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# Draft Instruction Guide

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**Subject:** Disclosure Guideline for Defined Contribution Pension Plans

**Date:** September 2009

## Introduction

This guideline summarizes the disclosure of information to plan members, eligible employees, and spouses as required by the *Pension Benefits Standards Act, 1985* (the “PBSA”) and the *Pension Benefits Standards Regulations, 1985* (the “PBSR”). The disclosure requirements are generally found in section 28 of the PBSA and section 22 of the PBSR.

Additional guidance is also provided for plan administrators in order to ensure that pension plan members and former members receive adequate and appropriate information concerning their defined contribution pension plan.

The Disclosure Guideline for Defined Contribution Pension Plans replaces the Guideline titled “Disclosure of information to pension plan members and former members” issued on March 6, 1998 with respect to defined contribution pension plans.

## Guidelines for Capital Accumulation Plans

In May 2004, the Canadian Association of Pension Supervisory Authorities (CAPSA) released its Guideline No. 3 titled Guidelines for Capital Accumulation Plans (the “CAP Guidelines”). The CAP Guidelines are voluntary but reflect the expectations of regulators as to the responsibilities of employers, plan administrators and service providers to ensure that plan members receive the information necessary to make informed decisions.

The CAP Guidelines define a capital accumulation plan (CAP) as a tax assisted investment or savings plan that permits the members of the CAP to make investment decisions among two or more options offered within the plan.

The CAP Guidelines also provide relevant guidance for defined contribution plans that do not require plan members to make investment decisions. OSFI recommends that the CAP Guidelines, in conjunction with CAPSA’s Guideline No.4 titled Pension Plan Governance Guidelines and Self-Assessment Questionnaire and OSFI’s Guideline for Governance of Federally Regulated Pension Plans should be followed by plan sponsors of all defined contribution plans.



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## General Principles

Effective communication promotes transparency and provides other benefits such as enabling members to:

- make informed financial planning decisions;
- better understand how a pension plan works and recognize the value of a pension;
- have confidence in the pension plan and the administration of the plan.

The following principles help guide plan administrators in carrying out their duties with regard to the disclosure of information, and should be adhered to:

- ensure that the disclosure of information is (i) timely (ii) understandable (iii) accurate (iv) complete and (v) useful;
- ensure that the disclosure of information is carried out in a manner that is consistent with fiduciary responsibilities and the applicable standard of care (s. 8(3) and 8(4) of the PBSA).

### I. Written Explanation of the Plan Provisions

Subparagraph 28(1)(a)(i) of the PBSA provides that each plan member, eligible employee and spouse or common-law partner, will be given a written explanation of the provisions of the pension plan and any applicable amendments thereto, within six months after the establishment of the plan or after the making of the amendment.

Section 22 of the PBSR provides that the written explanation shall be addressed to the plan member or employee and that person's spouse or common-law partner and shall be given at the place of employment or mailed to the residence of the plan member or employee.

### Electronic Format

The PBSA requires that the explanation of plan provisions be made available in writing. However, in addition, to the required written format, members may also be provided with access to the required information in electronic format.

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## Member Booklet

OSFI recommends that plan administrators develop a booklet to explain the provisions of the pension plan. As this booklet would be the reference for members and employees who are eligible to join the plan, the booklet should be updated and distributed on a regular basis. The date of the last update should be indicated.

A discussion of the following topics related to plan provisions should be included in the member booklet:

### (a) Description of the Plan

This section of the member booklet should include the following topics:

- Nature of a defined contribution pension plan. It should be clearly explained that the amount of pension benefit available to a plan member at retirement is dependent on contributions and investment returns and that the income to be received at retirement is not predetermined;
- Impact of investment choices. If members are required to make investment choices, it should be clearly explained that the amount of pension benefit available at retirement will be directly related to the investment performance of the fund(s) in which they have chosen to invest;
- History of the plan. The date that the plan was established should be included. It should also be indicated if the plan was a result of a conversion of a defined benefit plan or the result of a transfer of assets;
- Plan contact information. General contact information should be included to direct plan members and former members for inquiries concerning the pension plan. This could be the human resources or payroll department.
- Pension committee information. If the plan is administered by a pension committee or if the plan has established a pension council, the committee/council's contact information should be provided.

### (b) Eligibility to Join the Plan

This section of the member booklet should include the following topics:

- whether membership in the plan is voluntary or mandatory;

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- who is eligible to join the plan and when they are eligible to join the plan (i.e. the minimum period of employment required for membership for full-time and, if applicable, non-full-time employees);
  - how to enroll in the plan.

### **(c) Contribution Information**

This section of the member booklet should include the following topics:

- the formula for member's required contributions (if applicable);
- the formula for employer contributions to the plan;
- the timing of member and employer contributions to the plan;
- the treatment of voluntary contributions to the plan (if permitted);
- how and when contributions are vested and locked-in and an explanation of what these terms mean;
- a statement that amounts deducted by the employer from members' remuneration and other amounts due to the pension fund by the employer are kept separate and apart from the employer's own moneys and are deemed to be held in trust (subsection 8(1) of the PBSA);
- a description of how any transfers into the fund will be treated.

### **(d) Investment Options**

If members are not required to make investment decisions, the member booklet should make members aware of the plan's Statement of Investment Policies and Procedures (the "SIP&P"), their right to review this document and how they can obtain a copy.

If members are required to make investment decisions, a discussion of the following topics should be included in the member booklet:

- an overview of the asset classes and types of investments that the members may choose to invest in;
- the investment tools that are available to assist in decision making;

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- a statement that account balances will reflect the actual investment performance of the funds selected, minus fees;
  - a statement that members should obtain independent investment advice from an appropriately qualified individual.
  - A clear explanation of the plan's policy concerning the selection of a default investment option. (Please refer to Section **2.2.4 of the CAP Guidelines**).

For the dissemination of more detailed information concerning investment tools and the specific investment choices available under the plan please see section II of this Guideline titled Investment Options and Decision Making Tools.

### **(e) Plan Expenses**

The member booklet should contain an overview of any fees that are charged to the member's account and information on how to obtain further detailed information concerning specific fees charged in respect of the investment option(s) available under the plan.

See Section III of this Guideline titled Expenses, Fees and Penalties.

### **(f) Benefits at Retirement**

This section of the member booklet should include the following topics:

- the member and the member's spouse or common-law partner's entitlement to a retirement statement;
- the requirement for a joint and survivor pension, if the member has a spouse or common-law partner at the time of retirement, unless the spouse or common-law partner waives this entitlement by completing the prescribed form;
- when a member is entitled to retire under the plan and receive an immediate pension benefit;
- annuity options at retirement and an explanation that the amount of their pension benefit will depend on how much money they have accumulated in their account, the age of the member (and spouse) and the annuity rates at that time;
- any optional forms of annuities available on retirement;
- if transfer/portability options are available at retirement.

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## **(g) Cessation of Membership before Retirement**

This section of the member booklet should include the following topics:

- the member and member's spouse or common-law partner's entitlement to a termination statement;
- vested members who cease membership before retirement are entitled to:
  - a deferred pension provided by an annuity purchased at the time of their retirement; or
  - the transfer of their pension benefit credit to a locked-in RRSP, LIF, restricted LIF (RLIF) or another pension plan willing to accept the funds
- how the account balance of a member will be invested if a member does not opt to transfer their account balance;
- non-vested members are entitled to a cash refund of their required contributions and any voluntary contributions, or a transfer of these contributions to a non-locked-in RRSP.

## **(h) Death before Retirement**

This section should discuss the benefits provided from the plan should the member die before retirement and should address the following topics:

- the spouse or common-law partner or member's legal representative's entitlement to a death benefit statement;
- death benefit provided if the member has a spouse or common-law partner;
- if there is no spouse or common-law partner, the beneficiary or estate death benefit provided by the plan will refund at a minimum member contributions plus interest;
- whether the plan provides that a surviving spouse or common-law partner can surrender, in writing, the pre-retirement death benefit to a dependant beneficiary.

## **(i) Non-Assignment / Commutation of Pension Benefits**

This section of the member booklet should include the following topics:

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- pension benefits cannot be assigned, charged, anticipated or given as security other than on marriage breakdown or the ending of a common law relationship;
  - pension benefits cannot be surrendered or commuted during the lifetime of the member or the lifetime of the member's spouse or common-law partner, other than surrendering a death benefit by a surviving spouse or common law partner to a dependant beneficiary;
  - there are exceptions in cases of shortened life expectancy and small benefits.

## **(j) Marriage Breakdown**

This section of the member booklet should explain that on marriage breakdown or the ending of a common-law relationship:

- pension benefits are subject to division in accordance with the applicable provincial property laws;
- the PBSA permits the division of pension assets by a court order or an agreement between the parties;
- the plan administrator must provide the former spouse or common-law partner, who is considered a "former member" of the plan, with a written statement that outlines the transfer options available to former members.

## **(k) Termination of the Plan**

This section of the member booklet should include the following topics:

- that benefits for all members affected by a full or partial termination will be fully vested regardless of age or service;
- that portability options will be available to members or former members.

## **(l) Additional Information Available On Request**

The member booklet should indicate that in accordance with paragraph 28(1)(c) of the PBSA, each member and former member (includes a person who has exercised portability) of the plan, every other person entitled to pension benefits or refunds under the plan and their spouses or common-law partners may, once in each year of operation of the plan, either personally or by an agent authorized in writing for that purpose, review certain documents held by the plan administrator, including the following:

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- annual information returns;
  - financial statements, including plan expenses;
  - plan texts;
  - plan amendments, and
  - the statement of investment policies and procedures.

The member booklet should indicate how such a request can be made to the plan administrator.

A statement should be included indicating that the plan administrator may charge a reasonable fee for photocopies.

## II. Investment Information and Decision Making Tools

If members are required to make investment decisions, the administrator should provide members with sufficient detail about the specific investment options available so that members can make informed investment decisions. The following information should be provided to members:

- Decision making tools. Please refer to **Sections 3.2 and 3.3 of the CAP Guidelines** which discuss what investment decision-making tools an employer/administrator should provide to members in order to assist in making investment decisions within the plan.
- Investment options. Please refer to **sections 4.2, 4.2.2, 4.3 and 4.2.1 of the CAP Guidelines** which set out the information that an employer/administrator should provide members with regard to each investment option. This includes information such as:
  - the types of investments the fund may hold;
  - a description of the risks associated with investing in the fund; and
  - names of all investment management companies responsible for the day-to-day management of fund assets;
- Transfer options. Please refer to **section 4.3 of the CAP Guidelines** which sets out the information that the employer/administrator should provide members with regard to making transfers among investment options.
- Changes in investment options. Please refer to **sections 5.2.2, 5.2.3 and 5.2.4 of the CAP Guidelines** titled Report on Significant Changes in Investment Options which sets out the information that an employer/administrator should provide members with regard to changes to investment options.
- Performance reports for investment funds. Please refer to **section 5.3 of the CAP Guidelines** titled Performance Reports for Investment Funds which sets out the information that an

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employer/administrator should provide to the member annually with regard to performance reports for each investment fund.

### **III. Expenses, Fees and Penalties**

An explanation of the plan provisions that govern what expenses may be charged to the pension fund should be disclosed. Plan administrators should also provide members with information such as:

- investment fund management fees;
- account fees; and
- fees for service providers.

Please refer to section 4.4 of the CAP Guidelines titled **Description of Fees, Expenses and Penalties** for further details.

### **IV. Annual Statements to Members**

Paragraph 28(1)(b) of the PBSA requires that each member of the plan and the member's spouse or common-law partner be given a written statement, within six months after the end of each year of operation of the plan. Section 22 of the PBSR provides that this statement shall be given at the place of employment or mailed to the residence of the plan member. In addition to the required written format, members may also be provided with access to the annual statement in electronic format.

Subsection 23(1) of the PBSR sets out what must be included in this written statement. The appendix to this Guideline contains a checklist of the requirements contained in subsection 23(1).

In addition to the requirements of subsection 23(1) of the PBSR, the following supplemental disclosure should be included in the written statement if members are required to make investment choices:

- a summary of investments listed by option type (e.g., investment funds, other securities, GICs);
- investment activity - the opening balance, contributions, withdrawals, net change in the value of the investments and closing balance.

Please refer to **section 5 of the CAP Guidelines titled Ongoing Communication to Members** for further details.

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- Deferred Vested Members While many terminating members of a defined contribution plan elect to transfer their pension benefit out of the plan, any deferred vested members should be provided with an annual statement.
  - Contact Information Members and former members should receive notification of any change to the contact information for the plan administrator.

## V. Plan Amendments

Subparagraph 28(1)(a)(i) of the PBSA entitles members, eligible employees and spouses or common-law partners, to a written explanation of any applicable plan amendment within six months of the making of the amendment. Section 22 of the PBSR provides that this written explanation shall be given at the place of employment or mailed to the residence of the plan member.

OSFI considers a plan administrator to have made an amendment to a plan as of the date that the decision regarding the amendment is properly adopted by the plan administrator in accordance with the appropriate governance procedures for that plan.

## VI. Termination / Retirement Statements

Paragraph 28(1)(d) of the PBSA provides that, where a member of the plan retires, ceases to be a member of the plan or dies, or where the whole or a part of the plan is terminated, members and their spouses or legal representatives are entitled to a written statement, in prescribed form. The prescribed forms found in the Regulations are:

- for retiring members; Schedule IV, Form 1;
- for retiring members whose spouse has agreed to a benefit reduction on death of the member or former member, Schedule II, Form 4;
- for terminating members or where the plan has terminated and the member is entitled to a deferred pension benefit, Schedule IV, Forms 2 and 3; (please refer to Part II of the Instruction Guide on Filing and Reporting Requirements for Defined Contribution Pension Plan Terminations for further disclosure requirements);
- for a deceased member, Schedule IV, Form 4; and
- for members choosing to transfer the account value pursuant to section 26 of the PBSA, Schedule II, Form 3.
- Deviations from the prescribed forms may be made provided that they do not affect the substance of the required information.

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- members who leave deferred benefits in the plan should be advised to file any future changes of address with the plan administrator;
  - where a member of the plan retires, ceases to be a member of the plan or where the plan terminates in whole or in part, it should be suggested that the member seek independent financial advice before deciding on a portability option;
  - the name and address of the plan administrator should be provided;
  - the name, address and telephone number for a contact person who can answer any follow-up questions from the members.

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## Appendix

### **Subsection 23(1) of the PBSR – the annual written statement to be provided in accordance with paragraph 28(1)(b) of the Act shall include:**

- name of the plan member
- period to which the statement applies
- date of birth of the plan member
- period that has been credited to the plan member for the purpose of calculating the pension benefit of the plan member
- name of the spouse or common-law partner of the plan member listed on the records of the administrator
- name of any person on the records of the administrator designated as the beneficiary of the pension benefit of the member
- additional voluntary contributions of the plan member made for the plan year and the accumulated additional voluntary contributions of the plan member as of the end of the plan year
- the date of which the plan member is first entitled to an immediate pension benefit pursuant to subsection 16(2) of the Act (Regulations also require that the statement include when a member reaches pensionable age)
- required contributions of the plan member made for the plan year and the accumulated required contributions of the plan member as of the end of the plan year
- the contributions of the employer in respect of the plan member made for the plan year and the accumulated contributions of the employer in respect of the plan member as of the end of the plan year
- amount of any funds transferred to the plan in respect of the plan member and the benefit under the plan attributable to that amount
- statement setting out the right to access the documents described in paragraph 28(1)(c) of the Act, and whether a fee is charged for copying the information.

### **Recommended supplemental disclosure to be included in the written statement:**

- if members are required to make investment decisions, the information contained in section II of this Guideline;
- a breakdown of fees paid by members. If members are required to make investment decisions, reference should be made to the information contained in Section III of this Guideline.