

REGIONAL MUNICIPALITY OF OTTAWA-CARLETON
MUNICIPALITÉ RÉGIONALE D'OTTAWA-CARLETON

REPORT
RAPPORT

Our File/N/Réf.
Your File/V/Réf.

DATE 8 April 1997

TO/DEST. Co-ordinator
Corporate Services and Economic Development Committee

FROM/EXP. Finance Commissioner

SUBJECT/OBJET **INVESTMENT POLICY - NEW REGULATIONS**

DEPARTMENTAL RECOMMENDATION

That the Corporate Services and Economic Development Committee recommend Council adopt an interim policy for all Regional investments, including Sinking Fund investments in the form of regulation 74/97 pending resolution of staff concerns relating to certain restrictions contained in this regulation at which time revised investment policies will be presented to Council for consideration.

BACKGROUND

Among other things, the *Better Local Government Act, Bill 86*, amended the legislation governing the investment of funds by the Region. Previously the rules and regulations pertaining to the types of investments which could be held for various purposes were specified in Sections 109 (2) and 116 (34) of the *Regional Municipalities Act* and in Section 167 of the *Municipal Act*. The legislation set out the types of investments which were eligible for reserve funds, for the sinking fund and for short term purposes for funds not immediately required to meet current operating expenditures. The *Better Local Government Act* effectively consolidated the types of investments which could be held for various purposes into one comprehensive list.

Section 167 (6) of the *Municipal Act* provides that the Lieutenant Governor in Council may make regulations prescribing the securities which are eligible for investment. Ontario Regulation 74/97 was made on March 5, 1997 and is attached as Annex A. In addition to prescribing the

specific investments which are eligible, the Regulation provides that *“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.”* Although the Sinking Fund Committee adopted an investment policy for its investments at its meeting on May 17, 1993 and an investment policy pertaining to reserve funds and short term investments had been prepared for consideration by Council during the next review of the Corporate Policy Manual, Regulation 74/97 imposes a number of restrictions on the types of eligible investments which will require substantial changes to these policies. Furthermore, there are concerns about certain specific provisions of the regulation which are shared by staff from other regional and municipal governments.

DISCUSSION

Staff have undertaken a review of the new regulations with respect to municipal investments. The new legislation offers significant progress in making municipalities more accountable for their investments by requiring them to formally adopt an investment policy and review its investment performance throughout the year. However, staff retain some strong reservations with respect to specific clauses and the underlying intent of the new regulation, specifically the following:

1. By moving away from the Trustee Act, for both the reserve funds and the sinking fund, the new regulation reduces the scope of permissible investments for a municipal corporation.
2. The restriction of any municipality owning more than 25% of its own outstanding issues goes against the principal of free capital markets, hinders a municipality’s ability to hedge its liabilities and decreases its ability to influence its cost of debt. The Region’s sinking fund as well as most other municipal sinking funds undertake the practice of buying back its own sinking fund issues as they become available in the market. This practice allows the sinking fund to match its outstanding liabilities with an investment of the same term and quality. Restricting the sinking fund to 25% in fact, requires the fund to take on some term risk or credit risk by having to match its liabilities with investment of varying maturity or credit quality.
3. While the use of a list may seem as an acceptable method of reducing risk and safeguarding funds, it does not preclude municipalities from getting into trouble and incurring investment losses. Investment vehicles can be structured so as to represent an eligible investment under the new regulations yet given their underlying structure, represent a far greater risk than should be taken on by municipalities.
4. The legislation provides inconsistencies with respect to credit risk. While the new regulations restrict the credit rating requirement for investments in foreign countries, it lacks any restriction with respect to securities offered by banks, trust companies, or Caisse

Popularies. The fact that these institutions are federally or provincially chartered and subject to regulatory requirements does not in any way constitute a guarantee as to their soundness or credit quality.

5. The restriction of investments to an authorized list goes against the dynamic nature of the investment industry. New or existing investments not specifically covered or prescribed under the existing legislation will remain prohibited until such time as the province sees fit to include them. The use of a list becomes quickly outdated and unworkable. In essence, this list regulates the potential revenue sources of municipalities by restricting municipalities from investing in such quality instruments such as Annex A bank debentures.
6. In its current form and wording, the regulations require an accounting before council of each and every investment throughout the year. Given the volume of transaction for all funds involved, this exercise would represent a large undertaking with limited value. The requirement to report performance of the fund is well justified and necessary however, the present guidelines are certainly not considered an appropriate means to the task.

Although regulation 74/97 has just been proclaimed, some consultation has taken place with other regional and municipal governments. The implications of these new regulations vary with the size of the region or municipality and their investment portfolios, but certainly there is sufficient common concern among several Regional Governments that Regional staff will explore the possibility of seeking amendments to these regulations with the Province.

FINANCIAL COMMENT

Not applicable.

CONSULTATION

The public consultation process is not applicable.

CONCLUSION

In order for staff to continue to manage the Region's cash and investments, Regulation 74/97 requires Council to adopt a statement of its investment policy and goals. Pending the resolution of discussions with other regional governments and the Province on changes to regulation 74/97, it is recommended that Corporate Services and Council adopt an interim investment policy in the form of regulation 74/97.

Approved by
J.C. LeBelle

GM/JP

ANNEX A**ONTARIO REGULATION 74/97**
made under the
MUNICIPAL ACT**Made: March 5, 1997****Filed: March 6, 1997****ELIGIBLE INVESTMENTS****General restriction on municipal investment**

1. A municipality does not have the power to invest under section 167 of the Act in a security other than a security prescribed under this Regulation.

Prescribed securities

2. The following are prescribed, for the purposes of clause 167 (2), (a) 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,
 - v. a school board or similar entity in Canada,
 - vi. a local board as defined in the *Municipal Affairs Act* (but not including a school board or municipality) or a conservation authority established under the *Conservation Authorities Act*, 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 other similar investment instruments issued, guaranteed or endorsed by,
 - i. a bank listed in Schedule I or II to the *Bank Act (Canada)*,
 - ii. a loan corporation or trust corporation registered under the *Loan and Trust Corporation Act*,
 - iii. a credit union or league to which the *Credit Union and Caisses Populaires Act* applies, or
 - iv. the Province of Ontario Savings Office.
 4. 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. the board of governors of a college or applied arts and technology established under section 5 of the *Ministry of Colleges and Universities Act*,
 - ii. a degree granting institutions as authorized under section 3 of the *Degree Granting Act*, or
 - iii. a board as defined in the *Public Hospitals Act*.
 5. Bonds, debentures or other securities issued or guaranteed by the International Bank for Reconstruction and Development.

Foreign countries' securities

3. A municipality shall not invest in a security issued or guaranteed by a country other than Canada unless the country's long term debt obligations are rated, at the time the investment is made,
 - (a) by Canadian Bond Rating Service Inc. as "AA-" or higher;
 - (b) by Dominion Bond Rating Service Limited as "AA (Low)" or higher;
 - (c) by Moody's Investors Services Inc. as "Aa3" or higher; or
 - (d) by Standard and Poor's Inc. as "AA-" or higher.

Municipality's own securities

4. A municipality shall not invest in securities issued or guaranteed by itself if that would result in the outstanding principal of the municipality's investments in its own securities exceeding 25 per cent of the outstanding principal of all the securities issued or guaranteed by the municipality.

School purposes

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) the security is to be repaid entirely with taxes or charges levied on property, with money from the government of Canada or a province or territory of Canada or a municipality, or with a combination of such taxes, charges and money.

Type of currency

6. (1) A municipality shall not invest in a security that is expressed or payable in any currency other than Canadian dollars.

(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.

Statement of investment policies and goals

7. 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.

Investment reports

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.

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

- (a) for each investment in a security prescribed under this Regulation, a statement about the performance of the investment during the period covered by the report; and

- (b) such other information that the council may require or that, in the opinion of the treasurer, should be included.

Commencement

9. This Regulation comes into force on the day section 35 of the *Better Local Government Act, 1996* comes into force.