FINANCE DEPARTMENT MEMORANDUM

TO:	**MAYOR J. LEHMAN, AND MEMBERS OF COUNCIL**
FROM:	**C. MILLAR, DIRECTOR OF FINANCE AND TREASURER**
NOTED:	**D. MCALPINE, GENERAL MANAGER OF COMMUNITY AND CORPORATE SERVICES**
	M. PROWSE, CHIEF ADMINISTRATIVE OFFICER
RE:	**PROPOSED AMENDMENTS TO THE *MUNICIPAL ACT, 2001* IN ACCORDANCE WITH THE PRUDENT INVESTOR STANDARD**
DATE:	**DECEMBER 11, 2017**

The purpose of this Memorandum is to inform members of Council of the proposed changes to regulations affecting how municipalities invest monies under the *Municipal Act, 2001.*

The *Modernizing Ontario's Municipal Legislation Act, 2017* received Royal Assent on May 30, 2017. Upon proclamation, legislative amendments would enable municipalities to invest in any security in accordance with a prudent investor standard, and a regulation.

Accordingly, regulatory amendments are proposed (Appendix A) that would set out some of the rules for municipalities that decide to invest using the new Prudent Investor Standard.

The Ministry of Municipal Affairs (the Ministry) included in the proposed amendments, a regulation pertaining to donated in-kind securities, after City of Barrie Finance staff raised the issue upon receiving inquiries from the Downtown Business Improvement Association (BIA). If adopted, municipalities will be able to accept in-kind donations of securities provided that they are sold or are converted into securities that are eligible investments for the municipalities.

The BIA has apparently been approached by individuals wanting to donate in-kind securities to assist with fund raising efforts such as Meridian Square. Under the current *Municipal Act, 2001* this is not possible because of restrictions on security investments. However, hopefully the proposed legislation will be passed, providing additional fund raising opportunities for the City and the BIA.

Staff is seeking clarity with regards to the eligibility criteria of having a minimum investment balance of $100 Million. The proposed regulation does not specify if investments in government business enterprises, such as Barrie Hydro Holdings, are included in the minimum investment balance threshold.

Staff is also proposing that the Ministry allow a phase-in period for municipalities to set up investment boards, suitable to their unique situation.

The Prudent Investor Standard will allow for greater diversification of investments, and better risk management.

APPENDIX A

Proposed Regulatory Amendments

Amendments to O. Reg. 438/97, O. Reg. 84/16, and O. Reg. 653/05 under the *Municipal Act, 2001*, and O. Reg. 610/06 under the *City of Toronto Act, 2006*.

The Ministry of Municipal Affairs (the Ministry) is proposing to amend rules governing municipal investments and other municipal financial activities under the *Municipal Act, 2001* and the *City of Toronto Act, 2006*.

Overview

The *Modernizing Ontario's Municipal Legislation Act, 2017* received Royal Assent on May 30, 2017. Upon proclamation, legislative amendments would enable municipalities under the *Municipal Act, 2001* to invest in any security in accordance with a Prudent Investor Standard, and a regulation.

Accordingly, regulatory amendments under the *Municipal Act, 2001* are proposed that would set out some of the rules for municipalities that decide to invest using the new Prudent Investor Standard including:

- eligibility criteria;
- the governance framework; and,
- investment approaches for more than one municipality investing together as a group.

In addition, the Ministry is proposing additional technical amendments to the prescribed investment rules in the eligible investments regulation under the *Municipal Act, 2001*. The prescribed investment rules are the existing rules for municipal investment, and some municipalities may decide to continue investing using them, rather than opting for the new proposed Prudent Investment Rules.

The Ministry is further proposing amendments to regulations for municipalities concerning bond forward agreements. The amendments are proposed to O. Reg. 653/05 of the *Municipal Act, 2001*, and O. Reg. 610/06 of the *City of Toronto Act, 2006*.

Municipal Prudent Investment Rules

Eligibility Criteria
A municipality proposing to invest using the new Prudent Investment Rules would be eligible to invest that way if the municipality: i) individually or together with one or more other municipalities had a minimum investment balance of $100 Million; or, ii) individually had a net financial assets balance of more than $50 Million, based on Schedule 70 of the most recent Financial Information Returns of the respective municipality.

Governance Framework and Related Requirements
The municipality would need to establish an investment board that is a municipal services board, and delegate to it, control and management of the municipality's investments (i.e. control of day-to-day investing).

The municipal council would need to develop an investment policy outlining the municipality's objectives for return on investment, risk tolerance, liquidity needs, and other considerations. The investment board would be required to adopt and maintain an investment plan that would outline how investments would be carried out. Each year, the investment board would be required to prepare an annual report, which would include a statement by the treasurer, that investments were consistent with Council's investment policy.

APPENDIX A (Continued)

An investment board could not contain members of council or municipal staff, with the exception of a municipal treasurer.

Municipal Prudent Investment Options
A municipality could establish an investment board with one or more other municipalities. Similar rules would apply to the participating municipalities, and to an investment board established that way as would apply to one municipality investing through its investment board. Where more than one municipality invested through an investment board, municipal treasurers could not exceed 25 per cent of board members.

Alternatively, the proposed regulations would set out how a municipality could pass a by-law to invest prudently, by delegating its prudent investment powers and duties to an existing investment board.

Technical Amendments to the Prescribed List of Eligible Investments

The proposed amendments to O. Reg. 438/97 under the *Municipal Act 2001*, would implement the following changes to the existing rules governing the eligible investments of municipalities:

- Currently, municipalities are required to sell certain rated investments within 180 days if the investments are downgraded. The proposed amendment would provide that that requirement to sell within 180 days would not apply if the municipality first creates a workout plan;
- Enable municipalities to purchase and hold US dollars in connection with the purchase of goods and services from US vendors;
- Enable certain donated securities to be accepted by municipalities provided that those securities are sold, or are converted into securities that are an eligible investment for the municipalities;
- Enable municipalities to enter investment agreements with an expanded range of persons, including AMO, MFOA, LAS, and CHUMS Financing Corporation. Note that this change will also be made to O. Reg. 84/16 of the *Municipal Act, 2001*;
- Lower the required credit ratings threshold for municipalities to invest in certain investment instruments issued by a Canadian bank, a loan corporation, or a credit union for a term of more than two years from AA- or above to A- or above, or an equivalent rating issued by certain ratings agencies; and,
- Facilitate municipalities investing in certain securities issued by a credit union for a period of more than two years subject to certain requirements.

Amendments to Rules Governing Municipal Use of Bond Forward Agreements

Amendments are proposed to O. Reg. 653/05 of the *Municipal Act, 2001,* and O. Reg. 610/06 of the *City of Toronto Act, 2006* that would extend the maximum settlement date for bond forward agreements that municipalities may enter into from 180 days to 365 days.