



Pension Investment  
Association of Canada

Association canadienne des  
gestionnaires de caisses de retraite

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Dear Angela,

**Re: CAP Guidelines Consultation**

The purpose of this letter is to provide comments from the Pension Investment Association of Canada (PIAC) on the consultation draft of revisions to CAPSA Guideline No. 3 – Guidelines for Capital Accumulation Plans (CAPs) (CAP Guidelines).

PIAC has been the voice for Canadian pension funds since 1977 in matters related to pension investment and governance. PIAC's members manage over \$2.8 trillion of assets on behalf of millions of Canadians. Our mission is to promote sound investment practices and good governance for the benefit of plan sponsors and beneficiaries.

PIAC's positions on public policy reflect the fiduciary framework in which member funds operate and its commitment to work in the best interests of plan members.

We appreciate the opportunity to provide our comments on the consultation draft as many of our members have CAP arrangements in place in their organizations and have considerable experience as administrators and plan sponsors.

PIAC appreciated the opportunity to participate in the industry working group (IWG) in the modernization of the CAP Guidelines. The draft version of the CAP Guidelines developed by the IWG and submitted to CAPSA's CAP Guidelines subcommittee (CAPSA Subcommittee) was a balanced and carefully articulated document and the culmination of nearly 18 months of work. The CAPSA Subcommittee has made

substantial changes to the draft version of the CAP Guidelines submitted by the IWG. PIAC was surprised by the extent of the changes and most of the feedback below relates to these changes.

Given this context, PIAC suggests that the IWG have the opportunity to review the next version, which would consider comments from the various stakeholders during this consultation process before the document is released. The IWG can provide feedback on ensuring the CAPSA Subcommittee concepts are incorporated into the CAP Guidelines with a practical degree of specificity. The longevity of these documents and the importance of the CAP Guidelines to the development, operation and support of CAP plans for the benefit millions of Canadians suggests that this additional review is time well spent.

The rest of this letter outlines some high-level comments and some more specific suggested changes we hope the CAPSA Subcommittee will find helpful in drafting the next version. Our letter includes a few over-arching themes to our comments in Part I; Part II includes high-level comments on each of the seven major sections of the CAP Guidelines; and Part III provides some examples of language which may be clarified or simplified. PIAC would also be pleased to provide direct and specific comments or a blacklined version of the consultation document, but this may not be necessary if the IWG is provided the opportunity to review the document before CAPSA releases its final version.

## **Part I – Themes**

### **Modernization Elements**

PIAC is pleased to see the modernization of the CAP Guidelines on their applicability to capital accumulation plans that include members in the payout/decumulation phase as well as the acknowledgement of the benefit of automatic features. These were critical additions to reflect an evolving industry with the CAP member as the prime beneficiary.

### **Best Practice vs Minimum Standards**

The 2004 version of the CAP Guidelines has provided important and well-received guidance to CAP sponsors and has generally been accepted as more than a best practice guideline but interpreted as a minimum standard for administration of such plans due to absence of minimum standard regulations for many types of CAP plans in most Canadian jurisdictions.

The consultation draft proposes a significant increase in the responsibilities of the CAP sponsor, especially with respect to: information and education for CAP members, the provision of decision making tools and review of fees and expenses. Should this document be considered a minimum standard we are concerned the increased responsibilities may act as a deterrent to employers choosing to make a capital accumulation plan available to their employees. Careful consideration should be given

to separate suggested best practices, which may not currently be available to all CAP sponsors in today's marketplace, from minimum standards. PIAC supports broader coverage and is concerned the growth of CAPs may be hindered with the increased burdens suggested by the consultation draft if they are interpreted as the standard. Our comments provided by Section will highlight a few examples.

### **Tilted Balance**

Overall, the balanced approach within the 2004 CAP Guidelines – that reflected the responsibilities of members and sponsors – has been significantly tilted to increase the requirements of sponsors, while de-emphasizing the responsibilities of CAP members. PIAC appreciated the balanced approach in the prior versions of the CAP Guidelines as they reflect the economic and practical realities of CAPs. Our comments also touch on this over-arching theme.

### **CAP Guidelines and the Applicable Laws**

There may also be opportunities to simplify the document by removing references to laws applicable to only certain types of CAPs. Calling attention to specific legal requirements might suggest the CAP Guidelines are the source of all legal requirements for CAPs. Given that the laws and regulations change in all Canadian jurisdictions, including creation of new types of CAPs, keeping the CAP Guidelines up to date with those references will be difficult, and when a specific applicable law is not referenced in the CAP Guidelines or the reference is outdated or deprecated, that can create legal ambiguity. The CAP Guidelines clearly communicate that all applicable laws need to be followed, which should suffice.

## **Part II – High-level Comments by Section**

### **Section 1 Introduction**

The responsibilities of the CAP sponsor (S. 1.3.1) begins by referencing pension legislation (covers only specific CAP type) and then lists the factors impacting the degree of fiduciary responsibility for a CAP. It is not clear how this list of factors will help readers to adapt their approach to administering all type of CAPs, since the list of factors represents CAPSAs view and is not rooted in the legislation or legal precedents.

As the CAP sponsor responsibilities are captured throughout the document, this could be noted and the document sections highlighted (as in items i-xi in S. 1.3.1<sup>1</sup>). As mentioned above a comment regarding the applicability of relevant laws would be sufficient.

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<sup>1</sup> Read in context of the other comments suggests this is the sole suggested paragraph in the CAP Sponsor section 1.3.1.

## Section 2 Setting Up a CAP

PIAC agrees that a governance framework (S. 2.1.2) is best practice, serves its purpose of oversight, and is a minimum standard also addressed in the legislation for DCPs. This may be less reasonable to expect from a smaller CAP sponsor of a group RRSP, for example, and could be noted as a best practice. Another best practice example may be the implementation of a risk management framework (iv) which in the context of CAPs is sound in theory but more difficult to address in practice.

While we agree that having a large number of investment options may hamper member decision making (S. 2.2.1), we feel it is more appropriate that CAP sponsors are guided to strike an appropriate balance between simplicity and providing members with sufficient investment options to allow members to customize risk/return while building an effective long term portfolio. Diversity of the employee workforce by earnings and retirement needs, level of engagement with the CAP and the employees' level of understanding of financial matters can justify a higher number of investment options.

In Section 2.2.4, time horizon and the need for a default investment option to be suitable as a standalone investment are additional factors to consider in selecting the default so could be added to the list rather than noted separately.

Aligned with the suggestion to avoid references to legal requirements, the footnoted Income Tax Act regulations for DC plans could be removed (S. 2.1.1).

## Section 3 – Educating CAP Members about the CAP

The information on the nature of features of the CAP that need to be communicated to members (S. 3.1.1) is long and complex and simplification could benefit members and sponsors. A plan summary or similar document should focus on the features of the CAP, where to go for information or access tools, and the decisions the member needs to make. The impact of fees and member choices to opt out, make voluntary contributions, or take advantage of other CAP features on their potential outcomes would be better communicated via plan member education or through the use of a tool that allows observation of the impact of each of these decisions on expected retirement outcome.

CAP members should be clearly informed of their rights and responsibilities. PIAC believes that these should be clearly set out in the CAP Guidelines as a list for CAP members to read explicitly as their responsibilities. As such, these responsibilities as listed in Section 3 could be combined with the partial listing in S. 1.3.3. Section 3, in describing what to communicate to members, could reference the more fulsome section 1.3.3. This aligns with the best practice of using plain language for any CAP member who picks up the published CAP Guidelines.

While combining the rights and responsibilities of CAP members, PIAC would suggest that CAP members have an *obligation to use* the information and decision-making tools

provided by the CAP sponsor, which is more explicit than the “*take/taking advantage of*” language in the consultation version. The list provided in S 1.3.3 is not just examples of *decisions* CAP members need to make but *responsibilities* as it relates to their plan. Finally, the investment risk is borne by the CAP member in a CAP, and this should be stated clearly. Making these changes would start to rebalance the document, describing the roles and relationships more clearly and holistically.

#### **Section 4 Decision-Making Tools and Investment Advice for CAP Members**

Tools should be provided to members to help them make any of the choices they need to make given the design of the plan, including how to invest and how much to contribute to achieve their goals. Any projection or estimate of their expected outcome would be helpful in assessing the impact of these choices but the outcome is not determined by use of the tool.

In S. 4.3(iii), tools should be provided to help members estimate their expected retirement income *rather than a lifestyle*. The inclusion of a budgeting tool that helps members translate their desired lifestyle into required income would help members determine if the expected income is sufficient.

In the context of projections and assumptions (S. 4.3.1), PIAC suggests providing the CAP member some ability to vary certain assumptions to suit individual circumstances (rather than purely requiring the CAP sponsor to provide assumptions). The projections should also provide a range of outcomes (rather than a single outcome projection) which would incorporate the concept of risk (e.g. likelihood of achieving results) and reflect the degree of accuracy of the projections and assumptions.

#### **Section 5 On-going Communication to CAP Members**

Member statement requirements listed in Section 5.1 are detailed and cumbersome. While many service providers include a member’s personal rate of return (vii) on quarterly statements, we question the value of this to the CAP member, as past returns are not indication of future returns nor can they be easily used to assess the validity of current asset allocation. Other more customized information by CAP member (iii and vi) may not be available on service provider’s current platforms making several items currently impractical to include. Member statements are just one form of member communication and making certain types of reminders mandatory for including in member statements is not an efficient route to achieving the desired engagement results. In addition, illustrations around the impact of fees on member outcomes (ix) would be better communicated via a tool as mentioned above or as part of ongoing education efforts rather than be included on the statement.

## **Section 6 Maintaining Oversight of a CAP**

Section 6.1 suggests that CAP sponsors review observed and projected outcomes the CAP is achieving (ii). PIAC would position this as a best practice (currently available to larger CAP sponsors) but many CAP sponsors lack access to tools that allow them to conduct such an assessment. Consultants are able to support those sponsors but at significant cost which again could be a deterrent to employers deciding to offer a CAP if viewed as a minimum standard. (A similar comment applies to S. 6.5(v))

The next section describes the unique position the CAP sponsor is in to ask their service provider questions about fees. While this may be the case for some larger plan sponsors, obtaining the answers to these questions could be a significant challenge for smaller plan sponsors with less leverage and negotiating power. PIAC supports the regulators efforts to encourage transparency and disclosure related to costs from the industry's service providers which would allow for a more accurate assessment of the cost of the service relative to the benefits obtained. Realistically, the information may not be made available and the CAP sponsor will need to make assessments based on the, often limited, information provided.

## **Section 7 Decumulation and CAP Termination**

For clarity, we suggest separating this into two sections: one regarding termination of a plan member from the plan upon termination of employment or retirement, and one regarding termination of the plan itself. Responsibilities upon plan termination are quite different from those associated with a member termination.

Finally, we suggest removing the last sentence of the consultation document which notes that a CAP sponsor's responsibilities for the CAP remain as long as any individual account assets are held within the CAP. This is a broad statement (with legal undertones) and may apply to certain CAPs (like a DC plan) but is not necessarily true for all CAPs.

## **Part III Language**

The document could be further simplified by removing some repetitive language. Below are a few examples:

- Section 6 addresses the plan sponsor's responsibilities around oversight of service providers, investment options and the reasonability of fees so certain references to those responsibilities could be removed from Section 1 and Section 2.
- One more example relates to delegations to a service provider given its own section (S. 2.1.4) but repeated in S.1.3.1.

A fulsome review of the document by the IWG would address some of our concerns with the tone of specific phrases or language, while retaining the concepts desired. Below are a few examples:

- “continuously engage” and “at all times’ (S. 3.3.1): difficult in practice and to define in law
- objective setting described as “crucial” (S. 2.1.1): important to consider
- “first-page content” (S. 5.1): unclear on meaning
- “dispute resolution mechanism” (S. 2.1.2): who member can contact. Sufficient that member responsible to contact plan sponsor (S. 3.1.2 vii)
- “facilities to hold contributions (S. 1.3.1 ii): unclear meaning
- “individual accounts” and “variable benefit” references (S 1.2.1): could be revisited in context of VPLA pooled offerings likely in the near future

## **Conclusion**

PIAC appreciates this opportunity to comment on the consultation and we have provided some high-level comments. PIAC encourages a fulsome review by the IWG before the final version of these CAP Guidelines is released by CAPSA. Alternatively, if CAPSA would prefer, we could provide a more extensive set of comments directly.

As noted, we are very pleased with the broad modernization of the 2004 document. With some modifications, these CAP Guidelines will be ready to stand the test of time. The efforts of CAPSA and its consultative process will support the achievement of improved outcomes for many Canadians for years to come.

PIAC would like to again thank CAPSA for this opportunity to contribute our ideas to this extremely important work. Please reach out to Cheryl Shea, Chair of PIAC’s Defined Contribution Committee at [cheryl\\_shea@cpr.ca](mailto:cheryl_shea@cpr.ca) if you would like any clarification of these comments.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'S. Hewitt', written in a cursive style.

Sean Hewitt  
Chair