Client Advisory

CAPSA updates CAP Guideline

October 8, 2024

Summary

CAPSA has revised its CAP Guideline effective September 9, 2024. The revised Guideline reinforces and expands upon the original 2004 Guideline and addresses emerging trends affecting CAPs. New areas of focus in the revised Guideline include:

- A focus on member outcomes in the context of the CAP's defined objectives
- Expectations for a CAP governance framework
- Automatic and default features
- Expectations for member education and communicating with CAP members

CAP sponsors should review the new Guideline and revise their CAP's policies and practices as necessary to comply with the Guideline. CAPSA suggests that pension plans should consider how to implement the Guideline effective September 9, 2024, taking into account the legal requirements, size and sophistication of the plan. Where there are any IT system or process changes resulting from the new Guideline, they should be implemented by January 1, 2026.

Introduction

The Canadian Association of Pension Supervisory Authorities (CAPSA), the association of pension regulators in Canada, revised its Guideline No. 3 – Guideline for Capital Accumulation Plans (the Guideline) effective September 9, 2024, replacing the version released in 2004.

The Guideline states that it "reflects the expectations of regulators…regardless of the regulatory regime." It applies to capital accumulation plans (CAPs), which are tax-assisted investment or savings plans that offer investment choices to employees. CAPs include registered DC plans, group RRSPs, deferred profit-sharing plans (DPSPs), tax-free savings accounts (TFSAs), registered education savings plans (RESPs), and first home savings accounts (FHSAs).

Unlike the U.S. CAP regulatory environment, Canadian pension legislation does not provide CAP sponsors with "safe harbour" rules limiting their liability under certain circumstances. However, CAP sponsors who document their adherence to the Guideline will be better able to demonstrate compliance with regulatory requirements and best practices in the event they are later subject to regulatory review or member litigation.

CAPSA suggests that CAPs should consider how to implement the new Guideline, taking into account the legal requirements, size and sophistication of the plan. Any IT system or process changes resulting from the new Guideline should be implemented by January 1, 2026.

What has changed

The updated Guideline includes new areas of focus and provides expanded, more specific recommendations in areas that were already addressed in the 2004 version of the Guideline. Some of the more noteworthy areas of new and expanded guidance are summarized below.

Focus on member outcomes

The Guideline now has a focus on member outcomes, taking into account the objectives of the CAP. A CAP should document its objectives in terms of its intended outcome for members. Member education, decision-making tools and retirement projection tools should help members understand how the CAP features and their decisions may affect their outcomes.

CAP sponsors are now expected to demonstrate a clear understanding of the CAP's purpose in order to assist with prioritizing decisions with the greatest impact on member outcomes. Although a registered DC plan must have a lifetime retirement savings objective pursuant to tax legislation, other CAPs may focus on tax efficiency, profit sharing or savings for other financial goals such as home purchase and education. A CAP sponsor should amend its governance policy or establish a standalone policy documenting the CAP's objectives.

This new focus should inform how plan administrators review the effectiveness of their CAPs. Key decisions regarding the CAP's design, administration and service-providers should include an assessment of the potential effects of any changes on member outcomes.

Governance framework

The Guideline recommends that CAPs have a governance framework for administering the plan. While CAPSA already has governance guidelines for registered DC pension plans, all CAP types should now establish and document a governance framework appropriate for the size, complexity and other characteristics of the CAP. The framework may include roles and responsibilities, communications, code of conduct, risk management, and service provider performance reviews.

CAP administrators should review existing governance policies to determine if they apply to all CAPs offered and, if they do not, amend such governance policies or create new ones for their CAPs.

Investment and financial advice

Where a CAP uses service providers to provide investment or financial advice, the Guideline now requires the sponsor to clearly communicate to members the nature of the advice, how the advisor is compensated and who is paying for their services. As well, the service provider must now clearly inform members whether they are providing investment advice. If a CAP does not provide investment and financial advice, it can inform members how to find a qualified financial advisor. CAP sponsors should review the financial advice provided by any service providers and ensure communications are clear about the responsibility for such advice.

Automatic and default features

The Guideline has a new provision on automatic features, demonstrating on-going regulator interest in how such features can improve member outcomes. It notes that sponsors should consider whether to include automatic enrolment, member contribution escalation and investment rebalancing in their plans. In addition to having a default investment option, there could also be defaults with respect to electronic communication and member elections at employment termination and retirement. The Guideline now sets out factors to consider in selecting a default investment option, including the purpose of the CAP and intended member outcomes.

The Guideline also provides that automatic and default features, including any opt-out provisions, should be disclosed upon enrolment or when such features are introduced.

In response to the new requirements, CAP sponsors should consider the automatic and default options that are in place, and whether the default investment option is consistent with the criteria set out by CAPSA.

Member education and communication

Whereas the 2004 Guideline only stated that a CAP sponsor should provide information to its members, it now states that sponsors should have an ongoing member education strategy designed to improve member decisions and outcomes. Sponsors should not limit member education to when they enrol, but should make it part of the CAP's education strategy. Communications should be in plain language.

Additional detail is provided on the required information for plan members in respect of investment information, retirement projections and investment advice, as well as expanded requirements for communicating with members who terminate plan membership and information on any decumulation options.

In response to these enhanced requirements, CAP sponsors should ensure they have a documented member communication strategy that focuses on their desired member outcomes. Sponsors should also review member communication, education and decision-making tools for compliance with the Guideline and regulatory requirements.

Service providers

CAPSA sets out additional requirements for the selection and oversight of third-party service providers, such as potential conflicts of interest, reputation, stability of the service provider team, and safeguards for member data. It now emphasizes that the CAP sponsor remains responsible for the plan even if it delegates some of its functions to third party providers. CAP providers should ensure that these criteria are applied in service provider selection and monitoring, and that service provider activities are appropriately monitored.

Next Steps

It has been more than 20 years since the original CAP Guideline was released. Given the major revisions and enhancements to the Guideline, CAP sponsors should revisit their plan design, governance and administration to ensure compliance with the updated Guideline. The Guideline makes it clear that CAP sponsors are expected to play an active role in supporting positive member outcomes from CAPs, especially those with a retirement focus. Furthermore, plan sponsors should take this opportunity to assess whether their CAP is achieving their objectives and those of their employees.

Given the significant number of specific recommendations in the Guideline and the absence of the U.S. “safe harbour” protection in Canadian pension legislation, sponsors of Canadian CAPs should also consider the potential benefits of documenting their adherence to the Guideline and ensuring that all the CAPs they sponsor are covered by their governance documentation.

For more information

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