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Mr. Davin Hall
Policy Manager (Acting)
CAPSA Secretariat
5160 Yonge Street
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Dear Mr. Hall,

The Canadian Bankers Association (CBA) is pleased to have the opportunity to comment on the *Proposed Guidelines For Capital Accumulation Plans* (Guidelines) issued by the Joint Forum of Financial Market Regulators (the "Joint Forum") in April 2003. We are keenly interested in developments in the regulatory environment for employer-sponsored capital accumulation plans since our members offer various types of these plans benefiting over 200,000 employees. We offer the following comments which include several requests for clarification.

1. It appears that all types of capital accumulation plan (locked-in, non-locked-in, registered, non-registered, voluntary, involuntary) are subject to the same Guidelines. We seek clarity around the rationale for this. While we understand the rationale for having the Guidelines apply to a capital accumulation plan (CAP) whose primary purpose is to assist employees with "investing" for their retirement, we are concerned about the cost of adhering to the Guidelines for ancillary plans that are offered to help employees "save" outside of their pension plans. These ancillary plans offer benefits to employees such as the convenience of payroll deductions, low cost investment options, deferring tax, etc. For example, one CBA member offers investment options within a voluntary stock purchase and savings plan. In general, these investment options are offered to plan members at "institutional rates", a cost that is approximately one-tenth of the cost of what employees would pay if they purchased the investment options directly from a "retail" provider. Another CBA member offers a savings plan that provides the convenience of payroll deduction and tax deferral savings. Both of these plans would fall under the Joint Forum's definition of CAPs. It is our view that plan sponsors will assess the cost of offering these ancillary plans in light of the Joint Forum's "expectations" and will likely terminate some of these plans due to the high cost of compliance and reporting. For these reasons, we recommend that stock purchase plans and voluntary savings plans be excluded.

2. We are concerned about any increased liability plan sponsors may assume by offering CAPs. Plan sponsors will assess whether it is worth offering such plans, not only due to increased cost, but also due to increased risk.
3. We seek clarity around the notion of whether a fiduciary responsibility exists for non-pension CAPs - voluntary plans that are offered entirely for the convenience of employees. Item 2.1.3 implies a fiduciary responsibility ("The CAP sponsor must prudently select service providers with regard to the best interests of the CAP members.") which may not be necessary or appropriate in the circumstances of such plans.
4. The CBA is very concerned about the implied need to educate plan members as opposed to providing plan members with sufficient information to operate within the parameters of the plan. The role of education is a social responsibility better left to schools/advisors. It is doubtful whether plan sponsors would be willing to assume the cost and liability associated with educating plan members. We suggest deleting references to "educational" in Section 1.2.1; the phrase, "distinct and identifiable groups of members within the plan" in Section 3.1.4; and the phrase "financial sophistication of members" in both Item 2.2.1 and Item 3.1.3. Determining the "financial sophistication" of members implies testing.
5. We think it is important to emphasize that a number of the new requirements proposed in the Guidelines will add considerably to the costs of sponsoring both pension and non-pension CAPs. In our view, the largest suppliers of CAP services, the insurance companies, would face significant expenditures to put in place the processes and infrastructures to deal with these proposals. For example, the Joint Forum's expectations re: monitoring of investment options (Item 6.2.1) may prove to be very costly for most plan sponsors with small to medium sized capital accumulation plans. Insurance companies and other suppliers will have to build in-house monitoring teams or outsource this to the pension investing community. Either way, costs are likely to increase for the plan sponsor who will require this service in order to adhere to the Guidelines.
6. We are concerned with the text contained in Item 3.5 which states that "upfront or lump sum fees should not be charged to members for basic investment information or decision-making tools". Prohibiting plan sponsors from passing on all or part of these costs to plan members may inhibit plan sponsors from offering CAPs. Many plan sponsors may not pay 100% of the recordkeeping cost that is usually charged on a per member basis. In general, this fee covers the cost of providing plan members with statements outlining their account activity, access to staff at the record keeper that are trained to answer questions about the plan and to complete transactions on the employee's behalf, and access to paper-based or electronic tools such as the asset allocation tool, investment manager profiles, etc.
7. We applaud the Joint Forum's recognition of plan member responsibility. To avoid confusion and maintain role clarity between plan member and plan sponsor, we have two recommendations. Firstly, delete the text in Item 6.2.3 that states that the plan sponsor should take into account "any preferences voluntarily indicated by members". The current text will place a CAP sponsor in the position of accommodating the wishes of a very few vocal CAP plan members at the expense of the general membership who may rightfully assume that the investment option is

suitable and meeting all requirements if available. Secondly, delete the text in Item 5.3.2 that applies to the disclosure to plan members of non-adherence to investment policies by investment managers. The monitoring of non-adherence to investment policies is a responsibility of the plan sponsor and would be one factor that is considered when making a decision whether to retain/terminate a manager. The investment policies for pooled or mutual funds are at the discretion of investment managers and are subject to change.

8. We recommend that the Guidelines provide more specificity regarding the level of oversight required by plan sponsors for providers of various services related to CAPs. A different or new level of oversight of service providers in addition to existing oversight functions would have significant resource implications for such sponsors. An indemnification by service providers may be required by most plan sponsors. This indemnification will be another increased cost that may dilute the benefits of offering the plan.
9. It has been our experience that plan members complain about the length and complexity of current statements. In Item 5.1.3, transaction details should be moved to Item 5.2.1 and a transaction summary made part of Item 5.1.3.
10. Item 6.2.1 states that the performance of the investment option should be reviewed in relation to the purpose of the CAP. The purpose of the CAP does not impact the performance of the investment option. This specific reference to the “purpose of the CAP” should be removed as it causes confusion.
11. We seek clarification of what is meant by “investment choice responsibilities” in Item 4.1.1.
12. In Item 4.4, is it the Joint Forum’s intent to have disclosed direct transaction costs incurred by the plan member as opposed to brokerage commissions incurred by investment managers? The disclosure of brokerage commissions would be overly onerous. It is our understanding that performance is reported net of fees and operating expenses, including brokerage fees.

Thank you for the opportunity to comment on the Guidelines. The CBA would be pleased to engage in further discussion on this topic. In particular, we would appreciate an opportunity to hear from the Joint Forum regarding the issues for which we have requested clarifications

Sincerely,