

Town of Greater Napanee Investment Policy



Adopted: Sept. 20/20 Res. #459/20

Introduction

1. The Town of Greater Napanee (Town) strives to ensure the best use of its cash resources within statutory limitations. The Town recognizes the importance of protecting and preserving capital, together with the need to maintain solvency and liquidity to meet ongoing financial requirements.
2. The purpose of this policy is to provide guidelines for the management of all financial assets of the Town held within general funds, reserves, reserve funds and funds held in trust with the Town of Greater Napanee based on the following five criteria:
 - 2.1. Adherence to statutory requirements
 - 2.1.1. All investment activities shall follow relevant sections of any applicable legislation and regulation.
 - 2.2. Preservation of Capital
 - 2.2.1. Safety of principle is a primary objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.
 - 2.3. Maintain adequate liquidity
 - 2.3.1. The investment portfolio shall remain sufficiently liquid to meet all cash flow requirements and limit temporary borrowing requirements.
 - 2.4. Investment diversification
 - 2.4.1. The portfolio shall be diversified by asset class, issuer and term to the greatest extent reasonable, given legal and regulatory constraints.
 - 2.5. Maximizing Yield
 - 2.5.1. The Town shall maximize the net rate of return earned on the investment portfolio, without compromising all other criteria.

Scope

3. The policy and procedures set out herein shall govern the investment activities of all funds controlled by the Town and its agencies, boards and commissions, including any new funds created by the Town, unless specifically directed

otherwise by Town Council.

3.1. Sections 418 – 420 of the Municipal Act, 2001 (Appendix “A”)

3.2. Ontario Regulation 438/97 – Eligible Investments, Related Financial Agreements and Prudent Investment (Appendix “B”)

Standards of Care

4. Investments shall be made with the judgement, care, discretion and intelligence that prudent individuals exercise in the management and investment of their own funds after considering the safety of capital as well as the probable income to be derived.
5. The General Manager Financial Services/Treasurer has overall responsibility for the prudent investment of the Town’s portfolio, including:
 - 5.1. Selection and regular monitoring of the investments;
 - 5.2. Ensuring compliance with this policy and applicable legislation and regulations;
 - 5.3. Reporting to Council as required in this policy;
 - 5.4. Mitigating risk;
 - 5.5. Obtaining legal and financial advice with respect to proposed investments, when deemed to be in the best interest of the Town

Eligible Investments

6. In accordance with Ontario Regulation 438/97 - Eligible Investments, Related Financial Agreements and Prudent Investment, the Town is not authorized to invest in securities other than those listed in the Regulation.
7. Investment instruments made available by the following institutions are permitted in this policy:
 - 7.1. an agency of Canada or a province or territory of Canada,
 - 7.2. a country other than Canada,
 - 7.3. a municipality in Canada including the municipality making the investment,
 - 7.4. the Ontario Infrastructure and Lands Corporation,
 - 7.5. a school board or similar entity in Canada,
 - 7.6. a university in Ontario that is authorized to engage in an activity described in section 3 of the Post-secondary Education Choice and Excellence Act, 2000,
 - 7.7. a college established under the Ontario Colleges of Applied Arts and Technology Act, 2002,

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- 7.8. a local board as defined in the Municipal Affairs Act (but not including a school board or a municipality) or a conservation authority established under the Conservation Authorities Act,
 - 7.9. a board of a public hospital within the meaning of the Public Hospitals Act,
 - 7.10. a non-profit housing corporation incorporated under section 13 of the Housing Development Act,
 - 7.11. a local housing corporation as defined in section 24 of the Housing Services Act, 2011, or
 - 7.12. the Municipal Finance Authority of British Columbia
 - 7.13. a bank listed in Schedule I, II or III to the Bank Act (Canada),
 - 7.14. a loan corporation or trust corporation registered under the Loan and Trust Corporations Act, or
 - 7.15. a credit union or league to which the Credit Unions and Caisses Populaires Act, 1994 applies.

Maximum Maturities

8. The Town shall, to the extent possible, match investments with anticipated cash flow requirements to a maximum maturity date of ten (10) years from the date of purchase.

Performance

9. The investment portfolio will be managed in accordance with the parameters specified within this policy. Portfolio yields should be higher than the rate given by the Town's bank for deposits held in its various bank accounts.

Policy Maintenance

10. The General Manager Financial Services shall develop and maintain up-to-date procedures that provide for effective control and management of investments with enough assurance that the Town's investments are properly managed and adequately protected.
11. All cash management transactions shall be properly recorded, and interest earnings distributed annually to the various funds, as the case may be, in accordance with applicable legislation, Town by-laws, policies, Generally Accepted Accounting Principals (GAAP) and Canadian Public Sector Accounting Board (PSAB) Standards.
12. Periodic review shall be performed to determine whether the investment guidelines provided herein are being followed and to evaluate the adequacy of internal controls.

Reporting

13. The General Manager Financial Services/Treasurer or designate shall submit an annual investment report to Town Council, which may be part of the annual audited financial statements of the Corporation. The investment shall include:

13.1. A list of investments, with market value, held at the end of the reporting period;

13.2. A statement about the performance of the investment portfolio;

13.3. A statement of alignment of all investments to this policy;

13.4. A record of the date of each transaction;

13.5. Other information that Council may require to be included.

Ethics and Conflicts

14. Employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions.

Liability and Responsibility

15. Authorized employees acting in accordance with this policy and exercising due diligence shall be relieved of personal liability and responsibility for an individual's security credit risk or market price change.

Implementation

16. This policy shall become effective immediately upon approval by Town Council.

17. This policy shall be reviewed by Town Council a minimum of once per term of office.

Investment

418 (1) A municipality may invest in prescribed securities, in accordance with the prescribed rules, money that it does not require immediately including,

- (a) money in a sinking, retirement or reserve fund;
- (b) money raised or received for the payment of a debt of the municipality or interest on the debt; and
- (c) proceeds from the sale, loan or investment of any debentures. 2001, c. 25, s. 418 (1).

Application

(1.1) This section does not apply to a municipality if section 418.1 applies to the municipality. 2017, c. 10, Sched. 1, s. 71.

Repayment

(2) An investment under subsection (1) shall be made repayable on or before the day on which the money is required and any earnings derived from the investment shall be credited to the fund from which the money was invested. 2001, c. 25, s. 418 (2).

Combined investments

(3) A municipality may combine money held in any fund and deal with the money in accordance with subsection (1). 2001, c. 25, s. 418 (3).

Allocation

(4) Earnings from combined investments shall be credited to each separate fund in proportion to the amount invested from it. 2001, c. 25, s. 418 (4).

(5) REPEALED: 2006, c. 32, Sched. A, s. 182 (1).

Regulations

(6) The Lieutenant Governor in Council may make regulations,

- (a) prescribing rules for the purpose of subsection (1);
- (b) prescribing and defining securities or classes of them for the purpose of subsection (1);
- (b.1) prescribing and defining financial instruments and agreements that municipalities may issue or enter into for or in relation to investments under subsection (1);
- (c) providing that a municipality does not have power to invest in securities or classes of securities specified in the regulation. 2001, c. 25, s. 418 (6); 2006, c. 32, Sched. A, s. 182 (2).

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 182 (1, 2) - 01/01/2007

2017, c. 10, Sched. 1, s. 71 - 01/03/2018

Prudent investment

418.1 (1) A municipality may, in accordance with this section and the regulations, invest money that it does not require immediately in any security. 2017, c. 10, Sched. 1, s. 72.

Municipality may pass by-law

(2) A municipality may pass a by-law to have this section apply to the municipality. 2017, c. 10, Sched. 1, s. 72.

Requirements on passing by-law

(3) A municipality may only pass a by-law under subsection (2) if the municipality satisfies the requirements prescribed for the purposes of this subsection on the day the municipality passes the by-law. 2017, c. 10, Sched. 1, s. 72.

When section applies

(4) If a municipality passes a by-law under subsection (2), this section applies to the municipality as of the effective date set out in the by-law. 2017, c. 10, Sched. 1, s. 72.

By-law not revocable

(5) A by-law passed under subsection (2) cannot be revoked. 2017, c. 10, Sched. 1, s. 72.

Section continues to apply

(6) This section continues to apply to a municipality regardless of whether the municipality continues to satisfy the requirements prescribed for the purposes of subsection (3). 2017, c. 10, Sched. 1, s. 72.

When section no longer applies

(7) Despite subsections (4) and (6), this section no longer applies to a municipality if a regulation under clause (16) (d) is made in respect of the municipality. 2017, c. 10, Sched. 1, s. 72.

Duty

(8) In investing money under this section, a municipality must exercise the care, skill, diligence and judgment that a prudent investor would exercise in making such an investment. 2017, c. 10, Sched. 1, s. 72.

Same

(9) The duty under subsection (8) includes a duty to obtain the advice that a prudent investor would obtain under comparable circumstances. 2017, c. 10, Sched. 1, s. 72.

Criteria

(10) The municipality must consider the following criteria in planning investments, in addition to any other criteria that are relevant to the circumstances:

1. General economic conditions.
2. The possible effect of inflation or deflation.
3. The role that each investment or course of action plays within the municipality's portfolio of investments.
4. The expected total return from income and the appreciation of capital.
5. Needs for liquidity, regularity of income and preservation or appreciation of capital. 2017, c. 10, Sched. 1, s. 72.

Diversification

(11) The municipality must diversify its investments to an extent that is appropriate to general economic and investment market conditions. 2017, c. 10, Sched. 1, s. 72.

Interpretation, money not immediately required

(12) In this section, money that the municipality does not require immediately includes,

- (a) money in a sinking, retirement or reserve fund;
- (b) money raised or received for the payment of a debt of the municipality or interest on the debt; and
- (c) proceeds from the sale, loan or investment of any debentures. 2017, c. 10, Sched. 1, s. 72.

Repayment

(13) Any earnings derived from an investment under this section shall be credited to the fund from which the money was invested. 2017, c. 10, Sched. 1, s. 72.

Combined investments

(14) A municipality may combine money held in any fund and deal with the money in accordance with this section and the regulations. 2017, c. 10, Sched. 1, s. 72.

Allocation

(15) Earnings from combined investments shall be credited to each separate fund in proportion to the amount invested from it. 2017, c. 10, Sched. 1, s. 72.

Regulations

(16) The Lieutenant Governor in Council may make regulations,

- (a) prescribing requirements for the purposes of subsection (3);
- (b) governing the investment of money by a municipality under this section, including prescribing rules, conditions and procedures for or in relation to the investment of money under this section;
- (c) providing for transitional matters that, in the opinion of the Lieutenant Governor in Council, are necessary or desirable to facilitate the application of this section to the municipality;

- (d) providing that this section no longer applies to a municipality, and prescribing transitional rules that apply to the municipality. 2017, c. 10, Sched. 1, s. 72.

Group of municipalities

(17) A regulation made under clause (16) (b) may prescribe special rules, conditions and procedures for or in relation to the investment of money by two or more municipalities, acting as a group, under this section, including restrictions and transitional rules that apply in circumstances where a municipality enters into an investment arrangement with a group or withdraws from an investment arrangement with a group. 2017, c. 10, Sched. 1, s. 72.

Transitional regulation under s. (16) (c)

(18) A regulation made under clause (16) (c) may provide that it applies in respect of the period after a municipality has passed a by-law under subsection (2) and before the effective date set out in the by-law. 2017, c. 10, Sched. 1, s. 72.

Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 1, s. 72 - 01/03/2018

419 REPEALED: 2006, c. 32, Sched. A, s. 183.

Section Amendments with date in force (d/m/y)

2006, c. 32, Sched. A, s. 183 - 01/01/2007

Agreements

420 (1) A power given to a municipality under this Act to invest money includes the power to enter into an agreement for the investment of money with any other municipality or with,

- (a) a public hospital;
- (b) a university in Ontario that is authorized to operate under section 3 of the *Post-Secondary Education Choice and Excellence Act, 2000*;
- (c) a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*;
- (d) a school board; or
- (e) any agent of an institution described in clauses (a) to (d). 2001, c. 25, s. 420 (1); 2017, c. 10, Sched. 1, s. 73 (1).

Application

(1.1) This section does not apply to a municipality if section 418.1 applies to the municipality. 2017, c. 10, Sched. 1, s. 73 (2).

Regulations

(2) The Minister may make regulations,

- (a) prescribing additional persons or bodies or any class of them with which a municipality may enter into investment agreements;
- (b) prescribing conditions to be satisfied before a municipality may enter into an investment agreement with a person or body or class of either of them prescribed under clause (a). 2001, c. 25, s. 420 (2).

Section Amendments with date in force (d/m/y)

2017, c. 10, Sched. 1, s. 73 (1) - 30/05/2017; 2017, c. 10, Sched. 1, s. 73 (2) - 01/03/2018

Municipal Act, 2001
Loi de 2001 sur les municipalités

ONTARIO REGULATION 438/97

formerly under Municipal Act

ELIGIBLE INVESTMENTS AND RELATED FINANCIAL AGREEMENTS

Historical version for the period July 1, 2011 to August 9, 2011.

Last amendment: O. Reg. 52/11.

This Regulation is made in English only.

1. A municipality does not have the power to invest under section 418 of the Act in a security other than a security prescribed under this Regulation. O. Reg. 438/97, s. 1; O. Reg. 399/02, s. 1.

2. The following are prescribed, for the purposes of subsection 418 (1) of the Act, as securities that a municipality may invest in:

1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by,
 - i. Canada or a province or territory of Canada,
 - ii. an agency of Canada or a province or territory of Canada,
 - iii. a country other than Canada,
 - iv. a municipality in Canada including the municipality making the investment,
- iv.1 the Ontario Strategic Infrastructure Financing Authority,
- v. a school board or similar entity in Canada,
- v.1 a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,
- v.2 the board of governors of a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*,
- vi. a local board as defined in the *Municipal Affairs Act* (but not including a school board or a municipality) or a conservation authority established under the *Conservation Authorities Act*,
- vi.1 a board of a public hospital within the meaning of the *Public Hospitals Act*,
- vi.2 a non-profit housing corporation incorporated under section 13 of the *Housing Development Act*,
- vi.3 a local housing corporation as defined in section 2 of the *Social Housing Reform Act, 2000*, or
- vii. the Municipal Finance Authority of British Columbia.
2. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if,
 - i. the bond, debenture or other evidence of indebtedness is secured by the assignment, to a trustee, as defined in the *Trustee Act*, of payments that Canada or a province or territory of Canada has agreed to make or is required to make under a federal, provincial or territorial statute, and
 - ii. the payments referred to in subparagraph i are sufficient to meet the amounts payable under the bond, debenture or other evidence of indebtedness, including the amounts payable at maturity.
3. Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments the terms of which provide that the principal and interest shall be fully repaid no later than two years after the day the investment was made, if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by,
 - i. a bank listed in Schedule I, II or III to the *Bank Act* (Canada),
 - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*, or
 - iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.

- 3.1 Deposit receipts, deposit notes, certificates of deposit or investment, acceptances or similar instruments the terms of which provide that the principal and interest shall be fully repaid more than two years after the day the investment was made, if the receipt, note, certificate or instrument was issued, guaranteed or endorsed by,
 - i. a bank listed in Schedule I, II or III to the *Bank Act* (Canada),
 - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*,
 - iii. a credit union or league to which the *Credit Unions and Caisses Populaires Act, 1994* applies.
4. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by an institution listed in paragraph 3.
5. Short term securities, the terms of which provide that the principal and interest shall be fully repaid no later than three days after the day the investment was made, that are issued by,
 - i. a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*,
 - ii. the board of governors of a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*, or
 - iii. a board of a public hospital within the meaning of the *Public Hospitals Act*.
6. Bonds, debentures, promissory notes, other evidence of indebtedness or other securities issued or guaranteed by the International Bank for Reconstruction and Development.
- 6.1. Bonds, debentures, promissory notes or other evidence of indebtedness issued or guaranteed by a supranational financial institution or a supranational governmental organization, other than the International Bank for Reconstruction and Development.
7. Asset-backed securities, as defined in subsection 50 (1) of Regulation 733 of the Revised Regulations of Ontario, 1990 made under the *Loan and Trust Corporations Act*.
- 7.1 Bonds, debentures, promissory notes or other evidence of indebtedness issued by a corporation that is incorporated under the laws of Canada or a province of Canada, the terms of which provide that the principal and interest shall be fully repaid more than five years after the date on which the municipality makes the investment.
- 7.2 Bonds, debentures, promissory notes or other evidence of indebtedness issued by a corporation that is incorporated under the laws of Canada or a province of Canada, the terms of which provide that the principal and interest shall be fully repaid more than one year and no later than five years after the date on which the municipality makes the investment.
8. Negotiable promissory notes or commercial paper, other than asset-backed securities, maturing one year or less from the date of issue, if that note or commercial paper has been issued by a corporation that is incorporated under the laws of Canada or a province of Canada.
- 8.1 Shares issued by a corporation that is incorporated under the laws of Canada or a province of Canada.
9. Bonds, debentures, promissory notes and other evidences of indebtedness of a corporation incorporated under section 142 of the *Electricity Act, 1998*.
10. Bonds, debentures, promissory notes or other evidence of indebtedness of a corporation if the municipality first acquires the bond, debenture, promissory note or other evidence of indebtedness as a gift in a will and the gift is not made for a charitable purpose.
11. Securities of a corporation, other than those described in paragraph 10, if the municipality first acquires the securities as a gift in a will and the gift is not made for a charitable purpose.
12. Shares of a corporation if,
 - i. the corporation has a debt payable to the municipality,
 - ii. under a court order, the corporation has received protection from its creditors,
 - iii. the acquisition of the shares in lieu of the debt is authorized by the court order, and
 - iv. the treasurer of the municipality is of the opinion that the debt will be uncollectable by the municipality unless the debt is converted to shares under the court order. O. Reg. 438/97, s. 2; O. Reg. 265/02, s. 1; O. Reg. 399/02, s. 2; O. Reg. 655/05, s. 2; O. Reg. 607/06, s. 1; O. Reg. 39/07, s. 1.
- 2.1 A security is prescribed for the purposes of subsection 418 (1) of the Act as a security that a municipality may invest in if,
 - (a) the municipality invested in the security before January 12, 2009; and

- (b) the terms of the municipality's continued investment in the security have been changed pursuant to the Plan Implementation Order of the Ontario Superior Court of Justice dated January 12, 2009 (Court file number 08-CL-7440) and titled "In the matter of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 as amended and in the matter of a plan of compromise and arrangement involving Metcalfe & Mansfield Alternative Investments II Corp. et al". O. Reg. 292/09, s. 1.

3. (1) A municipality shall not invest in a security under subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 or paragraph 3.1 or 4 of section 2 unless the bond, debenture, promissory note or evidence of indebtedness is rated,

- (a) REVOKED: O. Reg. 265/02, s. 2 (1).

- (b) by Dominion Bond Rating Service Limited as "AA(low)" or higher;

- (b.1) by Fitch Ratings as "AA-" or higher;

- (c) by Moody's Investors Services Inc. as "Aa3" or higher; or

- (d) by Standard and Poor's as "AA-" or higher. O. Reg. 438/97, s. 3 (1); O. Reg. 265/02, s. 2 (1); O. Reg. 399/02, s. 3 (1); O. Reg. 655/05, s. 3 (1, 2); O. Reg. 607/06, s. 2; O. Reg. 39/07, s. 2.

- (2) REVOKED: O. Reg. 655/05, s. 3 (3).

- (2.1) A municipality shall not invest in a security under paragraph 6.1 of section 2 unless the security is rated,

- (a) by Dominion Bond Rating Service Limited as "AAA";

- (b) by Fitch Ratings as "AAA";

- (c) by Moody's Investors Services Inc. as "Aaa"; or

- (d) by Standard and Poor's as "AAA". O. Reg. 655/05, s. 3 (4).

(3) A municipality shall not invest in an asset-backed security under paragraph 7 of section 2 that matures more than one year from the date of issue unless the security is rated,

- (a) by Dominion Bond Rating Service Limited as "AAA";

- (a.1) by Fitch Ratings as "AAA";

- (b) by Moody's Investors Services Inc. as "Aaa"; or

- (c) by Standard and Poor's as "AAA". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (2); O. Reg. 655/05, s. 3 (5).

(4) A municipality shall not invest in an asset-backed security under paragraph 7 of section 2 that matures one year or less from the date of issue unless the security is rated,

- (a) by Dominion Bond Rating Service Limited as "R-1(high)";

- (a.1) by Fitch Ratings as "F1+";

- (b) by Moody's Investors Services Inc. as "Prime-1"; or

- (c) by Standard and Poor's as "A-1+". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (3); O. Reg. 655/05, s. 3 (6).

- (4.1) A municipality shall not invest in a security under paragraph 7.1 of section 2 unless the security is rated,

- (a) by Dominion Bond Rating Service Limited as "AA(low)" or higher;

- (b) by Fitch Ratings as "AA-" or higher;

- (c) by Moody's Investors Services Inc. as "Aa3" or higher; or

- (d) by Standard and Poor's as "AA-" or higher. O. Reg. 292/09, s. 2 (1).

- (4.2) A municipality shall not invest in a security under paragraph 7.2 of section 2 unless the security is rated,

- (a) by Dominion Bond Rating Service Limited as "A" or higher;

- (b) by Fitch Ratings as "A" or higher;

- (c) by Moody's Investors Services Inc. as "A2"; or

- (d) by Standard and Poor's as "A". O. Reg. 292/09, s. 2 (1).

(5) A municipality shall not invest in a security under paragraph 8 of section 2 unless the promissory note or commercial paper is rated,

- (a) by Dominion Bond Rating Service Limited as "R-1(mid)" or higher;

- (a.1) by Fitch Ratings as "F1+";

- (b) by Moody's Investors Services Inc. as "Prime-1"; or

(c) by Standard and Poor's as "A-1+". O. Reg. 265/02, s. 2 (2); O. Reg. 399/02, s. 3 (4); O. Reg. 655/05, s. 3 (8).

(6) If an investment made under subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 of section 2 or paragraph 3.1, 4, 6.1, 7, 7.1, 7.2 or 8 of section 2 falls below the standard required by this section, the municipality shall sell the investment within 180 days after the day the investment falls below the standard. O. Reg. 292/09, s. 2 (2).

(6.1) Subsection (6) does not apply with respect to an investment made by a municipality under paragraph 7 of section 2 on a day before the day this subsection comes into force. O. Reg. 292/09, s. 2 (3).

(7) A municipality shall not invest in a security under paragraph 9 of section 2 unless, at the time the investment is made and as long as it continues, the investment ranks, at a minimum, concurrently and equally in respect of payment of principal and interest with all unsecured debt of the corporation. O. Reg. 265/02, s. 2 (2).

(8) A municipality shall not invest in a security under paragraph 9 of section 2 unless, at the time the investment is made, the total amount of the municipality's investment in debt of any corporation incorporated under section 142 of the *Electricity Act, 1998* that would result after the proposed investment is made does not exceed the total amount of investment in debt, including any interest accrued on such debt, of the municipality in such a corporation that existed on the day before the day the proposed investment is to be made. O. Reg. 265/02, s. 2 (2).

(9) Any investment made under paragraph 9 of section 2, including any refinancing, renewal or replacement thereof, may not be held for longer than a total of 10 years from the date such investment is made. O. Reg. 265/02, s. 2 (2).

(10) Subsections (7), (8) and (9) do not prevent a municipality from holding or disposing of a security described in paragraph 9 of section 2 issued by a corporation incorporated under section 142 of the *Electricity Act, 1998*, if the municipality acquired the security through a transfer by-law or otherwise under that Act. O. Reg. 655/05, s. 3 (9).

(11) A municipality shall sell an investment described in paragraph 10 or 11 of section 2 within 90 days after ownership of the investment vests in the municipality. O. Reg. 655/05, s. 3 (9).

(12) REVOKED: O. Reg. 292/09, s. 2 (4).

4. (1) A municipality shall not invest more than 25 per cent of the total amount in all sinking and retirement funds in respect of debentures of the municipality, as estimated by its treasurer on the date of the investment, in short-term debt issued or guaranteed by the municipality. O. Reg. 438/97, s. 4 (1).

(2) In this section,

"short-term debt" means any debt, the terms of which provide that the principal and interest of the debt shall be fully repaid no later than 364 days after the debt is incurred. O. Reg. 438/97, s. 4 (2).

4.1 (1) A municipality shall not invest in a security under paragraph 7 of section 2 or in a promissory note or commercial paper under paragraph 8 of section 2 unless, on the date that the investment is made,

(a) the municipality itself is rated, or all of the municipality's long-term debt obligations are rated,

(i) by Dominion Bond Rating Service Limited as "AA(low)" or higher,

(i.1) by Fitch Ratings as "AA-" or higher,

(ii) by Moody's Investors Services Inc. as "Aa3" or higher, or

(iii) by Standard and Poor's as "AA-" or higher; or

(b) the municipality has entered into an agreement with the Local Authority Services Limited and the CHUMS Financing Corporation to act together as the municipality's agent for the investment in that security, promissory note or commercial paper. O. Reg. 265/02, s. 3; O. Reg. 399/02, s. 4; O. Reg. 655/05, s. 4 (1, 2).

(1.1) A municipality shall not invest in a security under paragraph 7.1 or 8.1 of section 2 unless, on the date the investment is made, the municipality has entered into an agreement with the Local Authority Services Limited and the CHUMS Financing corporation to act together as the municipality's agent for the investment in the security. O. Reg. 655/05, s. 4 (3).

(1.2) Subsection (1.1) does not apply to investments in securities by the City of Ottawa if all of the following requirements are satisfied:

1. Only the proceeds of the sale by the City of its securities in a corporation incorporated under section 142 of the *Electricity Act, 1998* are used to make the investments.
2. The investments are made in a professionally-managed fund.
3. The terms of the investments provide that,
 - i. where the investment is in debt instruments, the principal must be repaid no earlier than seven years after the date on which the City makes the investment, and
 - ii. where the investment is in shares, an amount equal to the principal amount of the investment cannot be withdrawn from the fund for at least seven years after the date on which the City makes the investment.
4. The City establishes and uses a separate reserve fund for the investments.

5. Subject to paragraph 6, the money in the reserve fund, including any returns on the investments or proceeds from their disposition, are used to pay capital costs of the City and for no other purpose.
 6. The City may borrow money from the reserve fund but must repay it plus interest. O. Reg. 655/05, s. 4 (3).
- (2) The investment made under clause (1) (b) or described in subsection (1.1), as the case may be, must be made in the One Investment Program of the Local Authority Services Limited and the CHUMS Financing Corporation with,
- (a) another municipality;
 - (b) a public hospital;
 - (c) a university in Ontario that is authorized to engage in an activity described in section 3 of the *Post-secondary Education Choice and Excellence Act, 2000*;
 - (d) the board of governors of a college established under the *Ontario Colleges of Applied Arts and Technology Act, 2002*;
- (d.1) a foundation established by a college mentioned in clause (d) whose purposes include receiving and maintaining a fund or funds for the benefit of the college;
- (e) a school board; or
 - (f) any agent of an institution listed in clauses (a) to (d.1). O. Reg. 265/02, s. 3; O. Reg. 655/05, s. 4 (4); O. Reg. 607/06, s. 3; O. Reg. 292/09, s. 3; O. Reg. 52/11, s. 1.
5. A municipality shall not invest in a security issued or guaranteed by a school board or similar entity unless,
- (a) the money raised by issuing the security is to be used for school purposes; and
 - (b) REVOKED: O. Reg. 248/01, s. 1.

O. Reg. 438/97, s. 5; O. Reg. 248/01, s. 1.

6. (1) A municipality shall not invest in a security that is expressed or payable in any currency other than Canadian dollars. O. Reg. 438/97, s. 6 (1).

(2) Subsection (1) does not prevent a municipality from continuing an investment, made before this Regulation comes into force, that is expressed and payable in the currency of the United States of America or the United Kingdom. O. Reg. 438/97, s. 6 (2).

7. (1) Before a municipality invests in a security prescribed under this Regulation, the council of the municipality shall, if it has not already done so, adopt a statement of the municipality's investment policies and goals. O. Reg. 438/97, s. 7.

(2) In preparing the statement of the municipality's investment policies and goals under subsection (1), the council of the municipality shall consider,

- (a) the municipality's risk tolerance and the preservation of its capital;
 - (b) the municipality's need for a diversified portfolio of investments; and
 - (c) obtaining legal advice and financial advice with respect to the proposed investments. O. Reg. 265/02, s. 4.
- (3) REVOKED: O. Reg. 655/05, s. 5.

(4) In preparing the statement of the municipality's investment policies and goals under subsection (1) for investments made under paragraph 9 of section 2, the council of the municipality shall consider its plans for the investment and how the proposed investment would affect the interest of municipal taxpayers. O. Reg. 265/02, s. 4.

8. (1) If a municipality has an investment in a security prescribed under this Regulation, the council of the municipality shall require the treasurer of the municipality to prepare and provide to the council, each year or more frequently as specified by the council, an investment report. O. Reg. 438/97, s. 8 (1).

(2) The investment report referred to in subsection (1) shall contain,

- (a) a statement about the performance of the portfolio of investments of the municipality during the period covered by the report;
- (b) a description of the estimated proportion of the total investments of a municipality that are invested in its own long-term and short-term securities to the total investment of the municipality and a description of the change, if any, in that estimated proportion since the previous year's report;
- (c) a statement by the treasurer as to whether or not, in his or her opinion, all investments are consistent with the investment policies and goals adopted by the municipality;
- (d) a record of the date of each transaction in or disposal of its own securities, including a statement of the purchase and sale price of each security; and
- (e) such other information that the council may require or that, in the opinion of the treasurer, should be included. O. Reg. 438/97, s. 8 (2); O. Reg. 655/05, s. 6.

(2.1) The investment report referred to in subsection (1) shall contain a statement by the treasurer as to whether any of the following investments fall below the standard required for that investment during the period covered by the report:

1. An investment described in subparagraph 1 iii, v.1, v.2, vi.1, vi.2 or vi.3 of section 2.
2. An investment described in paragraph 3.1, 4, 6.1, 7, 7.1, 7.2 or 8 of section 2.
3. An investment described in subsection 9 (1). O. Reg. 292/09, s. 4.

(3) Upon disposition of any investment made under paragraph 9 of section 2, the council of the municipality shall require the treasurer of the municipality to prepare and provide to the council a report detailing the proposed use of funds realized in the disposition. O. Reg. 265/02, s. 5.

8.1 If an investment made by the municipality is, in the treasurer's opinion, not consistent with the investment policies and goals adopted by the municipality, the treasurer shall report the inconsistency to the council of the municipality within 30 days after becoming aware of it. O. Reg. 655/05, s. 7.

9. (1) Despite this Regulation, an investment by a municipality in bonds, debentures or other indebtedness of a corporation made before March 6, 1997 may be continued if the bond, debenture or other indebtedness is rated,

- (a) REVOKED: O. Reg. 265/02, s. 6.
- (b) by Dominion Bond Rating Service Limited as "AA(low)" or higher;
- (b.1) by Fitch Ratings as "AA-" or higher;
- (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
- (d) by Standard and Poor's as "AA-" or higher. O. Reg. 438/97, s. 9 (1); O. Reg. 265/02, s. 6; O. Reg. 399/02, s. 5; O. Reg. 655/05, s. 8.

(1.1) Despite subsection 3 (4.1), an investment in a security under paragraph 7.1 of section 2 made on a day before the day this subsection comes into force may be continued if the security is rated,

- (a) by Dominion Bond Rating Service Limited as "A" or higher;
- (b) by Fitch Ratings as "A" or higher;
- (c) by Moody's Investors Services Inc. as "A2"; or
- (d) by Standard and Poor's as "A". O. Reg. 292/09, s. 5 (1).

(2) If the rating of an investment continued under subsection (1) or (1.1) falls below the standard required by that subsection, the municipality shall sell the investment within 180 days after the day the investment falls below the standard. O. Reg. 438/97, s. 9 (2); O. Reg. 292/09, s. 5 (2).

FORWARD RATE AGREEMENTS

10. (1) A municipality that enters into an agreement to make an investment on a future date in a security prescribed by section 2 may enter one or more forward rate agreements with a bank listed in Schedule I, II or III to the *Bank Act* (Canada) in order to minimize the cost or risk associated with the investment because of fluctuations in interest rates. O. Reg. 655/05, s. 9.

(2) A forward rate agreement shall provide for the following matters:

1. Specifying a forward amount, which is the principal amount of the investment or that portion of the principal amount to which the agreement relates.
2. Specifying a settlement day, which is a specified future date.
3. Specifying a forward rate of interest, which is a notional rate of interest applicable on the settlement day.
4. Specifying a reference rate of interest, which is the market rate of interest payable on a specified future date on an acceptance issued by a bank listed in Schedule I, II or III to the *Bank Act* (Canada).
5. Requiring a settlement payment to be payable on the settlement day if the forward rate and the reference rate of interest are different. O. Reg. 655/05, s. 9.

(3) A municipality shall not enter a forward rate agreement if the forward amount described in paragraph 1 of subsection (2) for the investment whose cost or risk the agreement is intended to minimize, when added to all forward amounts under other forward rate agreements, if any, relating to the same investment, would exceed the total amount of the principal of the investment. O. Reg. 655/05, s. 9.

(4) A municipality shall not enter a forward rate agreement unless the settlement day under the agreement is within 12 months of the day on which the agreement is executed. O. Reg. 655/05, s. 9.

(5) A municipality shall not enter a forward rate agreement if the settlement payment described in paragraph 5 of subsection (2) exceeds the difference between the amount of interest that would be payable on the forward amount calculated

at the forward rate of interest for the period for which the investment was made and the amount that would be payable calculated at the reference rate of interest. O. Reg. 655/05, s. 9.

(6) A municipality shall not enter a forward rate agreement except with a bank listed in Schedule I, II or III to the *Bank Act* (Canada) and only if the bank's long-term debt obligations on the day the agreement is entered are rated,

- (a) by Dominion Bond Rating Service Limited as "A(high)" or higher;
- (b) by Fitch Ratings as "A+" or higher;
- (c) by Moody's Investors Service Inc. as "A1" or higher; or
- (d) by Standard and Poor's as "A+" or higher. O. Reg. 655/05, s. 9.

11. (1) Before a municipality passes a by-law authorizing a forward rate agreement, the council of the municipality shall adopt a statement of policies and goals relating to the use of forward rate agreements. O. Reg. 655/05, s. 9.

(2) The council of the municipality shall consider the following matters when preparing the statement of policies and goals:

1. The types of investments for which forward rate agreements are appropriate.
2. The fixed costs and estimated costs to the municipality resulting from the use of such agreements.
3. A detailed estimate of the expected results of using such agreements.
4. The financial and other risks to the municipality that would exist with, and without, the use of such agreements.
5. Risk control measures relating to such agreements, such as,
 - i. credit exposure limits based on credit ratings and on the degree of regulatory oversight and the regulatory capital of the other party to the agreement,
 - ii. standard agreements, and
 - iii. ongoing monitoring with respect to the agreements. O. Reg. 655/05, s. 9.

12. (1) If a municipality has any subsisting forward rate agreements in a fiscal year, the treasurer of the municipality shall prepare and present to the municipal council once in that fiscal year, or more frequently if the council so desires, a detailed report on all of those agreements. O. Reg. 655/05, s. 9.

(2) The report must contain the following information and documents:

1. A statement about the status of the forward rate agreements during the period of the report, including a comparison of the expected and actual results of using the agreements.
2. A statement by the treasurer indicating whether, in his or her opinion, all of the forward rate agreements entered during the period of the report are consistent with the municipality's statement of policies and goals relating to the use of forward rate agreements.
3. Such other information as the council may require.
4. Such other information as the treasurer considers appropriate to include in the report. O. Reg. 655/05, s. 9.

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