From: Talwar, Garima (MOF) []
To: Myers, Leah (MOF) [Leah.Myers@ontario.ca]
Subject: FW: URGENT -- in preparation for meeting with AG on pension asset ceiling
Date: Tuesday, September 06, 2016 14:31:42

From what I can glean from the below, OPCD reached out to BC to regarding their accounting rules for public pension plans. BC provided a response to OPCD, and OPCD wants confirmation from us whether the nature of BC's rules are in anyway applicable to OPSEUU or Teachers. Alex's note below indicates that we have no similar provision.

-----Original Message-----
From: Killoch, Alex (MOF)
Sent: September 6, 2016 12:11 PM
To: Talwar, Garima (MOF)
Subject: FW: URGENT -- in preparation for meeting with AG on pension asset ceiling
Importance: High

We will work up an answer, but the short answer is that we have no similar provisions for Teachers

-----Original Message-----
From: Petsche, Nadine (TBS)
Sent: Tuesday, September 06, 2016 12:08 PM
To: Killoch, Alex (MOF); Pomykacz, Rob (MOF)
Cc: Tsang, Ingrid (MOF); Fong, Pauline (TBS); Patel, Bharat (TBS); Raymond, Martin (CA - Montreal) (maraymond@deloitte.ca); Veinot, Cindy (TBS)
Subject: URGENT -- in preparation for meeting with AG on pension asset ceiling
Importance: High

Alex/Rob,
We heard back from BC regarding the treatment of their own plans (see below). We have a meeting with the AG tomorrow morning at which time we will discuss the pension asset ceiling item.
Can you please confirm (by end of day today please) whether the nature of restrictions applicable to BC's plans are in any way relevant to the TPP and OPSEUPP.
Thanks in advance.
Nadine

-----Original Message-----
From: Fischer, Carl M FIN:EX [mailto:Carl.Fischer@gov.bc.ca]
Sent: September 6, 2016 11:51 AM
To: Petsche, Nadine (TBS); Newton, Stuart A FIN:EX
Subject:
Hi Nadine, we do not include the surplus position of any of our plans because the employer partners give up any right to surplus in the Joint Trust Agreements. So it is an explicit contractual provision, and that means the participating organizations do not have a right to any asset - so no asset to report. That provision was established because it is critical to establishing the independence of the four plan boards. For accounting purposes it means that as long as the plans are in a surplus position, for the GRE they operate effectively like a DC plan with target benefit like contribution provisions.

Reference:
(extract from BC's f/s)
1. Significant Accounting Policies

Employee Pension Plans

The province accounts for employee pension plans by recognizing a liability and an expense in the reporting period in which the employee has provided service. The amount is calculated using the accrued benefit actuarial cost method. Where plans are in a net asset position and Joint Trusteeship Agreements restrict access to the assets, the province records the value of plan net assets as nil. The province records a liability for its share where plans are in a net obligation position. Changes in net liabilities/assets, which arise as a result of actuarial gains and losses, are amortized on a straight-line basis over the average remaining service period of employees active at the date of the adjustments. Past service costs from plan amendments are recognized in full in the year of the amendment.

From: Talwar, Garima (MOF) []
To: Myers, Leah (MOF) [Leah.Myers@ontario.ca]
Subject: Fw: Tomorrow am
Date: Sunday, September 18, 2016 21:39:16

FYI

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Killoch, Alex (MOF) <Alex.Killoch@ontario.ca>
Sent: Sunday, September 18, 2016 9:35 PM
To: Talwar, Garima (MOF)
Subject: Re: Tomorrow am

Nadine will coordinate with Josh, Gabe Rob and I. Not sure that anyone else will need to see it. It is an accounting opinion so most if it will be PSAB. There will be some facts up front.

I don't know if Allan is reviewing but he has been quite involved directly with OPCD so I will ask about his involvement.

From: Talwar, Garima (MOF)
Sent: Sunday, September 18, 2016 9:32 PM
To: Killoch, Alex (MOF)
Subject: Re: Tomorrow am

Thanks Alex. Who is coordinating the fact check?

Sent from my BlackBerry 10 smartphone on the Rogers network.
From: Killoch, Alex (MOF)
Sent: Sunday, September 18, 2016 9:29 PM
To: Talwar, Garima (MOF)
Subject: Fw: Tomorrow am

Hi Garima

Just an update.

There was a call with PwC today that Josh and I did. Same questions that they have been asking for a over a week. Trying to understand share the pain and other examples of government getting a share of the plan.

Oddly asking same questions that OPCD already has answers to.

Looks like the accounting opinion will be done tomorrow. It is a fact check that they are requesting. We should be able to review easily enough.

It will primarily be edu since it seems that the issue has moved to access to the funding valuation surplus. The accounting surplus is sort of a pressure balloon that holds a notional surplus until it shows in the funding val. That is when government can spend it.

They are asking a lot of questions about the relationship with otf.

Alex

From: Petsche, Nadine (TBS) <Nadine.Petsche@ontario.ca>
Sent: Sunday, September 18, 2016 8:03 PM
To: Sekaly, Gabriel (EDU)
Cc: Kaufman, Paul (TBS); Killoch, Alex (MOF); Paul, Joshua (EDU); Hatzis, Len (TBS)
Subject: RE: Tomorrow am

Hi Gabe.

Sorry, I don't have any further details than in the 'am'. They are responding to a request to expedite. n

From: Sekaly, Gabriel (EDU)
Sent: September-18-16 8:01 PM
To: Petsche, Nadine (TBS); Killoch, Alex (MOF); Paul, Joshua (EDU); Hatzis, Len (TBS)
Cc: Kaufman, Paul (TBS); Veinot, Cindy (TBS)
Subject: Re: Tomorrow am

What time are we expecting the document?

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Petsche, Nadine (TBS)

Sent: Sunday, September 18, 2016 19:51

To: Killoch, Alex (MOF); Paul, Joshua (EDU); Hatzis, Len (TBS)

Cc: Sekaly, Gabriel (EDU); Kaufman, Paul (TBS); Veinot, Cindy (TBS)

Subject: Tomorrow am

Alex/Josh/Len,

I just wanted to give you a heads up that we're expecting to receive a draft 'statement of facts' from Deloitte tomorrow morning. We'll be under a tight timeline to share any comments, so just wanted to let you know in case we need your help. I'll mark any correspondence as 'URGENT' in the subject line to highlight it for your attention. Thanks in advance.

Nadine

Follow-up on the Committee's Work on the Financial Services Commission of Ontario's Pension Plan and Financial Service Regulatory Oversight

The Committee held a public hearing in March 2015 on our 2014 audit of the Financial Services Commission of Ontario's (FSCO) Regulatory Oversight of Pension Plans and Financial Services. The Committee tabled a report in the Legislature resulting from this hearing in June 2015. The full report can be found at http://www.ontla.on.ca/committee-proceedings/committee-reports/files_pdf/FSCO%20French%20Report%202015.pdf.

The Committee made 14 recommendations and asked that FSCO report back by the end of September 2015. FSCO formally responded to the Committee on September 30, 2015. Many issues raised by the Committee were similar to our audit observations in 2014, which we have also followed up on this year (see **Chapter 4**). The status of the Committee's recommendations is shown in **Figure 1**. **Figure 2** shows the recommendations and FSCO's response to each.

Figure 1: Status of Actions Recommended in Committee's Report on FSCO's Regulatory Oversight

Prepared by the Office of the Auditor General of Ontario

	# of Actions Recommended	Status of Actions Recommended			
		Fully Implemented	In Process of Being Implemented	Little or No Progress	Will Not Be Implemented
Recommendation 1	1			1	
Recommendation 2	1			1	
Recommendation 3	2	1			1
Recommendation 4	1	1			
Recommendation 5	1		1		
Recommendation 6	1	1			
Recommendation 7	1		1		
Recommendation 8	1	1			
Recommendation 9	3	1		2	
Recommendation 10	1			1	
Recommendation 11	1	1			
Recommendation 12	2			1	1
Recommendation 13	4	2	1	1	
Recommendation 14	2			2	
Total	22	8	3	9	2
%	100%	36%	14%	41%	9%

Figure 2: Committee Recommendations and Responses from FSCO

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	FSCO Response
Recommendation 1 FSCO identify strategies to help inform and mitigate financial risk of underfunded plans, including potential impact of varying levels of economic growth. **Status: Little or no progress**	Since our audit in 2014, FSCO has not developed strategies or considered changes to legislation which would mitigate the financial risk to plan sponsors and members from underfunded plans. In October 2016 FSCO completed an analysis that covered changes in the funded status of plans from 1992-2014 and the primary factors driving the change. FSCO told us that it had intended to calculate projected underfunding levels over the next few years, based on a range of economic growth scenarios. However, FSCO reviewed the province's GDP from 2005to 2015 and its analysis showed that there was no correlation between the funded status of pension plans and economic growth. Therefore, FSCO told us that it felt its analysis would not be meaningful and would possibly be misleading since the key economic factors affecting plans' funded status are long-term interest rates and investment returns. FSCO further stated that based on its analysis, it is unclear how it would project the funded status of plans using economic growth scenarios and therefore, it has also not assessed the potential for plans to recover under various economic scenarios.
Recommendation 2 Based on these identified strategies, FSCO provide the Ministry of Finance with recommended legislative changes. **Status: Little or no progress**	In July 2016, the Ministry issued a consultation paper about the solvency funding framework for defined benefit pension plans, ~~including how solvency is assessed and what minimum~~ seeking feedback on how best to reform the funding framework for these plans. The Ministry plans to use the feedback received to assist it in developing "a balanced set of solvency funding reforms that would focus on plan sustainability, affordability and benefit security, and take into account the interests of pension stakeholders – including sponsors, unions, members and retirees." ~~solvency funding requirements should be to balance the needs of plan sponsors, members, and retired employees.~~ FSCO has told us that it will provide its analysis of the factors contributing to the underfunding of pension plans to the Ministry. Once the Ministry receives feedback to the consultation paper from stakeholders, it plans to draft the necessary legislative and regulatory amendments. FSCO is currently awaiting further direction from the Ministry.
Recommendation 3 FSCO complete analysis of ways to improve monitoring of the Pension Benefit Guarantee Fund, such as developing risk indicators for the fund; and **Status: Fully implemented**	Since our audit, FSCO completed an analysis of the legislative and procedural changes required to monitor the PBGF's exposure to potential claims and address its sustainability. In August 2016, FSCO prepared and shared with the Ministry a report with several possible enhancements to legislation, which includes allowing the PBGF to seek external financing to meet short-term cash flow needs, requiring parent companies of insolvent plan sponsors to provide those sponsors with financial support, and allowing the Superintendent greater discretion to order the wind-up of insolvent plans who could potentially file significant claims against the PBGF. FSCO told us that the key risk indicators for the PBGF are whether employers who

Committee Recommendation	FSCO Response
incorporate expanded disclosure in the financial statements of the fund to better reflect plan exposure. **Status: Will not be implemented**	have defined-benefit pension plans will become insolvent and the probability that these plans will be underfunded if they were to be wound up. FSCO noted that since its current financial statement disclosure for the PBGF is in compliance with accounting standards, it did not expand its disclosure in 2015 and 2016. It will reassess disclosure requirements on an annual basis going forward.
Recommendation 4 FSCO provide recommended changes to the Pensions Benefits Act and associated regulations based on this analysis [of the PBGF] **Status: Fully Implemented**	FSCO created recommendations as a result of its analysis of the PBGF and shared them with the Ministry in August 2016. The Ministry has told us that it will be consulting with FSCO to ensure that possible changes to legislation would help to better manage the PBGF.
Recommendation 5 FSCO identify the powers that the Office of the Superintendent of Financial Institutions has that FSCO does not, as well differences in plan administrators' mandatory reporting, such as requiring annual actuarial reports from plans that are funded less than 120%, and provide the Committee an analysis of the risks of not having similar powers and requirements. **Status: In the process of being implemented (by December 31, 2016)**	At the time of our audit in 2014, amendments to the *Pension Benefits Act* to provide the Superintendent with the powers to order plan administrators to file revised or additional actuarial valuation reports had yet to be proclaimed into force. During our follow-up, the Ministry told us that it is actively considering developing regulations which would allow these changes to be proclaimed but did not indicate when it expects this to happen. The Ministry ~~released a consultation paper~~posted a description in September 2016 regarding the content of proposed regulations to proclaim into force changes to the *Pension Benefits Act* granting the Superintendent the power to act as or appoint an administrator where the employer is in receivership, or the subject of proceedings under the *Companies' Creditors Arrangement Act* or the *Bankruptcy and Insolvency Act*. FSCO told us that it has been reviewing the extent of the Superintendent's powers and how they compare with the Office of the Superintendent of Financial Institutions for several years and is currently in the process of consolidating the results of its analysis, which it expects to complete by the end of 2016.
Recommendation 6 FSCO identify and recommend areas where monetary penalties would be effective for enforcement purposes. **Status: Fully implemented**	In June 2015, FSCO submitted a report to the Ministry that proposed using penalties as a regulatory tool in cases of late filings and other contraventions of the *Pension Benefits Act*. The report also contained the legislative changes that would be required to impose these penalties. This report proposed a two-phase penalty approach: fixed penalties for violations such as late or missing filings and variable penalties for all other offences. The Ministry told us that it is considering FSCO's report in conjunction with the results of the agency mandate review, which recommended that ~~the~~ a new regulatory entity be created, with authority to levy administrative monetary penalties in all sectors. ~~should be transferred to the Financial Services Regulatory Authority~~. The Ministry has not told us when it will make a final decision about this matter. At the time we completed our follow-up, FSCO was still waiting for the Ministry's feedback on its report.

Committee Recommendation	FSCO Response
Recommendation 7 FSCO provide an update on whether more examinations can be conducted with existing resources and the changes it plans to make to its examinations methodology to ensure key risks are covered. **Status: In the process of being implemented (by March 31, 2017)**	FSCO now considers the results of its staged monitoring process for pension plans, which was fully implemented in June 2016, in deciding which plans to examine. Since our audit in 2014, it has also updated its examination procedures for both defined-benefit and defined-contribution plans. The expanded procedures include verifying that a plan's expenses are reasonable given its total size, permitted asset classes in which members can invest are clearly established, and which default investment options exist for members if they do not choose their own investments. These additional procedures allow FSCO to check whether plan assets have been invested in accordance with federal investments regulations and that plan members have appropriate information about the risks associated with their investments. The expanded procedures were used by FSCO to examine 55 plans in 2015/16. Further, in September 2015, FSCO retained a third-party vendor to provide monthly data about the potential inability of plan sponsors to meet pension obligations. FSCO is currently assessing how to use this information as part of its existing risk analysis to identify additional plans whose members are at risk for examinations. FSCO examined 55 plans in 2015/16 and plans to examine more than 55 plans in 2016/17, an increase from the 50 plans examined in recent previous years.
Recommendation 8 FSCO complete its analysis of new information plan administrators can provide to members and make recommendations to government as well as the new information FSCO can make public regarding its annual public reporting on pension plans. **Status: Fully implemented**	In June 2016, FSCO completed a jurisdiction review to identify statutory annual disclosure requirements in other provinces and territories, such as the United States and the United Kingdom. Based on this review, FSCO prepared a report that recommends possible enhancements to current statutory annual disclosure requirements and submitted it to the Ministry in October 2016. Some additional disclosure recommended in the report includes names and contact information of plan administrators and the earliest date when plan members are first eligible to retire. Given the complexity of how plan expenses are incurred and paid, and how they impact members, the report recommends that a public consultation be held to develop standardized reporting methods for plan expenses. FSCO told us that it did not recommend that plan administrators be required to assess their plan's performance against others, as it may be impractical to do so.
Recommendation 9 FSCO work with the Ministry of Finance to identify regulatory amendments as required to ensure that: • all co-op board members have criminal checks before the co-op is registered and offering statements are issued; **Status: Little or no progress**	In December 2015, FSCO proposed and submitted legislative amendments to the Ministry for its consideration that would help protect members and investors of co-ops. This included a legislative change to allow FSCO to conduct criminal checks for co-op's board members at the licensing stage and/or before the co-op is registered or any offering statements are issued. The Ministry has told us that its staff are reviewing FSCO's recommendations ~~and considering~~ and has been in discussions with FSCO. Ministry and FSCO staff will continue discussions in order to determine whether legislative changes are necessary. It has not indicated when it will be making a decision about FSCO's

Committee Recommendation	FSCO Response
• all approved offering statements are listed on FSCO's website; and **Status: Fully implemented** • FSCO conduct ongoing monitoring of co-ops. **Status: Little or no progress**	recommendations FSCO has begun posting all approved co-op offering statements receipted on or after July 1, 2016. FSCO has not committed to posting all historical approved offering statements, but will continue to make these available to the public upon request. FSCO told us that a legislative change is required in order for it to have the authority to conduct ongoing monitoring of co-ops. FSCO provided the Ministry with recommended legislative amendements in December 2015 regarding the use of the term "co-operative", articles of incorporation for co-ops, and duplication in the filing requirements that co-ops have with FSCO. The Ministry has ~~told us that its staff are reviewing FSCO's recommendations and considering~~ been in discussions with FSCO and intends to continue discussions in order to determine whether legislative changes to the *Co-operative Corporations Act* are necessary. It has not indicated when it will be making a decision about FSCO's recommendations. However, FSCO informed us that it will continue to focus on verifying co-ops' information only during the initial registration period and will monitor only those co-ops for which there are complaints.
Recommendation 10 FSCO provide the government with recommendations regarding the level of the fees it collects for reviewing co-op offering statements. **Status: Little or no progress**	FSCO said it would have been inappropriate to proceed with this recommendation ~~during the mandate review~~ at this time, given the recommendation in the final report on the mandate review to move the oversight of co-ops away from FSCO and/or the newly proposed regulatory body. FSCO plans to begin an analysis of its costs in the co-op sector and recommend possible fee changes to the Ministry in 2017.
Recommendation 11 FSCO provide an update on discussions with the Ontario Securities Commission on the benefits of sharing or transferring responsibility of reviewing offering statements. **Status: Fully Implemented**	In November 2015 and February 2016, representatives from FSCO and the ~~Commission~~ OSC met to conduct exploratory discussions about how a potential transfer of responsibility would be carried out. FSCO also said there was a standing offer in place from the ~~commission~~ OSC to assist FSCO with reviewing complex offering statements in future. However, as a result of the recommendation relating to the oversight of co-ops, in the report on the mandate review, any further discussions have been put on hold until a government decision is made. ~~FSCO receives further policy direction from the Ministry.~~ The Ministry has told us that it is currently reviewing the recommendations made by the Expert Panel for the agency mandate review, ~~including about the transfer of responsibility~~ but has not indicated when a decision will be made.
Recommendation 12 FSCO provide an update on: • implementation of programs to support data-gathering, internal controls and risk assessment related to the licensing system; and **Status: Little or no progress**	FSCO has implemented several enhancements to its online licensing system: - insurers can download a list of their sponsored agents to verify that they have valid insurance - the system sends email reminders to agents when their insurance is about to expire or has expired - the online system no longer has free-form fields - there is a new comment field which publicly identifies agents whose insurance has lapsed

Committee Recommendation	FSCO Response
• agreements with insurers related to receiving data on which agents have purchased E&O insurance, as well as insurance that has lapsed. **Status: Will not be implemented**	FSCO is currently assessing if these controls and some other process improvements it has made improve the accuracy of the errors and omissions insurance information in its database. The assessment is expected to be completed sometime in 2017. At that point, FSCO said that it will decide if any additional controls are required. Although the added controls are a step in the right direction, overall FSCO has made little progress in response to our recommendation, as the system still does not automatically verify if the errors and omissions insurance information is valid at the time it is entered by an agent, allowing for the licensing of agents who do not meet minimum licensing requirements. FSCO staff prepared an E&O insurance compliance position paper in December 2015, recommending that the system enhancements above be monitored over a period of 12-18 months to determine whether they are providing accurate E&O compliance rates before further action is taken. The Superintendent accepted this recommendation. FSCO prepared a second position paper on gathering information about claims filed against insurance agents using the claims and premiums data collected by other agencies. FSCO noted that currently there is no industry classification code specifically for life insurance agents. FSCO determined that without this code, it would be infeasible to use existing industry data to obtain detailed information on E&O claims against life insurance agents. FSCO has also committed to working with the insurance industry stakeholders to collect additional data in 2016/17 but has not indicated that it will be establishing agreements with errors and omissions insurance providers.
Recommendation 13 FSCO provide an update on: • the implementation of its framework that documents how FSCO identifies, assesses and deploys compliance resources; **Status: In the process of being implemented (by March 31, 2017)**	In 2016, FSCO developed the draft Market Regulation Branch's Supervisory Framework, which lays out its nine-step supervisory model and provides guidance to staff on market supervision best practices and tools. The model is intended to help FSCO develop and execute its Annual Supervisory Plan, which includes complaint resolution, desk reviews, onsite examinations, and sector reviews. FSCO has noted that the Framework has been substantially implemented, and gaps will be fully addressed by March 2017. In 2015/16, FSCO implemented monthly monitoring and reporting of complaint handling to measure whether it was meeting its targets of closing 80% of consumer complaints in 75 days and all complaints within 365 days. FSCO met its targets for handling consumer complaints within 75 days, and its overall target of closing all complaints within 365 days.
• steps taken to monitor timeliness and outcomes of complaints and ensure holders of sanctioned licenses by other regulators that	In 2016, FSCO also implemented a new process to receive regulatory sanction notifications from all of the 36 other relevant regulators in Canada. FSCO stated that through this process, it identified almost 50 sanctions against its licensees which were imposed by other

Committee Recommendation	FSCO Response
also hold FSCO licences are assessed quickly; **Status: Fully implemented**	regulators. FSCO monitors the timely closure of these incidents using monthly performance measure reporting to ensure that complaints are resolved in a timely manner. Since December 2014, FSCO has also signed Memoranda of Understanding (MOUs) with the Mutual Fund Dealers Association of Canada, the Real Estate Council of Ontario, and the Investment Industry Regulatory Organization of Canada. The purpose of these MOUs is mutual assistance and sharing of information among the regulators, including the regulatory action they make take against one another's licensees and registrants.
• its assessment of the need for proactive investigations in each regulated sector to allow for periodic examinations of all registrants and licensees; and **Status: Little or no progress**	FSCO has not assessed the need for proactive investigations in each of its regulated financial sectors. FSCO stated it does not have sufficient staffing resources to conduct proactive investigations in each of its regulated financial sectors.
• how FSCO will provide more timely publication of compliance and examination reports to the industry. **Status: Fully implemented**	On its website, FSCO has published multiple reports regarding the overall results of its examination of regulated entities and licensed individuals, such as mortgage brokers, life insurance agents, and service providers. FSCO told us that it is considering actions that can be taken to mitigate causes of common issues identified from its examinations.
Recommendation 14 FSCO provide a formal recommendation on: • the transferring of some responsibility for protecting the public interest and enhancing public confidence to new or established self-governing industry associations; and **Status: Little to no progress** • the transferring of regulatory responsibilities for regulated financial sectors to the federal Office of the Superintendent of Financial Institutions. **Status: Little to no progress**	The Minister of Finance appointed an Expert Advisory Panel in early 2015 to review the mandates of FSCO, the Financial Services Tribunal, and the Deposit Insurance Corporation of Ontario (DICO). The Panel reviewed whether each agency's mandate aligned with the Province's goals and priorities; whether each agency was fulfilling its mandate; whether the functions of each agency could be better performed by another entity; and whether changes to the current organizational structure were necessary to improve accountability and mandate delivery. The panel presented its final report to the Ministry in March 2016, which contained 44 recommendations. The overall position of the panel was that many functions performed by FSCO and DICO could be better performed by a single new and integrated entity, the Financial Services Regulatory Authority. The panel recommended that DICO continue to exist as a separate entity and only operate as a deposit insurer. FSCO is awaiting further direction from the ~~Ministry~~ government regarding the transfer of its responsibilities and changes to its mandate.

Commented [A1]: OAGO will confirm that the report has been posted prior to using this wording.

Follow-up on the Committee's Work on the Financial Services Commission of Ontario's Pension Plan and Financial Service Regulatory Oversight

The Committee held a public hearing in March 2015 on our 2014 audit of the Financial Services Commission of Ontario's (FSCO) Regulatory Oversight of Pension Plans and Financial Services. The Committee tabled a report in the Legislature resulting from this hearing in June 2015. The full report can be found at http://www.ontla.on.ca/committee-proceedings/committee-reports/files_pdf/FSCO%20French%20Report%202015.pdf.

The Committee made 14 recommendations and asked that FSCO report back by the end of September 2015. FSCO formally responded to the Committee on September 30, 2015. Many issues raised by the Committee were similar to our audit observations in 2014, which we have also followed up on this year (see **Chapter 4**). The status of the Committee's recommendations is shown in **Figure 1**. **Figure 2** shows the recommendations and FSCO's response to each.

Figure 1: Status of Actions Recommended in Committee's Report on FSCO's Regulatory Oversight

Prepared by the Office of the Auditor General of Ontario

	# of Actions Recommended	Status of Actions Recommended			
		Fully Implemented	In Process of Being Implemented	Little or No Progress	Will Not Be Implemented
Recommendation 1	1			1	
Recommendation 2	1			1	
Recommendation 3	2	1			1
Recommendation 4	1	1			
Recommendation 5	1		1		
Recommendation 6	1	1			
Recommendation 7	1		1		
Recommendation 8	1	1			
Recommendation 9	3	1		2	
Recommendation 10	1			1	
Recommendation 11	1	1			
Recommendation 12	2			1	1
Recommendation 13	4	2	1	1	
Recommendation 14	2			2	
Total	22	8	3	9	2
%	100%	36%	14%	41%	9%

Figure 2: Committee Recommendations and Responses from FSCO

Prepared by the Office of the Auditor General of Ontario

Committee Recommendation	FSCO Response
Recommendation 1 FSCO identify strategies to help inform and mitigate financial risk of underfunded plans, including potential impact of varying levels of economic growth. **Status: Little or no progress**	Since our audit in 2014, FSCO has not developed strategies or considered changes to legislation which would mitigate the financial risk to plan sponsors and members from underfunded plans. In October 2016 FSCO completed an analysis that covered changes in the funded status of plans from 1992-2014 and the primary factors driving the change. FSCO told us that it had intended to calculate projected underfunding levels over the next few years, based on a range of economic growth scenarios. However, FSCO reviewed the province's GDP from 2005to 2015 and its analysis showed that there was no correlation between the funded status of pension plans and economic growth. Therefore, FSCO told us that it felt its analysis would not be meaningful and would possibly be misleading since the key economic factors affecting plans' funded status are long-term interest rates and investment returns. FSCO further stated that based on its analysis, it is unclear how it would project the funded status of plans using economic growth scenarios and therefore, it has also not assessed the potential for plans to recover under various economic scenarios.
Recommendation 2 Based on these identified strategies, FSCO provide the Ministry of Finance with recommended legislative changes. **Status: Little or no progress**	In July 2016, the Ministry issued a consultation paper about the solvency funding framework for defined benefit pension plans, ~~including how solvency is assessed and what minimum~~ seeking feedback on how best to reform the funding framework for these plans. The Ministry plans to use the feedback received to assist it in developing "a balanced set of solvency funding reforms that would focus on plan sustainability, affordability and benefit security, and take into account the interests of pension stakeholders – including sponsors, unions, members and retirees." ~~solvency funding requirements should be to balance the needs of plan sponsors, members, and retired employees.~~ FSCO has told us that it will provide its analysis of the factors contributing to the underfunding of pension plans to the Ministry. Once the Ministry receives feedback to the consultation paper from stakeholders, it plans to draft the necessary legislative and regulatory amendments. FSCO is currently awaiting further direction from the Ministry.
Recommendation 3 FSCO complete analysis of ways to improve monitoring of the Pension Benefit Guarantee Fund, such as developing risk indicators for the fund; and **Status: Fully implemented**	Since our audit, FSCO completed an analysis of the legislative and procedural changes required to monitor the PBGF's exposure to potential claims and address its sustainability. In August 2016, FSCO prepared and shared with the Ministry a report with several possible enhancements to legislation, which includes allowing the PBGF to seek external financing to meet short-term cash flow needs, requiring parent companies of insolvent plan sponsors to provide those sponsors with financial support, and allowing the Superintendent greater discretion to order the wind-up of insolvent plans who could potentially file significant claims against the PBGF. FSCO told us that the key risk indicators for the PBGF are whether employers who

Committee Recommendation	FSCO Response
incorporate expanded disclosure in the financial statements of the fund to better reflect plan exposure. **Status: Will not be implemented**	have defined-benefit pension plans will become insolvent and the probability that these plans will be underfunded if they were to be wound up. FSCO noted that since its current financial statement disclosure for the PBGF is in compliance with accounting standards, it did not expand its disclosure in 2015 and 2016. It will reassess disclosure requirements on an annual basis going forward.
Recommendation 4 FSCO provide recommended changes to the Pensions Benefits Act and associated regulations based on this analysis [of the PBGF] **Status: Fully Implemented**	FSCO created recommendations as a result of its analysis of the PBGF and shared them with the Ministry in August 2016. The Ministry has told us that it will be consulting with FSCO to ensure that possible changes to legislation would help to better manage the PBGF.
Recommendation 5 FSCO identify the powers that the Office of the Superintendent of Financial Institutions has that FSCO does not, as well differences in plan administrators' mandatory reporting, such as requiring annual actuarial reports from plans that are funded less than 120%, and provide the Committee an analysis of the risks of not having similar powers and requirements. **Status: In the process of being implemented (by December 31, 2016)**	At the time of our audit in 2014, amendments to the *Pension Benefits Act* to provide the Superintendent with the powers to order plan administrators to file revised or additional actuarial valuation reports had yet to be proclaimed into force. During our follow-up, the Ministry told us that it is actively considering developing regulations which would allow these changes to be proclaimed but did not indicate when it expects this to happen. The Ministry ~~released a consultation paper~~posted a description in September 2016 regarding the content of proposed regulations to proclaim into force changes to the *Pension Benefits Act* granting the Superintendent the power to act as or appoint an administrator where the employer is in receivership, or the subject of proceedings under the *Companies' Creditors Arrangement Act* or the *Bankruptcy and Insolvency Act*. FSCO told us that it has been reviewing the extent of the Superintendent's powers and how they compare with the Office of the Superintendent of Financial Institutions for several years and is currently in the process of consolidating the results of its analysis, which it expects to complete by the end of 2016.
Recommendation 6 FSCO identify and recommend areas where monetary penalties would be effective for enforcement purposes. **Status: Fully implemented**	In June 2015, FSCO submitted a report to the Ministry that proposed using penalties as a regulatory tool in cases of late filings and other contraventions of the *Pension Benefits Act*. The report also contained the legislative changes that would be required to impose these penalties. This report proposed a two-phase penalty approach: fixed penalties for violations such as late or missing filings and variable penalties for all other offences. The Ministry told us that it is considering FSCO's report in conjunction with the results of the agency mandate review, which recommended that ~~the~~ a new regulatory entity be created, with authority to levy administrative monetary penalties in all sectors. ~~should be transferred to the Financial Services Regulatory Authority~~. The Ministry has not told us when it will make a final decision about this matter. At the time we completed our follow-up, FSCO was still waiting for the Ministry's feedback on its report.

Committee Recommendation	FSCO Response
Recommendation 7 FSCO provide an update on whether more examinations can be conducted with existing resources and the changes it plans to make to its examinations methodology to ensure key risks are covered. **Status: In the process of being implemented (by March 31, 2017)**	FSCO now considers the results of its staged monitoring process for pension plans, which was fully implemented in June 2016, in deciding which plans to examine. Since our audit in 2014, it has also updated its examination procedures for both defined-benefit and defined-contribution plans. The expanded procedures include verifying that a plan's expenses are reasonable given its total size, permitted asset classes in which members can invest are clearly established, and which default investment options exist for members if they do not choose their own investments. These additional procedures allow FSCO to check whether plan assets have been invested in accordance with federal investments regulations and that plan members have appropriate information about the risks associated with their investments. The expanded procedures were used by FSCO to examine 55 plans in 2015/16. Further, in September 2015, FSCO retained a third-party vendor to provide monthly data about the potential inability of plan sponsors to meet pension obligations. FSCO is currently assessing how to use this information as part of its existing risk analysis to identify additional plans whose members are at risk for examinations. FSCO examined 55 plans in 2015/16 and plans to examine more than 55 plans in 2016/17, an increase from the 50 plans examined in recent previous years.
Recommendation 8 FSCO complete its analysis of new information plan administrators can provide to members and make recommendations to government as well as the new information FSCO can make public regarding its annual public reporting on pension plans. **Status: Fully implemented**	In June 2016, FSCO completed a jurisdiction review to identify statutory annual disclosure requirements in other provinces and territories, such as the United States and the United Kingdom. Based on this review, FSCO prepared a report that recommends possible enhancements to current statutory annual disclosure requirements and submitted it to the Ministry in October 2016. Some additional disclosure recommended in the report includes names and contact information of plan administrators and the earliest date when plan members are first eligible to retire. Given the complexity of how plan expenses are incurred and paid, and how they impact members, the report recommends that a public consultation be held to develop standardized reporting methods for plan expenses. FSCO told us that it did not recommend that plan administrators be required to assess their plan's performance against others, as it may be impractical to do so.
Recommendation 9 FSCO work with the Ministry of Finance to identify regulatory amendments as required to ensure that: • all co-op board members have criminal checks before the co-op is registered and offering statements are issued; **Status: Little or no progress**	In December 2015, FSCO proposed and submitted legislative amendments to the Ministry for its consideration that would help protect members and investors of co-ops. This included a legislative change to allow FSCO to conduct criminal checks for co-op's board members at the licensing stage and/or before the co-op is registered or any offering statements are issued. The Ministry has told us that its staff are reviewing FSCO's recommendations ~~and considering~~ and has been in discussions with FSCO. Ministry and FSCO staff will continue discussions in order to determine whether legislative changes are necessary. It has not indicated when it will be making a decision about FSCO's

Committee Recommendation	FSCO Response
• all approved offering statements are listed on FSCO's website; and **Status: Fully implemented** • FSCO conduct ongoing monitoring of co-ops. **Status: Little or no progress**	recommendations FSCO has begun posting all approved co-op offering statements receipted on or after July 1, 2016. FSCO has not committed to posting all historical approved offering statements, but will continue to make these available to the public upon request. FSCO told us that a legislative change is required in order for it to have the authority to conduct ongoing monitoring of co-ops. FSCO provided the Ministry with recommended legislative amendements in December 2015 regarding the use of the term "co-operative", articles of incorporation for co-ops, and duplication in the filing requirements that co-ops have with FSCO. The Ministry has ~~told us that its staff are reviewing FSCO's recommendations and considering~~ been in discussions with FSCO and intends to continue discussions in order to determine whether legislative changes to the *Co-operative Corporations Act* are necessary. It has not indicated when it will be making a decision about FSCO's recommendations. However, FSCO informed us that it will continue to focus on verifying co-ops' information only during the initial registration period and will monitor only those co-ops for which there are complaints.
Recommendation 10 FSCO provide the government with recommendations regarding the level of the fees it collects for reviewing co-op offering statements. **Status: Little or no progress**	FSCO said it would have been inappropriate to proceed with this recommendation ~~during the mandate review~~ at this time, given the recommendation in the final report on the mandate review to move the oversight of co-ops away from FSCO and/or the newly proposed regulatory body. FSCO plans to begin an analysis of its costs in the co-op sector and recommend possible fee changes to the Ministry in 2017.
Recommendation 11 FSCO provide an update on discussions with the Ontario Securities Commission on the benefits of sharing or transferring responsibility of reviewing offering statements. **Status: Fully Implemented**	In November 2015 and February 2016, representatives from FSCO and the ~~Commission~~ OSC met to conduct exploratory discussions about how a potential transfer of responsibility would be carried out. FSCO also said there was a standing offer in place from the ~~commission~~ OSC to assist FSCO with reviewing complex offering statements in future. However, as a result of the recommendation relating to the oversight of co-ops, in the report on the mandate review, any further discussions have been put on hold until a government decision is made. ~~FSCO receives further policy direction from the Ministry.~~ The Ministry has told us that it is currently reviewing the recommendations made by the Expert Panel for the agency mandate review, ~~including about the transfer of responsibility~~ but has not indicated when a decision will be made.
Recommendation 12 FSCO provide an update on: • implementation of programs to support data-gathering, internal controls and risk assessment related to the licensing system; and **Status: Little or no progress**	FSCO has implemented several enhancements to its online licensing system: - insurers can download a list of their sponsored agents to verify that they have valid insurance - the system sends email reminders to agents when their insurance is about to expire or has expired - the online system no longer has free-form fields - there is a new comment field which publicly identifies agents whose insurance has lapsed

Committee Recommendation	FSCO Response
• agreements with insurers related to receiving data on which agents have purchased E&O insurance, as well as insurance that has lapsed. **Status: Will not be implemented**	FSCO is currently assessing if these controls and some other process improvements it has made improve the accuracy of the errors and omissions insurance information in its database. The assessment is expected to be completed sometime in 2017. At that point, FSCO said that it will decide if any additional controls are required. Although the added controls are a step in the right direction, overall FSCO has made little progress in response to our recommendation, as the system still does not automatically verify if the errors and omissions insurance information is valid at the time it is entered by an agent, allowing for the licensing of agents who do not meet minimum licensing requirements. FSCO staff prepared an E&O insurance compliance position paper in December 2015, recommending that the system enhancements above be monitored over a period of 12-18 months to determine whether they are providing accurate E&O compliance rates before further action is taken. The Superintendent accepted this recommendation. FSCO prepared a second position paper on gathering information about claims filed against insurance agents using the claims and premiums data collected by other agencies. FSCO noted that currently there is no industry classification code specifically for life insurance agents. FSCO determined that without this code, it would be infeasible to use existing industry data to obtain detailed information on E&O claims against life insurance agents. FSCO has also committed to working with the insurance industry stakeholders to collect additional data in 2016/17 but has not indicated that it will be establishing agreements with errors and omissions insurance providers.
Recommendation 13 FSCO provide an update on: • the implementation of its framework that documents how FSCO identifies, assesses and deploys compliance resources; **Status: In the process of being implemented (by March 31, 2017)** • steps taken to monitor timeliness and outcomes of complaints and ensure holders of sanctioned licenses by other regulators that	In 2016, FSCO developed the draft Market Regulation Branch's Supervisory Framework, which lays out its nine-step supervisory model and provides guidance to staff on market supervision best practices and tools. The model is intended to help FSCO develop and execute its Annual Supervisory Plan, which includes complaint resolution, desk reviews, onsite examinations, and sector reviews. FSCO has noted that the Framework has been substantially implemented, and gaps will be fully addressed by March 2017. In 2015/16, FSCO implemented monthly monitoring and reporting of complaint handling to measure whether it was meeting its targets of closing 80% of consumer complaints in 75 days and all complaints within 365 days. FSCO met its targets for handling consumer complaints within 75 days, and its overall target of closing all complaints within 365 days. In 2016, FSCO also implemented a new process to receive regulatory sanction notifications from all of the 36 other relevant regulators in Canada. FSCO stated that through this process, it identified almost 50 sanctions against its licensees which were imposed by other

Committee Recommendation	FSCO Response
also hold FSCO licences are assessed quickly; **Status: Fully implemented**	regulators. FSCO monitors the timely closure of these incidents using monthly performance measure reporting to ensure that complaints are resolved in a timely manner. Since December 2014, FSCO has also signed Memoranda of Understanding (MOUs) with the Mutual Fund Dealers Association of Canada, the Real Estate Council of Ontario, and the Investment Industry Regulatory Organization of Canada. The purpose of these MOUs is mutual assistance and sharing of information among the regulators, including the regulatory action they make take against one another's licensees and registrants.
• its assessment of the need for proactive investigations in each regulated sector to allow for periodic examinations of all registrants and licensees; and **Status: Little or no progress**	FSCO has not assessed the need for proactive investigations in each of its regulated financial sectors. FSCO stated it does not have sufficient staffing resources to conduct proactive investigations in each of its regulated financial sectors.
• how FSCO will provide more timely publication of compliance and examination reports to the industry. **Status: Fully implemented**	On its website, FSCO has published multiple reports regarding the overall results of its examination of regulated entities and licensed individuals, such as mortgage brokers, life insurance agents, and service providers. FSCO told us that it is considering actions that can be taken to mitigate causes of common issues identified from its examinations.
Recommendation 14 FSCO provide a formal recommendation on: • the transferring of some responsibility for protecting the public interest and enhancing public confidence to new or established self-governing industry associations; and **Status: Little to no progress** • the transferring of regulatory responsibilities for regulated financial sectors to the federal Office of the Superintendent of Financial Institutions. **Status: Little to no progress**	The Minister of Finance appointed an Expert Advisory Panel in early 2015 to review the mandates of FSCO, the Financial Services Tribunal, and the Deposit Insurance Corporation of Ontario (DICO). The Panel reviewed whether each agency's mandate aligned with the Province's goals and priorities; whether each agency was fulfilling its mandate; whether the functions of each agency could be better performed by another entity; and whether changes to the current organizational structure were necessary to improve accountability and mandate delivery. The panel presented its final report to the Ministry in March 2016, which contained 44 recommendations. The overall position of the panel was that many functions performed by FSCO and DICO could be better performed by a single new and integrated entity, the Financial Services Regulatory Authority. The panel recommended that DICO continue to exist as a separate entity and only operate as a deposit insurer. FSCO is awaiting further direction from the ~~Ministry~~ government regarding the transfer of its responsibilities and changes to its mandate.

Commented [A1]: OAGO will confirm that the report has been posted prior to using this wording.

From: Myers, Leah (MOF) []
To: Talwar, Garima (MOF) [Garima.Talwar@ontario.ca]
Subject: RE: Pension Asset Expert Advisory Panel (Expert Panel)
Date: Thursday, November 17, 2016 11:39:29

Fine

From: Talwar, Garima (MOF)
Sent: November-17-16 10:38 AM
To: Myers, Leah (MOF)
Subject: FW: Pension Asset Expert Advisory Panel (Expert Panel)

Hi Leah,

The below email thread is on Murray Gold's participation on the Expert Panel, and discussions on whether he would be in conflict serving on this panel.

The emails below demonstrate that folks in TBS, EDU and OTF do not see a conflict in this regard, and so are okay with Murray's participation.

Alex wanted to send the below email out, but I wanted to check-in with you before he did (Alex has raised our concerns with folks previously). Please let me know if you have any questions.

Garima

From: Killoch, Alex (MOF)
Sent: November 17, 2016 10:26 AM
To: Talwar, Garima (MOF)
Subject: FW: Pension Asset Expert Advisory Panel (Expert Panel)

There are some endorsements of Murray in the trail from Ross and EDU MO is not concerned, so

My inclination is to respond to say:

“I am comfortable that the issue has been reviewed and any concerns have been allayed.”

From: Kaufman, Paul (TBS)
Sent: Thursday, November 17, 2016 9:46 AM
To: Veinot, Cindy (TBS); Duffy, Paul (EDU); Hughes, Karen (TBS); Hatzis, Len (TBS); Killoch, Alex (MOF)
Cc: Tam, Nelson (TBS); Laughton, Patrick (TBS); Hosick, Sarah (TBS); Paul, Joshua (EDU)
Subject: RE: Pension Asset Expert Advisory Panel (Expert Panel)

Cindy, on the legal side we don’t see him as having an actual conflict at this point, based on the conversations yesterday.

Depending on the information that the panel is given there is some risk that an actual or perceived conflict could arise in the future, but as long as everyone is comfortable knowing that a potential conflict may need to be managed in the future I don’t think it’s necessary to remove him at this point.

Paul

Paul Kaufman

Counsel

Ministry of the Attorney General | Legal Services Branch |Treasury Board Secretariat

9th Floor, 77 Wellesley Street West, Ferguson Block, Toronto, ON M7A 1N3

Phone: 416-327-7012 Fax: 416-325-9404

From: Veinot, Cindy (TBS)
Sent: November-17-16 9:36 AM
To: Duffy, Paul (EDU); Hughes, Karen (TBS); Hatzis, Len (TBS); Kaufman, Paul (TBS); Killoch, Alex (MOF)
Cc: Tam, Nelson (TBS); Laughton, Patrick (TBS); Hosick, Sarah (TBS); Paul, Joshua (EDU)
Subject: RE: Pension Asset Expert Advisory Panel (Expert Panel)

Paul – thanks for connecting with your MO so quickly.

Can others respond if they have concerns with Murray continuing to be on the panel ASAP. I'd like to close the loop with Murray this morning if possible, given he is currently holding tomorrow for us.

Thanks,

Cindy

From: Duffy, Paul (EDU)
Sent: November-17-16 9:29 AM
To: Hughes, Karen (TBS); Veinot, Cindy (TBS); Hatzis, Len (TBS); Kaufman, Paul (TBS)
Cc: Tam, Nelson (TBS); Laughton, Patrick (TBS); Hosick, Sarah (TBS); Paul, Joshua (EDU)
Subject: RE: Pension Asset Expert Advisory Panel (Expert Panel)

I've touched base with our MO and they do not have any concerns with Murray Gold's participation on the panel.

Paul

From: Hughes, Karen (TBS)
Sent: November 16, 2016 8:48 PM
To: Veinot, Cindy (TBS); Hatzis, Len (TBS); Duffy, Paul (EDU); Kaufman, Paul (TBS)
Cc: Tam, Nelson (TBS); Laughton, Patrick (TBS); Hosick, Sarah (TBS)
Subject: Re: Pension Asset Expert Advisory Panel (Expert Panel)

Thanks - might be worth finding a moment to talk on this tomorrow.

Karen

Sent from my BlackBerry 10 smartphone on the Rogers network.

From: Veinot, Cindy (TBS)

Sent: Wednesday, November 16, 2016 6:45 PM

To: Hughes, Karen (TBS); Hatzis, Len (TBS); Duffy, Paul (EDU); Kaufman, Paul (TBS)

Cc: Tam, Nelson (TBS); Laughton, Patrick (TBS); Hosick, Sarah (TBS)

Subject: FW: Pension Asset Expert Advisory Panel (Expert Panel)

We (Paul Duffy, Paul Kaufman and I) had a discussion with Ross Peebles this afternoon to ascertain his views re: whether Murray Gold is conflicted from being on the Panel. A brief summary of his comments are as follows:

n He does not believe Murray is in a conflict by being appointed to the Panel, but does acknowledge some may perceive this as a conflict

n He has had a discussion with Ronda Kimberley-Young at OTF re: Murray being appointed to the Panel and noted she did not perceive this to be a conflict

n He holds Murray in very high regard re: his ethical standards in evaluating whether he would be in a conflict

n He believes Murray would be a huge resource to the Panel in connection with his knowledge of the governance structures of jointly sponsored pension plans

n He believes that in connection with any future negotiation between the Province and OTF that Murray would at the table as he sees OTF as very reliant on Murray

It was also raised that Minister Sandals, as the previous Minister of Education, would likely be very familiar with Murray's role with OTF and so may have already considered his role in signing the appointments.

As a final step before concluding, we thought it prudent for Paul Duffy to have a conversation with his MO in Education given Education will be at the table negotiating with OTF in the future. My current leaning is if that if Education does not view this as a conflict then we should be fine with Murray on the Panel.

Paul and Paul – please add any additional considerations from our conversation earlier today.

Thanks,

Cindy

From: Veinot, Cindy (TBS)
Sent: November-16-16 3:49 PM
To: Hughes, Karen (TBS)
Cc: Laughton, Patrick (TBS)
Subject: FW: Pension Asset Expert Advisory Panel (Expert Panel)

fyi

From: Murray Gold [mailto:mgold@kmlaw.ca]
Sent: November-16-16 2:13 PM
To: Hatzis, Len (TBS)
Cc: Veinot, Cindy (TBS); Kaufman, Paul (TBS)
Subject: Pension Asset Expert Advisory Panel (Expert Panel)

Hi Len,

You asked me on our call this morning for some additional information on my work for the Ontario Teachers Federation (OTF), as disclosed in my conflict of interest form with respect to the Expert Panel.

I have worked on a number of files for the OTF since the Ontario Teachers Pension Plan was formed as a jointly sponsored pension plan in 1990. For the most part, and especially in the last decade or so, the OTF and the Crown have had a similar view, as sponsors of the OTPP, concerning the Plan. OTF and the Crown have been of similar views for example, in regard to the OTPP's Funding Management Policy (FMP), while the OTPP Board has sometimes taken a different view of that agreement. In human rights litigation, another area in which I have worked for the OTF in regard to the OTPP, all of the Crown, the OTF and the OTPP Board have typically been named as co-defendants, and all three parties have historically cooperated and mounted similar or complementary defenses. In the most recent of these cases (2015), we worked with the

Crown to amend the Teachers Pension Act with respect to the status of retired teachers who return to active employment. I have also given advice to the OTF about OTPP Plan terms and about other compliance issues. Future engagements by the OTF are unpredictable. They may of course include FMP issues, as they have in the past, which may, in turn, be affected by or affect pension accounting issues. Once again, however, there is every possibility that the OTF and the Crown will be aligned in their views of FMP changes, as they have been for the past many years.

The relationship between the OTF and the Crown has been, for a decade or more, quite collegial and cooperative, and we would expect (and want) it to continue in this way.

We discussed my OTF relationship at the time of the retainer to provide advice concerning the OTPP, the OPTrust and the BC Plans. At that time, we agreed that the engagement presented no conflict of interest.

In regard to the Expert Panel, I expect that its mandate is as a non-partisan expert board. This is not a client retainer, but is rather an expert inquiry into the way or ways forward within technical constraints. In principle, I don't believe that expert panel work engages conflict of interest considerations with OTF or other clients, precisely because it is expert and non-partisan.

I also assume that all non-public materials before the Expert Panel are strictly confidential. I would not disclose them to OTF or to any other client or person.

I hope this helps, but if you have additional questions, please don't hesitate to ask.

Regards,

Murray

 Original Message
From: Hatzis, Len (TBS)
Sent: Tuesday, November 15, 2016 6:50 PM
To: Murray Gold
Cc: Veinot, Cindy (TBS); Kaufman, Paul (TBS)
Subject:

Murray,

We've been working with our clients to prepare for the Pension Asset Panel's upcoming work and wanted to follow up with you on a disclosure that you made in the conflict of interest section of your application form. We were hoping to talk to you about the work with the OTF that you referred to in section 2 of your COI disclosure and how that might intersect with information that you could have access to as part of the panel. Would you have time to discuss this with myself and Cindy Veinot tomorrow?

Thanks
Sent from my BlackBerry 10 smartphone on the

Rogers network.

Murray Gold
Partner
T: +1 416-595-2085 | F: +1 416-204-2873 | E: mgold@kmlaw.ca
Koskie Minsky LLP, 20 Queen Street West, Suite 900, Toronto, ON. M5H 3R3
kmlaw.ca

Pension Advisory Committees

Q: What is the government doing to facilitate the establishment of Pension Advisory Committees (PACs)?

A: The government made amendments to the *Pension Benefits Act (PBA)* and Regulation 909, effective January 1, 2017, to facilitate the establishment of PACs.

The role of PACs will be to monitor plan administration, make recommendations to the administrator regarding the pension plan, and promote awareness and understanding of the pension plan.

Q: How would the legislative changes make it easier to establish PACs?

A: The new regulatory framework would:

1) Set minimum conditions regarding notice of intent from members or retirees, or trade union representing members of the plan to establish an advisory committee.

2) Require plan administrators to assist in holding a vote to establish an advisory committee and if the vote is successful, to assist with the operation of the committee.

3) Allow for reasonable expenses associated with the establishment and operation of an advisory committee to be paid from the pension fund.