Briefing Note

Office of the Provincial Controller Division
Accounting Policy and Financial Reporting Branch

Accounting for the OTPP and OPSEUPP related pension assets on the Province's financial statements

Issue:

In order to complete the 2015-16 consolidated financial statements of the Province on a basis which reflects the AG's preferred accounting for pension assets related to OTPP and OPSEUPP, a regulation was approved under FAA 1.0.10 (1) (c.3) which defines the accounting policies and practices to be followed with respect to the preparation of the consolidated financial statements of the Province.

Current Status:

ISSUES RELEVANT IN DETERMINING THE NEED FOR LEGISLATIVE DIRECTION

1. Significant variation in Interpretation of PSAB Standards on Pension Accounting

   The Province's Position:

- To date, pension assets reflected on the audited consolidated financial statements of the province are based on an appropriate and consistent interpretation and application of Public Sector Accounting Standards (PSAB)
- Almost all (more than 90%) of the pension asset relates to OTTP. That plan has been in an asset position on the Province's financial statements for the past 15 years, including 2014 and 2015 which were signed by the current AG ($7.7 billion and $8.7 billion respectively)
- Valuations of pension assets based on PSAB standards reflect management's best estimates which is appropriate for measuring the asset values in the Public Accounts
- The Province's external advisors have provided a report which supports the Province's valuation of the asset in accordance with PSAB and an external firm was also engaged to provide a formal accounting opinion which supported the Province's position.
- Internal and external legal advice was also obtained from MAG and Osler's which acknowledged and confirms the established framework between the Province and OTPP as a basis for formulating the Province's expectations with regards to future access to benefits through contribution reductions.

  The Auditor General's (AG) position

- The AG does not agree with the Province's interpretation of PSAB standards and the measurement of the pension assets reported for OTPP and OPSEUPP on the Province's books.

- The AG believes that the currently reported pension assets ($10.7B at March 31/16) should be written off the Province's books on the basis that the Province does not have a legally enforceable right of unilateral access to the assets of the Plans, and as such, with no agreement in place to the contrary, the Pension Asset as presented in the Province's consolidated financial statements should be removed.
- In terms of measuring the value of any benefit to be reported on the Province's books, even if the Province was able to report an asset on its books, the AG would not support a valuation in accordance with PSAB on the basis but has rather referred to funding valuations and assumptions as being somehow relevant. In her recent issues memo, the AG also suggest that agreements in place at each year end with the plans' sponsor/partners would be necessary and would inform the valuation of the pension asset.

2. Ability to sign off on Statement of Responsibility and Management Letter of Representation

   Each year the Deputy Ministers of TBS and MOF, as well as the Provincial Controller and ADM are required to sign off on the Management Letter of Representation which attests to responsibility for appropriate accounting policies and integrity of financial information presented in the Public Accounts. In addition, the same individuals are required to sign off on a Statement of Responsibility which is included in the Annual Report and which accompanies the Financial Statement Discussion and Analysis (FSD&A) as well as the audited Consolidated Financial Statements (CFS) of the Province.

   Given the continuing disagreement with the interpretation of PSAB standards with regards to the recognition and valuation of the pension assets for OTPP and OPSEUPP, to avoid a qualified audit opinion, a regulation was sought which would enable the government to reflect the AG's interpretation of PSAB on the books of the Province while allowing government officials to sign off on the Statement of Responsibility and Management Letter of Representation. The CFS would be prepared in compliance with legislation and PSAB.

3. Impact on 2015-16 Audit Opinion

   After some consideration, the Auditor General has accepted the Province's decision to legislate accounting in order to reflect the financial results on the same basis that the AG's interpretation of PSAB would have accomplished. Historically, the AG has opposed any legislated accounting and had suggested that the government remove any references to the basis of the Province's accounting being based on legislated accounting for purposes of the 2015-16 Public Accounts. Amendments to the Management Letter of Representation and Statement of Responsibility were discussed and agreed to by the Auditor General.

   The regulation is for a period of one year which will provide the Province with time to undertake additional analysis and gather additional support for the appropriate basis of reporting. The effective date of the reg is April 1, 2015 which results in the opening pension asset balance being written off to the Province's opening accumulated deficit ($9.2B), and an in year impact on the annual deficit of $1.5B.

   Since the regulation is only related to the 2015/16 Public Accounts, at this time it does not reflect a final decision by the government on the basis of reporting to be applied to the 2016/17 Public Accounts and therefore, for purposes of the upcoming Fall Economic Statement and the Budget Document, the Province's prior basis of reporting pension assets will be retained.

The AG has advised that she will reference this issue as a matter of emphasis in her audit report.

4. Timing of Regulation
   Under FAA 1.0.10 (1) (c.3), an LGIC regulation must be passed prior to the finalization of the Public Accounts. The statutory tabling date was September 27, 2016. The Minister of Treasury Board Secretariat advised the House through a point of order, that the tabling of the Public Accounts would be delayed. On September 28th, Treasury Board and Cabinet discussed the regulation and it was approved.

5. Communications
   TBS Comms has prepared a strategy referencing the introduction of legislated accounting for the 2015-16 Public Accounts.

6. SCOPA
   The government is currently scheduled to appear at the Standing Committee of Public Accounts on October 5th.
   The release date of the Public Accounts may impact the agenda for the SCOPA discuss.

Background:

USED OF REGULATION TO ADDRESS DIFFERENCES IN ACCOUNTING POSITIONS

The Province has enabling legislation in the Financial Administration Act (FAA) which allows Treasury Board to create regulations that clarify or enhance the rules on how to prepare the public accounts.

As senior governments are sovereign, the province chooses to follow Public Sector Accounting Standards (PSAB) for the preparation of our Public Accounts. Ontario has gone beyond this and has adopted the consistent use of these standards in the preparation of the provincial plan and spending estimates as well. Preparing the budget, spending estimates and financial reports on a consistent basis supports good decision making and strong transparency and accountability to the public. The province has had unqualified audit opinions for the past 22 years.

Differences in interpretation of accounting standards like the one related to pension asset accounting can materially different impacts on the province's balance sheet and statement of operations. Under balanced budget legislation, significant differences can impact fiscal policy decisions negatively. For example, the increase in the pension asset between 2014/15 – 2015/16 could have a negative impact on the Province's statement of operations estimated at $1.5 Billion.

Given that the Province differs in our understanding of the interpretation and application of PSAB for the OTPP and OPSEUPP assets, the use of a time-limited regulation to avoid a qualified audit opinion for 2015-16 in anticipation of on-going discussion towards resolution is in the public interest. The one year applicability of the regulation would clearly communicate the Province's intention to consider the AG's position and to be subject to further direction/input from third parties.

IMPACT ON THE AUDITOR

Under the current AG Act, the Auditor attests to the fairness of the Province's financial statements in accordance with 'appropriate GAAP'. The current and past AGs have clearly disclosed their position that PSAB is the 'appropriate GAAP' against which they will assess the Province's reporting. To date, the Province's books have been prepared based on PSAB and for the past 22 years, the Province has received unqualified audit opinions. While both parties agree that PSAB 3250 is the appropriate standard to apply in preparing the Province's financial statements; however, there are key differences in opinion in how to interpret and apply specific aspects of the standard. Both parties have sought external opinions which support their position. For purposes of the Province's books, the use of law is appropriate in this situation to address the Province's perceived deviation from PSAB. As demonstrated through the precedent of the Investing in Ontario Act, where the AG considers the Province's treatment to be in accordance with PSAB she would be expected to issue a clean audit opinion. Her involvement in a solution to resolve the differences between the opposing interpretations will be important to potentially remove the reference to legislated accounting in the future.

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Approved by:

Date: September 28, 2016