# Grain Financial Protection Board Annual Report 2011/12

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## Message from the Chair

The 2011/12 year was an eventful year for the Board as the term for a number of Board members including the Chair's expired. It was my pleasure to accept the appointment as Chair in July 2011. The Board formally asked stakeholder groups to nominate candidates to fill the other vacancies and we received nominations for a number of strong candidates. The Board accomplished many objectives over the year and continues to work with stakeholders and the Ministry of Agriculture, Food and Rural Affairs to administer the Funds and provide producers with an effective risk management tool.

The Board continues to support the industry through discussions with stakeholders regarding deferred payments. An actuarial study was commissioned in August to assess the impacts to the Funds of regulatory changes that would allow deferred payments. The 2011 amendments to Ontario Regulation 260/97 expired on July 1, 2012 and the Board is working closely with the stakeholders, Ministry and Agricorp to assist with assessing further amendments regarding deferred payments and the impact to the Funds.

Claims were made in the spring of 2011 and a comprehensive investigation was completed to establish the eligibility of the claims. The Board worked closely with the Regulatory Compliance Unit to gather information to make informed and impartial decisions. Decisions not to pay the claims were made, and the decision letters were sent to the claimants within the targeted timeline.

A new Procurement Directive was introduced by the province in 2011, and the Board subsequently drafted and approved a procurement policy to make sure they continued to remain compliant with the new directive. Following the creation of the procurement policy, a full review of all existing by-laws and policies of the Board was conducted and minor changes were made so that the policies and by-laws remain in line with current practices of the Board. The Board will continue to review its policies and by-laws on an annual basis to ensure they remain current.

With the recent decline in the financial markets, the Board undertook a review of its investment strategy and the current investments in the portfolio. The Board continues to monitor the investment income in order to assess the soundness of the Funds. Future declines in investment rates may indicate that a change in check-off fees will be required in order to keep the Funds actuarially sound.

Respectfully submitted,

Jim Campbell
Chair, Grain Financial Protection Board

## 1. Preface

The Grain Financial Protection Board (Board) is classified as a Trust Agency and was established in 1984 under the authority of the Farm Products Payments Act (FPPA). The Agency operates as authorized by the FPPA and its regulations thereunder.

In March 2011, the Minister of Agriculture, Food and Rural Affairs (Minister) and the Board signed a new Memorandum of Understanding (MOU) which covers a 5-year term and expires on March 11, 2016.

The Board's vision is to protect the financial interests of Ontario producers who have sold grain corn, soybeans, wheat, and canola through licensed grain dealers, or owners who stored grain with licensed elevator operators. The vision of the Board supports Ministry of Agriculture, Food and Rural Affairs' (OMAFRA) priorities to strengthen Ontario's agri-food sector and strengthen Ontario's rural communities.

As an agency of OMAFRA, the Board's annual report is subject to the following mandatory reporting requirements established in the Agency Establishment and Accountability Directive, including:

- a description of activities over the year;
- an analysis of operational performance;
- an analysis of financial performance;
- a discussion of performance measures, targets achieved/not achieved and action to be taken;
- the names of appointees, including the date when first appointed and when the current term of appointment expires; and
- the audited financial statements

This report covers the fiscal year April 1, 2011 to March 31, 2012.

## 2. Description of Activities

The Board is accountable to the Minister in exercising its mandate.

### Mandate

The Board's annual activities are directly related to fulfilling its mandate, which is set out in the FPPA:

- administer its Funds;
- investigate all claims made to it under the FPPA and to determine the extent of their validity;
- grant or refuse the payment of claims or any part thereof and determine the amounts and manner of payment; and
- recover any money to which it is entitled under the FPPA by a suit in a court of competent jurisdiction or otherwise.

### Objective One

To maintain a solvent compensation Fund managed in the interest of producers.

Quarterly the Board reviews the financial statements and works toward annually achieving an unqualified audit opinion from the Office of the Auditor General. The Board reviews the balances and the annual growth rate of the four Funds and compares them to the objectives set by the Board.

### Objective Two

To be self-sustaining in paying all legitimate Board expenses and claims from the Funds.

The Board regularly meets with the Controller and reviews the expenses and claims deducted from the Funds to ensure their legitimacy. The Board reviews the annual audited financial statements for accuracy and provides approval as required.

### Objective Three

To conduct adjudicatory hearings and issue decisions in a timely and fair matter.

The Board has established a training plan for the adjudication of claims. The Board has established performance measures to measure how efficiently claims are processed. Stakeholders are updated and informed of the Boards activities in a timely manner.

### Objective Four

To ensure that the Board is compliant with directives policies and agreements.

The Board annually reviews policies for compliance. The Board has established a training plan for the adjudication of claims. The business plan and annual report are submitted to the Minister within the timeframes required. The Board regularly reviews their external agreements to ensure they are still in effect.

### Objective Five

To develop and implement a Board member strategy.

The Board has developed a succession plan, and works with OMAFRA to ensure the Board is at quorum. The Board has developed an orientation and training manual to assist new members.

### Board Key Activities

The Board held five meetings over the 2011/12 fiscal year that focused on:

- responding to proposed legislation and regulation changes
- adjudicating claims submitted
- engaging the services of an actuarial firm
- reviewing the adjudication guidelines
- performance reporting
- staying current regarding stakeholder issues
- business planning & risk assessment
- appointment process management
- reviewing the investment policy

### Board staff and Key activities

The Board does not have staff. The Board has contracted with Agricorp for Governance/Secretariat and Financial Support Services.

### Legal services

Legal services have been retained through Ministry of the Attorney General, Legal Services Branch, assigned to OMAFRA. The Board's lawyer provides the Board with advice, legal assistance in Judicial Reviews of Board decisions and the recovery of monies owed to the Board, and assists in the continual education of Board members.

### Investigative Services

The Regulatory Compliance Unit of OMAFRA provides investigative services for the Board.

## 3. Board Appointments

### Board Structure

The *FPPA* requires that the Board be composed of not fewer than five members appointed by the Minister. The membership of the Board has traditionally comprised nominees from each of the Ontario Agri Business Association, the Grain Farmers of Ontario, and the Ontario Canola Growers' Association. The chair's position is also a Minister's appointment.

The Vice Chair position became vacant on April 4, 2011, and a recommendation was submitted to the Minister on November 29, 2011. The Vice Chair position has not yet been filled.

Listed below are the appointees for April 1, 2011 to March 31, 2012.

| Member Name | Position | Tenure |
|---|---|---|
| Jim Campbell | Chair | 12 April 2005 - 03 April 2014 |
| Vacant | Vice Chair | Vacant |
| David Buttenham | Member | 22 March 2011 - 21March 2014 |
| Jeff Kobe | Member | 19 July 2007 - 18 July 2013 |
| John Morrison | Member | 03 November 2005 - 13 November 2011 |
| Robert Norris | Member | 28 October 2008 - 27 October 2011 |
| Darcy Oliphant | Member | 30 July 2011 - 29 July 2014 |
| Barry Senft | Member | 22 April 2011 - 21 April 2014 |
| Fred Wagner | Member | 06 March 2007 - 06 June 2013 |

## 4. Analysis of Operational Performance

The Board's operational performance is focused on effectiveness, efficiency, and reliability.

Claims were made in the early spring in respect of an unlicensed elevator not delivering stored grain. Three applicants submitted claims with the Board. The Board reviewed the information submitted and engaged the services of the Regulatory Compliance Unit to gather additional information regarding the claims. After thoroughly considering the facts and circumstances of each of the three claims presented, the Board declined to pay the claims and decision letters were sent to each of the claimants as well as the elevator operator involved and the Chief Inspector appointed under the Grains Act. The Board used the Claims Adjudication Guidelines, which were previously drafted to assist new members with the adjudication process.

The Board implemented its business plan and delivered on its goals and objectives. The table in Section 5 outlines the Board's performance targets

### Review Performance Targets

The Board's principal activities are to administer the compensation Funds, investigate claims, grant or refuse the payment of claims, and recover any monies paid out in claims.

The Board's principal objectives for the period ending March 31, 2012 were as follows:

1. Maintain a solvent compensation Fund managed in the interest of grain producers
2. Be self-sustaining paying all legitimate Board expenses from the Funds
3. Conduct adjudicatory hearings and issue decisions in a timely and fair manner
4. Ensure that the Board is compliant with directives, polices and agreements
5. Develop and implement a Board member governance strategy

## 5. Performance Measures and Targets

The following indicators define the outcomes the Board committed to achieving. These indicators are the basis for measuring and evaluating impact.

**Objective 1: To maintain a solvent compensation Fund managed in the interest of grain producers**

| Performance Measure | Baseline | Target 11/12 | Actual 11/12 | Target 12/13 | Target 13/14 | Target 14/15 |
|---|---|---|---|---|---|---|
| Annual financial audit achieves an unqualified audit opinion in accordance with Canadian generally accepted accounting principles | Unqualified | Unqualified | Unqualified | Unqualified | Unqualified | Unqualified |
| The Targeted measures for 11/12 were originally established using the 2009 Actuarial Study. The targets for 2012 and onward incorporate the recommendations of the 2011 Actuarial Study | | | | | | |
| Grain Corn Fund | Solvent 99.8% of the time | Solvent 98.8% of the time | 100% | Solvent 99.5% of the time | Solvent 99.5% of the time | Solvent 99.5% of the time |
| Wheat Fund | Solvent 100% of the time | Solvent 100% of the time | 99.6% | Solvent 99.5% of the time | Solvent 99.5% of the time | Solvent 99.5% of the time |
| Canola Fund | Solvent 100% of the time | Solvent 100% of the time | 99.5% | Solvent 99.5% of the time | Solvent 99.5% of the time | Solvent 99.5% of the time |
| Soybean Fund | Solvent 88.4% of the time | Solvent 88.4% of the time | 99.0% | Solvent 99.5% of the time | Solvent 99.5% of the time | Solvent 99.5% of the time |
| | 2% growth in Fund balance | 2% growth in Fund balance | Not achieved - Request for OMAFRA to engage stakeholders to review check off fees in Sept 2012 | 2% growth in Fund balance | 2% growth in Fund balance | 2% growth in Fund balance |

| | | | | | | |
|---|---|---|---|---|---|---|
| Receipt and review Fund financial statements from Agricorp | Quarterly | Quarterly | Achieved | Quarterly | Quarterly | Quarterly |
| Review investment policies with Financial Controller | Annually | Annually | Achieved Feb 23, 2012 | Annually | Annually | Annually |
| Procedure and policy manual for the collection of debt developed and in place | Completed by end of Fiscal 2012 | Completed by end of fiscal year | Achieved March 30, 2012 | Not applicable | Not applicable | Not applicable |

**Objective 2: To be self-sustaining paying all legitimate Board expenses from the Fund**

| Performance Measure | Baseline | Target 11/12 | Actual 11/12 | Target 12/13 | Target 13/14 | Target 14/15 |
|---|---|---|---|---|---|---|
| All Board expenses and claims are met from the Fund | 100% | 100% | 100% | 100% | 100% | 100% |
| Annual meeting with the Agricorp Controller Measure removed in 2012/13 Business plan | Annual | Completed by the end of fiscal year | Achieved Feb 23, 2012 | n/a | n/a | n/a |
| Agricorp Controller provide update of expenses | Quarterly | Quarterly | Achieved | Quarterly | Quarterly | Quarterly |
| Review and approve the Board's audited financial statements | Annually | Jan 2013 | Achieved November 2012 | Jan 2014 | Jan 2015 | Jan 2016 |

**Objective 3: To conduct adjudicatory hearings and issue decisions in a timely and fair manner**

| Performance Measure | Baseline | Target 11/12 | Actual 11/12 | Target 12/13 | Target 13/14 | Target 14/15 |
|---|---|---|---|---|---|---|
| Number of days from the conclusion of investigation to issue decisions on cases in which hearings are held | 30 | 30 | N/A - no oral hearings were held | 30 | 30 | 30 |
| Board adjudication training plan developed and implemented | Not applicable | Manual completed and 1 training session conducted | Achieved August 2011 | 1 training session conducted | 1 training session conducted | 1 training session conducted |
| Stakeholders updated and informed of Board activities | 1 update per year | 1 update per year | Achieved November 25, 2011 | 1 update | 1 update | 1 update |
| The Board provides the evidence upon which they will base their decision to the parties | Not applicable | Evidence Provided | Achieved | Evidence Provided | Evidence Provided | Evidence Provided |
| The Board provide an opportunity for all parties to be heard | Not applicable | Opportunities Provided | Achieved | Opportunities Provided | Opportunities Provided | Opportunities Provided |

**Objective 4: To ensure that the Board is compliant with directives, policies and agreements**

| Performance Measure | Baseline | Target 11/12 | Actual 11/12 | Target 12/13 | Target 13/14 | Target 14/15 |
|---|---|---|---|---|---|---|
| Updated MOU in place (expiry March 8, 2016) | Updated MOU To be signed prior to March 2016 | Not applicable | N/A - MOU still valid | Not applicable | Not applicable | Not applicable |
| Submit Annual Report | Annually | Jan 2013 | Achieved December | Jan 2014 | Jan 2015 | Jan 2016 |

| | | | | | | |
|---|---|---|---|---|---|---|
| | | | 2012 | | | |
| Submit Business Plan including risk assessment strategy | Annually | March 2011 | Achieved March 13, 2011 | March 2012 | March 2013 | March 2014 |
| Preparation of policy documents (e.g. Procurement policy) | Not applicable | June 2011 | Not met - Completed by Feb 23, 2012 | Not applicable | Not applicable | Not applicable |

**Objective 5: To develop and implement a Board member governance strategy**

| Performance Measure | Baseline | Target 11/12 | Actual 11/12 | Target 12/13 | Target 13/14 | Target 14/15 |
|---|---|---|---|---|---|---|
| Develop a GFP Board Succession Plan | Not applicable | June 2011 | n/a - candidates submitted to Minister for all vacancies | Not applicable | Not applicable | Not applicable |
| Work with OMAFRA to ensure that the Board is at quorum. Ensure Information with regard to appointment is submitted to the ministry on time. | Not applicable | As required | Achieved | As required | As required | As required |
| Develop and deliver a Board Member Orientation Plan | Not applicable | Completed by June 2011 | Achieved July 6, 2011 | Not applicable | Not applicable | Not applicable |

*Board Expenses defined for this purpose include: Governance/Secretariat, Financial and Adjudication Services, Determining Financial Responsibility and Capital Expenses
**Timelines are dependent on the Office of the Auditor General of Ontario

## Analysis of Financial Performance

The Office of the Auditor General of Ontario finalized the 2011/12 financial statements in November 2012 and the Board submitted the Annual Report to the Minister shortly there after.

Check-off fees exceeded the budget due to increased fees received by the Wheat Fund.

A decline in the financial markets over the past year resulted in lower interest earnings than previous years. The Board conducted a full review of all of their investments as well as investigated strategies to maximize returns. The Board will continue to monitor the annual growth rate of all four Funds as recommended in the 2011 actuarial report.

Legislation changes in October 2010 resulted in changes to the Board's expenses and meant the Board became responsible for the costs of governance and secretariat services, financial support services and the costs of determining financial responsibility of dealers. Because the change in legislation came part way through 2010/11 the Board assumed 5/12th of these costs in fiscal year 2010/11 and then 100% of the costs in 2011/12. This is reflected in the budget and the actual numbers in the table following this section.

The Board was required to undertake an actuarial review to establish the impacts of implementing regulation changes because of deferred payments. It was also involved with a claims situation which included a detailed investigation and follow up with claimants.

The Board continues to focus on operating effectively and efficiently. Despite these unplanned events, the Board still managed to control expenses within two per cent of their budget.

| 2011/12 Fiscal Year | Budget 2010/11 | Actual 2010/11 | Budget 2011/12 | Actual 2011/12 |
|---|---|---|---|---|
| **Revenue** | | | | |
| Fees | 257,000 | | | |
| Interest | 435,000 | | | |
| Recoveries | 0 | 0 | 0 | 0 |
| Total Revenue | 692,000 | 674,923 | 639,000 | 667,684 |
| **Expenses** | | | | |
| Board expenses1 | Paid by OMAFRA | | | |
| Claims | 0 | 0 | 0 | 0 |
| Governance/Secretariat | 24,167[1] | 26,682 | 60,000 | 61,098 |

| | | | | |
|---|---|---|---|---|
| Services | | | | |
| Financial Services | 20,830[2] | 19,619 | 89,920[3] | 95,571[4] |
| Costs of Determining Financial Responsibility | 74,767[3] | 72,932 | 180,000 | 178,535 |
| Total Expense | 119,767 | 119,233 | 329,920 | 336,204 |
| Fund balance - B of Y | 12,664,685 | 12,551,889 | 12,976,407 | 12,976,407 |
| Increase in Funds | 509,000 | 424,518 | 0 | 424,518 |
| Fund balance - E of Y | 13,173,585 | 12,976,407 | 13,285,487 | 13,324,864 |

[1] Governance/Secretariat Services are pro-rated @ 41.66% of $58,000 to cover the period of November 1st 2010 - March 31, 2011

[2] Financial Services are pro-rated @ 41.66% of $50,000 to cover the period of November 1st 2010 - March 31, 2011

[3] Costs of Determining Financial Responsibility Services are pro-rated @ 41.66% of $156,240 to cover the period of November 1st 2010 - March 31, 2011. Costs for FRRC services are pro-rated @ 41.66% of $23,200 to cover the period of November 1st 2010 - March 31, 2011

[4] Includes $42,920 cost for actuarial study.

For more information:
Toll Free: 1-877-424-1300
E-mail: **ag.info.omafra@ontario.ca**