

CAP Governance

A Guide to the Guidelines

In Canada, the fiscal and regulatory environment for group Capital Accumulation Plans (CAPs) can seem complex and ever changing. For employers, however, the goal of helping employees to achieve their financial objectives is simple and unchanging. Employers want to offer attractive and competitive benefit programs that employees will value and appreciate.

During 2004, two sets of guidelines have been released that provide direction to CAP sponsors in this area: the Canadian Association of Pension Supervisory Authorities (CAPSA) released its Pension Plan Governance Guidelines in October 2004 while the Joint Forum of Financial Market Regulators released its Guidelines for Capital Accumulation Plans earlier in May 2004. Although the former guidelines are intended for pension plans, its principles are useful to any CAP sponsor who wishes to adhere to best practices and avoid litigation.

To help plan sponsors understand and better manage their group retirement plans, we have developed this "Guide to the Guidelines", which includes:

- Summary of CAPSA governance principles
- Easy to use checklist for CAP compliance
- Frequently Asked Questions (FAQs)
- Useful Web addresses

We trust that you will find these helpful in meeting your goals.

Standard Life's Commitment to Good Governance

Standard Life is among the top group retirement service providers in Canada. As such, we play a leading role in helping sponsors and members of Capital Accumulation Plans (CAPs) achieve their goals. To this end, Standard Life demonstrates its commitment to best practices in a healthy and constructive governance environment by:

- Directly participating in the work of the Joint Forum of Financial Market Regulators through their CAP Working Committee's industry task forces;
- Responding to the regulators' consultation papers with formal submissions;
- Offering compliant products and services;
- Providing state-of-the-art educational material and tools for plan members;
- Creating easy-to-use compliance checklists and advanced software for the selection and monitoring of investment options;
- Focusing attention on matters of interest by authoring articles in industry publications;
- Addressing the issues of the day at industry conferences;

- Creating a regularly updated Summary of Pension Legislation which is distributed to sponsors, educators, advisors and practitioners across Canada;
- Ensuring a flexible approach that reflects each CAP's uniqueness and allows the full engagement of sponsor, advisor and member;
- Going beyond minimum expectations to provide adaptable payout vehicles to facilitate the payment of income to retirees.

What Standard Life has accomplished so far serves as a foundation for what we will do going forward. What ties the past, present, and future together is our uncompromising commitment to best practices in the CAP industry.

CAPSA Governance Principles

Whether you sponsor a Capital Accumulation Plan¹ or a defined benefit pension plan, good governance is achieved through the establishment of policies and procedures which enable you to manage, oversee and administer your employees' group savings and retirement plan in a way which allows you to meet your fiduciary and other obligations.

Below, we have reproduced the eleven CAPSA governance principles (in bold) which provide guidance in this matter. We have also taken the liberty of adding comments which, based on our own experience in supporting plan sponsors in the administration of group savings and retirement plans, suggests issues to be considered and/or actions to be taken in their regard.

Principle 1 Fiduciary responsibility

The plan administrator has fiduciary and other responsibilities to plan members and beneficiaries. The plan administrator may also have fiduciary and other responsibilities to other stakeholders.

It is up to the plan administrator (or plan sponsor, as the case may be) to oversee, if not handle outright, the overall plan administration, including the determination and payment of benefits, with the care, skill and diligence expected of a prudent person, while acting in the best interest of plan members and beneficiaries. All this should be done in good faith and impartially, while avoiding conflicts of interest. All material plan related decisions should be clearly documented.

Principle 2 Governance objectives

The plan administrator should establish governance objectives for the oversight, management, and administration of the plan.

The key to achieving good governance practices is to establish a sound and comprehensive governance policy (backed by effective procedures and controls), which spells out the roles and responsibilities of the plan administrator, its delegates, service providers, etc. and describes its governance objectives, performance measures and oversight mechanisms.

Principle 3 Roles and responsibilities

The plan administrator should clearly describe and document the roles, responsibilities, and accountability of all participants in the pension plan governance process.

The roles, responsibilities and accountability of those party to the administration of the plan should be described in the plans' governance policy. In particular, the governance policy should be complemented by any delegation and/or service agreement effected, the reason(s) for using/selecting a service provider after consideration of in-house expertise/capabilities, and costs and risks. The plan's governance structure must be communicated to all parties involved in the plan's administration in order that their specific roles and responsibilities can be clearly understood. It is also important, where a pension committee administers the plan, that a clear policy be established to handle/plan the replacement of pension committee members.

Principle 4 Performance measures

The plan administrator should provide for the establishment of performance measures and for monitoring the performance of participants who have decision-making authority in the governance process.

Here again, set performance measures and performance monitoring guidelines, including the frequency of monitoring of parties involved in the plan's administration, should be spelled out in the plan's governance policy and reviewed regularly. The goal is to ensure that those that have governance responsibilities perform their duties to an acceptable level.

Principle 5 Knowledge and skills

The plan administrator, directly or with delegates, has a duty to apply the knowledge and skills needed to meet governance responsibilities.

The parties involved in the administration of the plan must possess the knowledge and skills necessary for them to meet their responsibilities under the plan. Where such knowledge and skills are lacking, the plan administrator and delegates must seek training, or where appropriate, obtain professional advice or the services of a qualified service provider. In the case of CAPs, particularly the smaller ones, plans sponsors often rely on the proven experience of insurers for many aspects of the administration of their plan: member communication, record-keeping, investments, etc.

¹ A Capital Accumulation Plan (CAP) is any arrangement whereby money (capital) is set aside for the future benefit of plan members. CAPs that are tax assisted, such as defined contribution pension plans, group RRSPs, Deferred Profit Sharing Plans and Registered Education Savings Plans, under which plan members can exercise a choice among two or more investment options, are subject to the CAP Guidelines.

Principle 6

Access to information

The plan administrator and, as necessary, any delegates should have access to relevant, timely and accurate information.

The plan administrator and delegates should, in order to meet their responsibilities, have access, where appropriate, to up-to-date information on the plan (plan text, amendments, trust agreement, investment policy, investment facility and service agreements) and its activities (minutes of pension committee meetings, contribution payments, financial statements, benefit calculations and payments, administration and investment expenses).

Principle 7

Risk management

The plan administrator should provide for the establishment of an internal control framework, commensurate with the plan's circumstance, which addresses the pension plan's risks.

The plan administrator must establish and exercise appropriate controls in order to oversee any plan administration activity that may involve a risk to the plan and its membership and beneficiaries. Examples of risks include the non-payment or late payment of contributions by the plan sponsor, non-adherence to the plan's investment policy and an unexplained increase in administration and investment expenses.

Principle 8

Oversight and compliance

The plan administrator should provide for the establishment of appropriate mechanisms to oversee and ensure compliance with the legislative requirements and pension plan documents and administrative policies.

The plan administrator must periodically review the plan's administration activities to ensure they meet the requirements of set policies and procedures, and applicable legislation, in areas, such as benefit calculations and payments, contribution remittances, investments, issuance of member benefit and option statements. The plan administrator should also take steps to ensure that the plan text, investment policy and member summaries are updated to account for any legislative changes.

Principle 9

Transparency and accountability

The plan administrator should provide for the communication of the governance process to plan members, beneficiaries and other stakeholders to facilitate transparency and accountability.

The plan governance policy should be communicated to plan members, beneficiaries and other stakeholders, while specifying who takes part in the decision-making process and administration of the plan. There should also be a clearly documented policy for dealing with member and beneficiary information requests and complaints. These measures should reinforce the commitment of all parties concerned to the good administration of the plan and improve member and beneficiary interest in, and confidence and appreciation for, the plan and its administration.

Principle 10

Code of conduct and conflict of interest

The plan administrator should provide for the establishment of a code of conduct and a policy to address conflicts of interest.

The plan administrator and its delegates must always act with honesty and integrity, in the best interest of plan members and beneficiaries. Any real or perceived conflict of interest must be disclosed in accordance with an established code of conduct, which may form part of the plan's governance policy. The code of conduct should describe what constitutes a conflict of interest, prescribe how and when conflicts of interest must be disclosed and what the parties involved must do under such circumstances.

Principle 11

Governance review

The plan administrator should conduct a regular review of its plan governance.

The plan's governance policy along with the supporting administration policies and procedures must be reviewed regularly in order to ensure they remain pertinent and effective. In addition to the self-assessment questionnaire provided by CAPSA, we have prepared a checklist intended specifically for CAP sponsors (based of the Joint Forum CAP Guidelines) which should assist them in assessing their compliance with the best governance practices.

Initial Requirements

What needs to be done	Yes/No	Date Completed dd/mm/yy	Comments
Section 1: Introduction			
1.3.1 Decisions about establishing and maintaining the plan have been properly documented			
Section 2: Setting up a CAP			
2.1.1 The plan's purpose has been clearly defined and documented			
2.1.3 Service providers have been selected using specific criteria (see right column for sample criteria)			
2.2.1 A range of investment options has been selected in light of the specific characteristics of the group and plan (see right column for sample criteria)			
2.2.2 Investment funds are compliant with applicable rules			
2.2.3 Opportunities for members to make transfers between options have been provided (at least quarterly)			
2.2.4 A policy has been established for members who fail to make investment decisions			
2.3 Plan record keeping is being taken care of and plan documents are being retained according to a set documentation retention policy			
Section 3: Investment Information and Decision-Making Tools for CAP Members			
3.0 Allocation of costs for decision-making tools has been determined in such a way as to avoid discouraging members from using the information or tools available			
3.1 The types of tools and information for members have been determined in light of the specific characteristics of the group and plan (see right column for sample criteria)			
3.2 Decision-making information has been determined and provided			
3.3 Decision-making tools have been determined and provided			
3.4 Whether or not to provide individual personal investment advice has been decided			
3.4.1 If advice is to be offered, a service provider has been selected using specific criteria (see right column for sample criteria)			
Section 4: Introducing the Capital Accumulation Plan to CAP Members			
4.0 Eligible individuals have been told the purpose of the plan and how it operates			
4.1.1 Eligible individuals have been told the nature and features of the plan, including the policy established for members who fail to make investment decisions			
4.1.2 Members have been told of their rights & responsibilities			
4.2 Members have been told of the details of each of their investment options			
4.3 Members have been told of the details of their transfer options, including any applicable fees, penalties or taxes			
4.4 Members have been told of the details of any applicable fees, expenses or penalties that they bear			
4.5 Members have been told what additional information is available and how to obtain it			

Criteria for making certain plan related decisions

Choosing a Service Provider (Sections 2.1.3 & 3.4.1)

- Quality, level and continuity of services offered
- Consistency of services offered in all geographical areas in which members reside
- Understanding of employee benefits, pension legislation and other related rules
- Specialization in the type of service to be provided
- Professional training, experience, accreditation, reputation and impartiality
- Cost of the service

Selecting Investment Options (Section 2.2.1)

- The purpose of the CAP
- The number of investment options to be made available
- The fees associated with the investment options
- The CAP sponsor's ability to periodically review the options
- The diversity and demographics of CAP members
- The degree of diversification among the investment options to be made available to the members
- The liquidity of the investment options
- The level of risk associated with the investment options

Deciding the Type of Tools & Information to Provide (Section 3.1)

- The purpose of the CAP
- The type of decisions members must make
- The cost of the information and decision-making tools
- The location, diversity and demographics of CAP members
- The members' access to computers and the Internet

What is the Joint Forum?

The Joint Forum is an association of regulatory associations founded in 1999 by the Canadian Council of Insurance Regulators (CCIR), the Canadian Securities Administrators (CSA), and the Canadian Association of Pension Supervisory Authorities (CAPSA). It also includes representation from the Canadian Insurance Services Regulatory Organizations (CISRO).

The Joint Forum was established as a mechanism through which pension, securities and insurance regulators could co-ordinate, harmonize and streamline the regulation of financial products and services in Canada.

What is CAPSA?

CAPSA is a member of the Joint Forum. They are the ones responsible for regulating pension plans (both DC and DB). CAPSA has no jurisdiction over Group RRSPs and DPSPs.

When do the CAP Guidelines come into effect?

The Guidelines are voluntary. They were released on May 28th, 2004 and the Joint Forum has indicated that it expects CAPs to be fully compliant by December 31st, 2005.

Do the Guidelines replace any existing laws or regulations?

No, the Guidelines are in addition to existing laws and regulations.

Why should I bother complying with voluntary guidelines?

Despite their lack of formal legal authority, the Joint Forum's CAP Guidelines are widely viewed as a minimum standard of conduct. To the extent that plan sponsors operate as fiduciaries, they are accountable to their plan members who can use the courts to exercise their rights and obtain compensation in the event that they suffer a loss because their plan sponsor did not fulfill its fiduciary obligations. The fear of such litigation encourages sponsors to embrace the spirit of the Joint Forum's CAP Guidelines. In fact, being able to demonstrate compliance with the guidelines may be the best way to avoid legal problems down the road – or to deal with them should they arise.

In brief, what do the Joint Forum's CAP Guidelines say?

The Guidelines spell out that plan sponsors have certain basic responsibilities to provide adequate information to plan members and to follow good governance practices.

What are the CAP sponsor's main responsibilities?

The responsibilities are organized according to the life cycle of a CAP.

When setting up a new plan, the plan sponsor needs to decide and document the purpose of the plan, decide how to choose service providers, design the investment menu and select the investment funds. It is implicit that for an existing plan, these steps need to be reviewed and documented in order to create the foundation for future monitoring.

When introducing the plan to eligible members, the sponsor should pay careful attention to full disclosure of all plan rules, procedures and policies that affect the members. In particular, such items as investment options, and fees, expenses and penalties borne by the members need to be clearly explained.

It is assumed that the sponsor will provide the members with appropriate decision-support tools to enable them to make informed decisions about the management of their CAP account(s).

On an ongoing basis, the sponsor should ensure that regular account statements and investment information are provided to the members. In addition, any changes that affect the members should be fully disclosed – in advance if possible. Such changes include the addition, change or deletion of an investment option.

It is also the sponsor's duty to review the plan decision-support tools, investment options and service providers periodically to ensure that they still meet the criteria determined earlier.

Do the CAP Guidelines require me to take my plan to market?

No. There is nothing in the Guidelines to suggest that sponsors must take their plan to market periodically in order to ensure compliance. However, if you have lost confidence that your service provider(s) can help you achieve your goals, it would be advisable to consider alternatives. Nonetheless, it is important to keep in mind that the heart of successful retirement planning is long-term consistency, not decisions made with a short term perspective.

Do CAP members have any responsibilities?

Yes, each member is expected to use the information and tools provided and make the necessary decisions (e.g., how much to contribute, where to invest contributions, whether to move investments from one investment option to another).

Members should also consider seeking independent financial planning advice, if necessary.

Is the sponsor responsible for how much members understand about the CAP?

The CAP Guidelines state that the sponsor should provide the information and tools required to assist members with the decisions they have to make. Furthermore, the guidelines suggest that the sponsor use plain language. Nonetheless, while the sponsor can be accountable for the tools and information he provides to the members, there is no easy way the sponsor can be accountable for what the members actually understand – and the guidelines do not suggest the sponsor test the CAP's members' comprehension.

Does the sponsor have to give members advice?

No, this is an option, not an obligation. The Guidelines reflect the fact that the information and tools provided under a CAP are not intended to cover an individual's complete personal financial needs. It is suggested that the CAP sponsor remind members to seek personal financial advice, as needed.

Retirement Investments Insurance

Standard Life offers a wide range of compliance minded products and services, and governance aids, which will assist you in ensuring that your group savings and retirement plan is administered in accordance with the best governance practices. For more information, contact your plan advisor or any of our offices in the following cities:

Halifax	1 800 563-1833
Montreal	(514) 841-6699
Quebec	(418) 684-2400
Ottawa	1 800 263-3219
Toronto	1 800 827-5747
London	1 800 268-9714
Winnipeg	1 800 805-1631
Calgary	1 800 805-1631
Edmonton	1 888 944-0600
Vancouver	1 800 663-1784

Talk soon.

www.standardlife.ca

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