponsors should adopt an ongoing member education strategy geared to the plan's purposes and designed to help improve members' decisions and outcomes. The

strategy should address both initial (i.e., at enrollment) and ongoing communication, and should include information on:

- The plan’s nature and features (e.g., enrollment information, automatic features);
- Key plan member responsibilities (e.g., making contribution, investment decisions);
- Investment options (e.g., availability, features, investment restrictions), including:
 - How to transfer between investment options, including any restrictions associated with the suspension of trading in the investment options;
 - The level of fees and expenses payable by members through their accounts, including asset-based fees and operating expenses; and
 - How members can access additional information related to the plan, and a description of the type of information available.

When communicating with members, sponsors and service providers should communicate in plain language. Once established, the education strategy should be subject to periodic review.

Member decision-making tools and investment advice

The Guideline states that CAP sponsors should provide, or provide access to, investment information and decision-making tools to help members decide on and achieve their desired outcomes. When deciding what information and tools to give or make available, sponsors should consider a range of factors, including the plan’s purpose and features, the cost of the information and tools, and the location, financial literacy, and demographics of the CAP’s members. While the information and tools do not need to address all potential needs and circumstances of members, sponsors may consider tools that provide members with a holistic picture of their potential income at retirement sources beyond the CAP, including government benefits and personal savings.

Examples of investment information provided in the Guideline include information regarding the relative level of expected risk and return associated with different options and funds (including any guarantees), and performance reports for investment funds and other options. Examples of decision-making tools include investor profile questionnaires and calculators, and projection tools. As the calculations within many decision-making tools require assumptions for future projections, the Guideline notes that CAP sponsors and service providers should ensure that these assumptions are prudent and subject to periodic review. Disclosures should also describe how outcomes are affected by the use of different assumptions.

The Guideline notes that CAP sponsors may choose to either enter into an arrangement with or refer members to one or more service providers who are qualified to provide investment or financial planning advice. If using such an arrangement, the sponsor should

clearly advise members about the nature of the service provider’s advice, and how those providers are paid — and by whom. The Guideline lists a range of factors sponsors should consider when selecting investment advisors or financial planners. CAP sponsors who do not use such an arrangement may still consider providing members with information on how to find a financial advisor.

Member communication

The Guideline provides detailed information communicating with CAP participants on an ongoing basis, and upon termination of active participation and/or the plan itself.

- On an **ongoing** basis, participants should receive statements at least annually, or as required by legislation. These statements should contain prescribed information, supplemented by the information listed in the Guideline. Participants should also receive details on investment options, transfer options, and other items listed in the Guideline, which are not already captured in member statements. Where there are material changes in the CAP’s purpose, features, and/or investment options, these should be reported to participants. Finally, participants should receive performance reports for investment options containing specific information.
- When a member **terminates active participation**, whether due to termination of employment, retirement, or death, the termination should be handled in accordance with the terms of the plan and applicable legislation. The Guideline notes that the CAP sponsor “maintains responsibilities” for a former CAP member as long as they still have assets in their individual CAP account. On termination, the CAP sponsor should provide information based on the nature of the CAP, such as the ability to remain in the plan if permitted by applicable legislation or the terms of the plan, and information on how to transfer funds to products outside the CAP. For CAPs that give former members the option to receive retirement income directly from the plan, the sponsor should provide additional information to terminating members relating to this option.
- In the event of the **termination of a CAP**, communication should be in accordance with the terms of the plan and applicable legislation.

CAP oversight

The Guideline notes that CAP sponsors should periodically review all aspects of their plans. While the criteria and frequency of the review is set by the sponsor, reviews should also consider any feedback and/or complaints received from members.

- **Plan and governance framework.** Periodic review of the CAP’s features should be undertaken to determine whether they continue to meet the plan’s purpose and objectives. Periodic review of the governance process should consider the Guideline when determining whether the sponsor is fulfilling its roles and responsibilities in providing the CAP.

- **Fees and expenses.** The sponsor should periodically review all fees and expenses paid/borne by members for both competitiveness and reasonability. When reviewing fees and expenses, the Guideline lists items the sponsor should consider, including requesting a description and breakdown of the various categories of member-borne fees.
- **Service providers.** The performance of service providers should be reviewed periodically by the sponsor, including those providing financial planning or investment advice. The Guideline lists considerations for sponsors in establishing the criteria for reviewing providers, including assessing sponsor and member satisfaction with the providers' services.
- **Investment options and funds.** The sponsor should review the performance of each investment option/fund — including the default(s) — at least annually. The review should consider the appropriateness of the aggregate investment line-up in light of membership characteristics and the levels of member engagement and financial literacy. The Guideline sets out considerations for the establishment of criteria for this periodic review.
- **Member education and decision-making tools.** The effectiveness and appropriateness of the education materials and strategy, and the investment information and decision-making tools provided by the CAP should be reviewed periodically, based on criteria set out in the Guideline.
- **Record maintenance.** Sponsors should periodically review their record retention policies and practices. This review should ensure that all applicable legislative requirements are met, including those relating to the protection of personal information. The Guideline notes that sponsors should help maintain the accuracy of member records by using a process to locate any “missing” CAP members. For applicable CAPs, CAPSA's Guideline No. 9, Searching for Un-locatable Members of a Pension Plan may be helpful.

In closing

The Guideline provides CAP sponsors with additional information and guidance for all facets of their plans, including design, governance, and communication. It expands on its 2004 predecessor in numerous respects, particularly member communication and education, with an emphasis on decision-making and outcomes.

As noted in the letter to stakeholders (Letter) that accompanied the Guideline, CAPSA expects that plans of all sizes should be “able to determine how best to implement” the Guideline effective September 9, 2024. Implementation particulars will be determined based on consideration of the size and sophistication of each pension plan, and the applicable pension standards legislation. Where IT system or process changes are needed to support the 2024 Guideline, the Letter states that these should be implemented by January 1, 2026.

While the Guideline's recommendations do not have the force of law, they are evidence of best practice for CAPs, and should be relied upon as such by sponsors and regulators.

For more information on this topic, and its impact on your plan, members, and/or organization, talk to your Buck consultant or contact the Knowledge Resource Centre at talktocanada@buck.com or +1 866 355 6647.