Financial Services Commission of Ontario
Commission des services financiers de l’Ontario

Ontario

SECTION:	Investment of Pension Funds
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TITLE:	Transitional Investment Rules - Regulation 909, s.79 and 80, as amended
APPROVED BY:	Superintendent of Financial Services
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Background

The general principle for pension fund investments during the transition from the Ontario investment rules (sections 66 to 82 of Regulation 909 made under the *Pension Benefits Act* R.S.O. 1990 Ch. P. 8 as of December 30, 1999) to the federal investment regulations (sections 6, 7, 7.1 and 7.2 and Schedule III of the Pension Benefits Standards Regulations, 1985 made under the *Pension Benefits Standards Act, 1985* (Canada) as of December 31, 1999) through the period from January 1, 2001 to January 1, 2005 (the “transition period”) is that “beginning on January 1, 2001, the assets of every pension plan shall be invested in accordance with the federal investment regulations” (section 79 of Regulation 909, as amended).

However, section 80 of Regulation 909 acknowledges that investments held on January 1, 2001 that complied with the Ontario investment rules but are not compliant with the federal investment regulations may exist during the transition period. Investments that meet this description shall be referred to in the remainder of this policy as “non-compliant investments”.

FSCO Policy Respecting Non-compliant Investments

All existing activities as of January 1, 2001* and activities made in accordance with binding commitments made prior to January 1, 2001* either by pension plans with non-compliant investments or by the non-compliant investments may continue until January 1, 2005. Any new activities after December 31, 2000** with or by non-compliant investments must be in compliance with the federal investment regulations.

Examples

1. *Investing in non-compliant investments*

(a) Only additional investments and loans, or transfers of existing funds to a non-compliant investment, for which a binding commitment was made prior to January 1, 2001* are permitted.

(b) Self-directed transfers after January 1, 2001* by a defined contribution pension plan member to a non-compliant vehicle, other than those satisfying a binding commitment made prior to January 1, 2001*, are not allowed.

2. *Non-compliant activities undertaken by subsidiaries****

During the transition period, subsidiaries may continue non-compliant activities arising from binding commitments made prior to January 1, 2001* in accordance with the Ontario investment regulations. All new activities after December 31, 2000** must comply with the federal investment regulations.

3. *Non-compliant subsidiaries****

A non-compliant subsidiary (such as a third or lower tier subsidiary as described in clauses 12(1)(h), 13(1)(i) and 14(1)(g) of Schedule III of the federal investment regulations, or an investment corporation not in compliance with any of clauses 14(c) to 14(f) of Schedule III) may continue with activities associated with binding commitments entered into prior to January 1, 2001*, but cannot subsequently undertake any new activities.

*January 1, 2001 means either January 1, 2001 or the date that a pension plan adopts the federal investment regulations if prior to January 1, 2001

**December 31, 2000 means either December 31, 2000 or the date one day prior to the date that a pension plan adopts the federal investment regulations, if prior to December 30, 2000

***Subsidiaries are real estate, resource or investment corporations (as defined in clause 1 of Schedule III) in which the plan owns securities to which are attached more than 30% of the votes that may be cast to elect the directors of the corporation.

These examples are not intended to address all transitional issues that may arise. If there is an investment issue relating to the transitional period for which this Policy does not provide guidance, please contact FSCO.