



Memorandum

TO: Members of Regional Council
FROM: Bill Hughes, Commissioner of Finance
DATE: February 18, 2016
RE: **AMO and MFOA Request re
Prudent Investor Standard**

Under provincial legislation, a municipality's ability to invest its reserves and other surplus funds is limited to those institutions and security types that are listed in Ontario Regulation 438/97. This regulation enables municipalities to make various kinds of fixed income investments.

This limitation restricts the potential return that a municipality may earn, since the list applies to all municipalities regardless of their level of investment expertise. Also, the Province has generally been slow to update the regulation for market changes and any new products that may become available.

Recently, a number of municipalities, including the Region, have requested that they be allowed to invest using the 'prudent investor standard', rather than the list provided under the regulation.

The 'prudent investor standard' is an investment standard commonly associated with trustees and those who have a fiduciary responsibility to invest funds on behalf of others. The standard provides that a "trustee's investment and management decisions respecting individual assets are evaluated not in isolation, but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust"¹. In Ontario, the *Trustee Act, 1990*, lists the criteria to guide a trustee, as a prudent investor, some of which are:

- a) General economic conditions;
- b) Possible effect of inflation or deflation;

¹ Uniform Prudent Investor Act (1994)

- c) Expected tax consequences of investment decisions or strategies;
- d) Role that each investment or course of action plays within the overall trust portfolio;
- e) Expected total return from income and the appreciation of capital;
- f) Needs for liquidity, regularity of income and preservation or appreciation of capital; and
- g) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

The Province has already conferred 'prudent investor' status on the City of Toronto, effective January 2016.

In October 2015, York Region Council adopted a position on the Municipal Act review, which included a request that the Region, and other qualifying municipalities, be granted the same status as Toronto, subject to certain safeguards:

- a) Have a credit rating of 'AA-' or higher or equivalent;
- b) Equity investments should not exceed 10 per cent of the total municipal portfolio; and
- c) A review of investment strategies should be conducted by an independent board.

The Association of Municipalities Ontario (AMO) and Municipal Finance Officers' Association of Ontario (MFOA) have requested that Council endorse their resolution requesting that the Province grant the prudent investor standard to municipalities, if such investments are through the One Investment Program.

Staff, while supportive of the AMO and MFOA request, believe that the proposed resolution could be interpreted to mean that municipalities could **only** avail themselves of this standard if investments are made through the One Investment Program.

Therefore, it is recommended that, if Council wishes to endorse this resolution, the following addendum be included:

AND BE IT FURTHER RESOLVED THAT Council also supports the Regional Municipality of York and other qualified municipalities being allowed to invest consistent with the Prudent Investor Standard.

Attachment 1 shows the recommended version of the Council resolution with the addendum highlighted in bold.

Bill Hughes, Commissioner of Finance

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**Attachment 1:
(REVISED)**

WHEREAS municipalities are required to invest their reserves in accordance with the Municipal Act, 2001 and Ontario Regulation 438/97 (as amended), which specifically outlines allowable investments;

and WHEREAS to ensure the sustainability and sound stewardship of the municipality's investments, York Region is of the opinion that changes should be made to the Municipal Act, 2001 and Ontario Regulation 438/97 (as amended), to allow for the prudent investment of reserves, if those investments are professionally managed and part of a broader investment strategy;

and WHEREAS the Prudent Investor Standard is an industry accepted best practice in effectively managing a portfolio of investments, and the Standard applies to investments, not in isolation, but in the context of the portfolio of investments and as part of an overall strategy, that should incorporate acceptable risk and return objectives suitable to the stakeholders;

and WHEREAS the Province is conferring "Prudent Investor" status on the City of Toronto to enable greater diversification in portfolio management, and WHEREAS the Association of Municipalities of Ontario (AMO), Local Authority Services (LAS), and the Municipal Finance Officers Association of Ontario (MFOA), have long requested that the Prudent Investor Standard apply to all municipal investments that are invested with The One Investment Program;

and WHEREAS in 2005, municipalities were granted the ability to invest in longer-term corporate bonds and Canadian equity investments via only the One Investment Program, and the One Investment Program has demonstrated strong investment returns for municipalities within these 'new' investment sectors;

and WHEREAS the institutional portfolio managers utilized by the One Investment Program recommend that the Prudent Investor Standard approach is a more appropriate approach to investing;

and WHEREAS operating municipal investments under the Prudent Investor Standard is precluded by the Municipal Act, Eligible Investments, in its current form;

THEREFORE BE IT RESOLVED THAT Council support the request of AMO, LAS, and MFOA to amend Ontario Regulation 438/97 (as amended) of the Municipal Act, 2001, to allow municipalities to invest consistent with the Prudent Investor Standard, if such investments are through the One Investment Program.

AND BE IT FURTHER RESOLVED THAT Council support amending Ontario Regulation 438/97 (as amended) of the Municipal Act, 2001, to allow qualified municipalities, including York Region, to invest consistent with the Prudent Investor Standard.