

Reviewer's Report

**Ontario Municipal Employees
Retirement System (OMERS)
Governance Review 2012**

***Prepared by the Reviewer for the
Minister of Municipal Affairs and Housing***

January 18, 2013

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Introduction

In May of 2012 I was appointed as Reviewer pursuant to the *Ontario Municipal Employees Retirement System Review Act 2006*, to conduct a review of the operation of the devolved OMERS governance structure established by statute in 2006.

It has been a privilege to lead this review and to develop this report and recommendations.

OMERS is a large and well-known pension plan both in Canada and internationally. Overall it has done very well since its governance was devolved to plan members in 2006, although it has faced a number of challenges arising from economic instability in the years following the 2008 financial crisis.

Like any other large and complex organization OMERS can always find ways to do better and I believe that this review has helped the organization identify some of those opportunities. It is my firm view that these are opportunities which must be quickly and fully seized if the plan is to continue to thrive and serve the best interests of both active and retired plan members.

I am pleased to note that the Sponsors Corporation (SC) and Administration Corporation (AC) at OMERS have sufficient authority to implement all of the recommendations in the report, and indeed have already endorsed many of them. For this reason, all of the recommendations are inwardly focused towards the owners and operators of the pension plan. I feel confident that responsibility for moving forward and making the plan stronger lies exactly where it should be – with its owners.

I want to commend the SC and AC and their respective board chairs, Marianne Love and Brian O'Keefe (SC) and Rick Miller (AC), together with Richard Faber (AC Joint Council Sub-Committee chair), all board members and executive teams for their participation, cooperation and hard work in the course of this review.

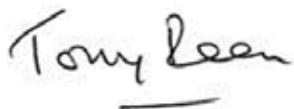
They have contributed a great deal to the review. I also acknowledge the very helpful advice received from stakeholder groups, pension experts and individuals.

I also want to thank the Minister of Municipal Affairs and Housing, the Honourable Bob Chiarelli, his predecessor Kathleen Wynne and staff, and the Deputy Minister of Municipal Affairs and Housing, William Forward, and his staff for the support provided by the Ministry.

While I was given an opportunity to commission external resources I requested professional and administrative support for the review from the ministry. I have had the great pleasure of working with a three-person team led by John Ballantine – Manager of Special Projects in the Municipal Finance Policy Branch and including economist Mark Bergshoeff and administrative coordinator Sandra Rego. Both myself and stakeholders involved in this review have received superb professional support from Mr. Ballantine and his team and I want to strongly commend them for their many contributions to this work. They are a credit to the ministry and to the Ontario Public Service.

The report commences with an executive summary, which is followed by background on OMERS, the principles adopted for the review, a report on consultations and our conclusions and recommendations.

I am confident that full implementation of the recommendations in this report will further the interests of plan members and better position the plan for success in an increasingly turbulent environment.



Tony Dean

January 2013

Executive Summary

The Review's Origins and Terms of Reference

On May 15, 2012 Kathleen Wynne, the Minister of Municipal Affairs and Housing announced that Tony Dean was appointed as the independent Reviewer of the governance model created under the *OMERS Act 2006*. The *OMERS Review Act 2006* requires that:

- The review be based on the actual governance and administration of OMERS since proclamation of the *Ontario Municipal Employees Retirement System Act, 2006*.
- Certain matters be addressed in the review:
 - The effectiveness and fairness of the governance model:
 - o In representing the interests of the employers that participate in the OMERS pension plans and the members and former members of the OMERS pension plans;
 - o In ensuring the efficient governance of OMERS; and,
 - o In ensuring the accountability of OMERS.
 - The efficiency and effectiveness of decision-making by the Sponsors Corporation, including its use of the supplementary decision-making mechanisms set out in or permitted in the *Ontario Municipal Employees Retirement System Act, 2006*.
 - The effectiveness of the governance model in ensuring the overall fairness and financial stability of OMERS and, in particular, in ensuring that there is no subsidy of a supplemental plan by the primary pension plan.

- Certain matters not be addressed in the review:
 - Reconsideration of the general principle of giving the responsibility for the governance of the OMERS pension plans to the employers that participate in the OMERS pension plans and the members and former members of the plan.
 - Consideration as to whether any supplemental plan established under OMERS should be continued.

The Ontario Municipal Employees Retirement System (OMERS)

OMERS is one of the largest pension plans in Canada, holding over \$55 billion in net assets. It manages a diverse portfolio of stocks, bonds, real estate, infrastructure and private equity investments. It is not only a large investment entity in Canada but is also a significant investor internationally and has been widely recognized as a success story.

As with many of its counterparts OMERS continues to experience some stress arising from volatility following the financial collapse in 2008. It has a sizable funding deficit and has been forced to make some tough decisions on contribution rates and plan design changes to address this.

In addition, OMERS now operates in an environment in which public sector plans are under close scrutiny. These plans are increasingly criticized as being overly generous and out of touch with developments in the private sector in which defined contribution plans are becoming the norm.

The world of pension investing is also becoming more competitive as plans look to increase alternative investments in areas of infrastructure and commercial real estate development.

OMERS is a jointly-sponsored pension plan. Prior to 2006 the government of Ontario acted as its sponsor but this changed in 2006 with the passage of legislation which fully devolved ownership to the employers and plan members who fund the plan and its benefits.

OMERS is now governed under a bicameral arrangement under which there are two corporations, each with its own board of directors. The Sponsors Corporation (SC) and board provide for strategic oversight and decision-making by sponsors on major policy directions including benefits and contribution rates.

In parallel, the Administration Corporation (AC) and board are accountable for the management team's day-to-day business operations of the plan, including the management of investment portfolios, paying pension benefits and ensuring compliance with financial regulations such as those governing actuarial valuations. This board has major fiduciary responsibilities in the sense that it must act only in the interests of pension plan members as a whole and hence in fiduciary matters must maintain full independence from plan sponsors.

Client service surveys of employers and members indicate a tremendous degree of satisfaction with the pension information that is communicated to them.

The two OMERS boards are populated with individuals tremendously committed to the plan and who have dedicated a significant amount of their time to ensure that the plan achieves success.

Both corporations have hired executives with a high level of expertise. The two OMERS boards have made efforts to work more efficiently and effectively as organizations and to work more collaboratively, although there have been some long-standing areas of tension between the two boards. These have been surfaced and discussed in the course of this review and some positive momentum has occurred and this must continue. It is vital for plan members that these issues be addressed.

Principles and Approaches Adopted for the Review

The following principles were adopted for the review and were communicated to stakeholders from the outset:

Openness: Anyone wanting to participate/contribute to the review should be given the opportunity to do so.

Transparency: Information about the review should be shared with stakeholders to the fullest extent appropriate.

Timeliness: The review should be conducted in as efficient and timely a manner as possible.

Scope: The review should adhere to the issues laid out in the legislation

As stakeholders were heard and issues surfaced, the following principles stood out to the Reviewer as important in guiding the thinking of the Review Team and its iterative discussions with stakeholders:

- The overriding lens for the review must be about what is best for plan members;
- Foundational principles of good governance apply to all pension plans without exception;
- In Jointly Sponsored Pension Plans (JSPPs), the culture of collective bargaining and the legal requirements for fiduciary responsibility are each part of the operating context but for all of the parties there is a clear line between these two worlds that must be respected;
- While there are obvious opportunities to make recommendations to refine the legislation in order to accomplish necessary improvements, the best solutions will be consensual ones arrived at by the owners and stakeholders. These solutions crafted together by owners and stakeholders are likely to be better received. In that sense, imposed solutions are undesirable, unless they are collectively driven;
- The Corporations should use their existing authorities to address these issues to the fullest extent possible without opening up the legislation; and,
- The reputation of OMERS is critical. That is, how it is viewed by plan members, sponsors, the investment community and competitors.

The Process and Substance of the Review

Phase 1: Between May and June 2012 the Review Team was assembled, a work plan was drawn up, a website established and an invitation for submissions was sent to OMERS stakeholders together with a consultation guide.

Phase 2: From late June to early September 2012 the Review Team held 26 meetings with stakeholders and received 28 written submissions, including submissions from the boards of OMERS. All were of high quality and demonstrated a high degree of commitment to the OMERS plan members and the overall success of the plan.

Phase 3: Work throughout September involved analysis of the consultation findings and how the governance of OMERS compared to that of other large pension plans. The majority of the topics raised fell into three main themes:

1. The need for aligned, efficient and transparent decision-making processes with clear accountability structures.

The division of responsibilities and decision-making powers between the boards is well understood. It generally works efficiently and produces fair and equitable outcomes. Problems have arisen for the boards in so called “cross-over” areas where both boards see a need for greater involvement, or at least more information, in areas solely under the authority of its counterpart board. The most significant of these involved plan and membership growth and funding (in particular, the periodic valuation of the plan’s assets and liabilities).

2. Fairness in representation on both boards.

With sponsorship of the OMERS plans lying with approximately 36 unionized and non-union employee groups and almost a thousand employers, it is inevitable that some sponsors will not have an opportunity to sit at the board table of either the SC or AC.

Generally speaking, SC by-laws operate under principles which see representation based predominantly on headcount. Under this model, the Canadian Union of Public Employees (CUPE) and the Association of Municipalities of Ontario (AMO) hold the most significant weight on the boards.

Issues of fairness in representation were vigorously raised by three broad-based groups: management and non-unionized employees; smaller unions; and retiree groups. They raised major concerns about the lack of information provided to them on decisions affecting the plan and their overall lack of voice in decision-making. To put it simply: they feel shut off from information and shut out of decision making. All three groups are seeking direct representation on the boards (in the case of retirees, some additional representation).

Under the rubric of representation other stakeholders questioned the SC's by-law which has entrenched weighted voting, with a resulting dominance of CUPE and AMO on the boards and in the roles of co-chairs of the SC.

3. The presence of high-level expertise and capacity on the administration board.

The most significant issue arising in consultations with stakeholders and experts related to the level of expertise and capacity on the AC board. Governance literature and pension experts emphasize the importance of best-in-class board capacity as a critical success factor in the achievement of pension plan goals. There is a widespread belief that this is a vulnerability in the OMERS governance structure and hence for the plan as a whole:

- Pension experts familiar with the OMERS governance structure identified concerns about the capacity of the AC board and its ability to effectively oversee and challenge a world-class management team;
- The AC board raised substantial concerns about its own level of capacity to administer and oversee a large pension fund holding \$55 billion in assets on behalf of over 420,000 plan members. The AC board called for a much more

rigorous process for determining key board capacities and for selecting the talent aligned with those capacities and for the appointment of an independent chair; and,

- Concerns have been raised by a number of parties that the current model of appointments might conceivably result in a perception of conflict on the part of appointees between their allegiance to the appointing sponsor and their fiduciary responsibilities or a perception that board members are not acting in an adequately independent manner from the management team.

Many of these issues are also central in the literature on pension governance and were raised with the Reviewer by pension and governance experts.

Phase 4: From October 2012 to January 2013 - the final phase of the review - centred on the preparation of this report. Consistent with the philosophy of encouraging home-grown efforts to address any governance issues arising from the review, the Review Team met and worked with the chairs of the AC and SC boards to discuss approaches to some of the evident challenges in the organization.

Progress Made in Internal Discussions

Despite some pre-existing tensions in their relationship, board representatives worked hard in this process, taking a problem-solving approach in the discussions and looking for opportunities for greater cooperation and collaboration. It is a testament to these efforts that the boards subsequently endorsed many of the recommendations arising from those discussions.

In terms of aligning roles and responsibilities, significant progress was made in developing protocols for improved communication and collaboration on major issues such as growth, plan changes and actuarial valuations and assumptions. This had been a significant irritant between the boards for a considerable time.

On the issue of board representation, progress was also made on obvious opportunities for improved communications, outreach and engagement with stakeholders, smaller unions and unaffiliated groups.

In the third area, dealing **with the capacity of the AC board**, progress was more difficult. There was broad acknowledgement both internally and external to the organization that the AC board would benefit from having higher capacity and the AC itself supported this in its own written submission to the Reviewer. On the other hand one or two sponsors were cautious about losing what they consider to be an important sponsor-related representational presence on that board. The recommendations in this report calling for improved capacity on the AC board respect that concern. They also acknowledge the current right of the SC board to make appointments to the AC board on the recommendation of sponsors.

On a related matter, both boards strongly endorsed the Reviewer's proposal that a strong, independent chair be appointed to lead the AC board.

Recommendations

Detailed recommendations are provided in the body of the report.

Given the process involved in this review, there will be no surprises in the recommendations for the boards of OMERS. Some recommendations have been crafted together with representatives of the boards and many have already been endorsed by both boards, at the very least at the level of principle.

There are a small number of manageable recommendations. There is no reason why implementation should not commence on all of them in short order.

Recommendation eight focuses on implementation of the recommendations and is based on best practices observed in other large and complex organizations. The adoption of this recommendation is as important as those dealing with the substance of the review.

Reviewer's Report - Ontario Municipal Employees Retirement System (OMERS) Governance Review 2012

A Brief Description of the Ontario Municipal Employees Retirement System (OMERS)

OMERS was established in 1962 to serve local government employees across Ontario. Under the current legislation, it holds a monopoly on pension products for Ontario's municipalities. The plan represents 947 employers and almost 420,000 members, retirees and survivors. Municipalities are not the only employers in the plan, which covers a wide range of municipal sectors from school boards (non-teaching staff), police and fire, children's aid societies, transit authorities and hydro workers.

As of December 31, 2011, OMERS held \$55 billion in net assets. It is a significant domestic and international investor with substantial holdings in stocks, bonds, real estate, infrastructure and private equities.

History

Governance Structure Prior to the *OMERS Act, 2006*

Prior to the proclamation of the *Ontario Municipal Employees Retirement System Act, 2006* (OMERS Act), the OMERS board existed as a fiduciary board with membership consisting of representatives of employer and employee groups. Employer and employee groups provided recommendations to the Ontario Cabinet on appointments with Cabinet having a final say on those representatives.

In addition to appointing members of the OMERS board, Cabinet made decisions on "political" issues such as benefit changes and contribution rates, decisions which are typically made by pension plan sponsors. Cabinet played the role of

sponsor even though the Province did not have employees in the plan and did not pay contributions directly into the plan as an employer (although they did so indirectly for some employers like school boards and children's aid societies). Cabinet was viewed by many stakeholders as the body that could best ensure that the interests of the wide variety of employers and employees in the OMERS plan could be considered. It also removed pensions from local collective bargaining and was viewed as a means of controlling benefit costs.

The OMERS board had a long history of making recommendations on sponsor issues and Cabinet would often make decisions that were in line with those recommendations. One concern that did emerge was the appropriateness of a fiduciary body advocating for these types of changes. At the very least, there was a perception that the board was spending too much time considering sponsor issues as opposed to fiduciary issues.

Discussions on Governance Reform

Discussions on governance reform in the OMERS plan began in 1986, following a major review of all Ontario pension plans. Interest in the issue began to grow in the 1990s when other plans such as the Ontario Teachers' Pension Plan (OTPP), the OPSEU Pension Trust and the Healthcare of Ontario Pension Plan (HOOPP) were granted a measure of autonomy by the province.

In 1995, OMERS surveyed its membership and found support for governance reform and stakeholder consultations on autonomy began two years later.

In 2000, Tony Clement, the Minister of Municipal Affairs and Housing at the time, wrote to the OMERS board chair to ask it to make recommendations to government on an appropriate governance model.

A report was forthcoming in 2002 but devolution did not occur within the mandate of the Conservative government. This may have been as a result of significant governance issues which were left unresolved by the report including a means of accommodating police/fire employees' interest in enhanced benefit levels, options for dispute resolution for decisions of a prospective new sponsor body and funding of that body.

Premier McGuinty, when Leader of the Opposition, made a campaign commitment to a governance model in October 2002 that would devolve sponsor decisions by Cabinet to representatives of employers and employee groups and would also provide supplemental benefit plans for the police and fire sectors. The OMERS Act was viewed by the government as a fulfillment of that commitment.

Components of the *OMERS Act, 2006*

The OMERS Act provided for the creation of a new sponsors body called the OMERS Sponsors Corporation (SC) which was to assume responsibility for decisions previously made by Cabinet. The government sought a plan governed by those “who pay into and benefit from it”.

The OMERS board was continued as the OMERS Administration Corporation (AC) and maintained its corporate structure as a means of providing for an orderly transition and to ensure that “pensions continued to be paid” and “investments continued to be made”.

Both OMERS corporations were provided with natural person powers to fulfill their respective legislative roles.

The AC was mandated to create and register a supplemental benefit plan for the police, fire and paramedics sectors. Provincial funding was provided to the AC for this task as the costs associated with setting up and registering the supplemental plan could not legally be recovered through the main plan. The legislation specifically prevented the supplemental plans from being subsidized in any way by the main OMERS plan including “rebound costs” which can generally be described as costs incurred by the main plan as a result of changing actuarial assumptions due to the presence of a supplemental plan.

Funding was also provided to the SC for its start-up costs and the Province hired a facilitator to work with the new SC board to put in place its initial by-laws and establish a working relationship between the participants.

Other key features of the legislation included:

- The continuation of the main plan as a defined benefit plan;
- Parameters designed to safeguard employer fiscal sustainability;
- OMERS would continue as exclusive provider of pension products for the municipal sector;
- A means for the SC to collect a fee from employers and employees to pay for its costs that cannot legally be recovered from the main plan;
- Components of a mediation/arbitration process that would later be replaced by by-laws passed by the SC board; and,
- SC and AC board composition and appointment processes that would later be replaced by board by-laws.

In order to ensure that a wide range of stakeholders provided input into the proposed Act, it was referred to committee after both 1st and 2nd reading.

The *OMERS Review Act, 2006* and the 2009 Stakeholder Consultation

In response to stakeholder concerns about how the new governance model would function, the *Ontario Municipal Employees Retirement System Review Act, 2006* (the Review Act) was passed at the same time as the OMERS Act. The Review Act called for the Minister of Municipal Affairs and Housing to conduct stakeholder consultation as soon as possible after the earlier of the date of the first triennial valuation of the plan or 2009. The triennial valuation was filed in late August 2008 and the consultation took place in early 2009.

Fourteen submissions were made to the Minister during this consultation. The issues that were raised ranged from the overall performance of the two corporations, AC board member qualifications, representation on boards and procedural issues. Generally speaking however, stakeholders felt that no legislative changes were needed as the two corporations had had limited experience in governing the plan.

Stakeholders anticipated that they would be providing more substantial comments to the government through the larger review required under the Review Act which concludes with the filing of this report and its recommendations.

The OMERS Success Story

Despite concerns expressed by some stakeholders in 2006 and during the 2009 consultation, OMERS has been a success story both in Canada and internationally.

OMERS is one of the largest pension plans in Canada, holding over \$55 billion in net assets. It manages a diverse portfolio of stocks, bonds, real estate, infrastructure and private equity investments. It is not only a large investment entity in Canada but is also a significant investor internationally. Client service surveys of employers and members indicate a high degree of satisfaction with the pension information provided to them. There is general consensus among stakeholders that services provided to pensioners are top rate. There has been positive external recognition as well. World Finance magazine named OMERS the pension fund of the year in Canada in 2010, 2011 and 2012 and OMERS has been recognized as one of Canada's Top 50 employers for five consecutive years.

Members of the two OMERS boards are obviously committed to the plan and have dedicated a significant amount of their time to ensure forward momentum. In the last two months, the chairs of the two boards have worked together in tackling some long-standing issues and have achieved agreement in a number of areas. This builds on earlier efforts on the part of the boards to establish mechanisms to promote improved collaboration.

Both corporations have retained top-flight executives who are serving the boards well and who provided a great deal of support in the course of this review. While OMERS has been a success story, this review has identified some internal issues with the governance structure of OMERS. These are fairly widely acknowledged both inside and outside of the organization. It is important that these issues are brought to the surface and it is vital for plan members that they be addressed.

The Review

Approach to the Review

The following principles were adopted for the review and were communicated to stakeholders from the outset:

Openness	Anyone wanting to participate/contribute to the review should be given the opportunity to do so.
Transparency	Information about the review should be shared with stakeholders to the fullest extent appropriate.
Timeliness	The review should be conducted in as efficient and timely a manner as possible.
Scope	The review should adhere to the issues laid out in the legislation.

As stakeholders were heard and issues surfaced, the following principles stood out to the Reviewer as being important in guiding the thinking of both the Review Team and stakeholders:

- The overriding focus of the review must be on what is best for plan members;
- Foundational principles of good governance apply to all pension plans without exception;
- In Jointly Sponsored Pension Plans (JSPPs), the culture of collective bargaining and the legal requirements for fiduciary responsibility are each part of the operating context but for all of the parties there is a clear line between these two worlds that must be respected;
- While the review contemplates the possibility of legislative changes to accomplish necessary improvements, the best solutions will be consensual ones arrived at by the owners and stakeholders. In this sense, imposed solutions are undesirable, unless they are absolutely necessary;

- The Corporations can use their existing authorities to address these issues without opening up the legislation; and,
- The reputation of OMERS is critical. That is, how it is viewed by plan members, sponsors, the investment community and competitors.

Four Phases of the Review

Phase One (*mid-May to late-June 2012*)

The initial phase was geared towards founding a small technical team and preparing for stakeholder consultations. The Ministry of Municipal Affairs and Housing provided a lean and flexible team of support staff and we started by familiarizing ourselves with the history of OMERS, with a particular emphasis on the governance model that was created in 2006. A consultation paper was prepared with pointed questions – driven by the legislated mandate – that were expected to be of interest to stakeholders. In addition, the review website was launched with an introductory message from the Reviewer to stakeholders, the consultation paper and the Reviewer's Terms of Reference document. The website was used throughout the review to keep stakeholders informed of its progress.

Phase Two (*late-June to early-September 2012*)

The initial consultation phase of the review consisted of face-to-face meetings with OMERS stakeholders, receiving online responses to questions in the consultation paper and accepting written submissions. This was very much the listening phase of the review. The majority of meetings were held on the 2nd floor of 777 Bay Street in Toronto. By September 4, 2012 – the deadline for submissions – we had held 26 stakeholder meetings and received 28 written submissions. The information provided during the meetings and submissions was substantial and well thought out. It clearly showed the commitment and concern that all stakeholders feel towards the OMERS plan and they should be commended for their contributions to the process.

Phase Three *(September 2012)*

As the first round of consultations came to an end, we turned our attention to analysing what we had heard and how the governance of OMERS compared to that of other large pension plans. Soon after this analysis got underway, it became apparent that the majority of the topics raised could be organized into three main themes:

1. The need for aligned, efficient and transparent decision-making processes with clear accountability structures;
2. Fairness in representation on both boards; and,
3. The presence of high level expertise and capacity on the administration board.

Not surprisingly, these themes were also high on the list of topics discussed in the literature on pension governance. The themes are returned to later on in this report.

On September 27, 2012, the Reviewer addressed both OMERS corporations' boards to provide them with an update on what had been heard during the consultation period. On the recommendation of the Reviewer the boards agreed to a series of meetings in October and November involving the Review Team and the chairs of the SC and AC. The meetings focused on the three themes mentioned above.

Phase Four *(October 2012 to January 2013)*

The last phase of the review centred on the preparation of this report. We met with the chairs of the AC and SC boards to discuss their ongoing work to improve decision-making processes and the flow of information within OMERS. The output of these discussions was reported to a joint meeting of the AC and SC boards on December 13, 2012. As we note below, the boards subsequently endorsed many of the recommendations arising from those discussions.

Prior to finalizing the report we also met again with several major stakeholders to outline our findings and the overall direction of the report.

Focus of the Review

Since the review was a statutory requirement, we turned to the legislation to help define the parameters of our work. The Review Act states that the review shall be based on the actual governance and administration of OMERS since the proclamation of the OMERS Act. It also outlines the aspects of OMERS governance and administration to be examined through the review and those not to be addressed.

In particular, the focus of the review was on:

- How the model is representing the interests of OMERS employers, members and retirees;
- How efficiently the OMERS corporations and plans operate under the governance model;
- How the governance model ensures accountability to employers, members and retirees; and,
- The effectiveness of the governance model in ensuring the overall fairness and financial stability of OMERS and, in particular, in ensuring that there is no subsidy of a supplemental plan by the primary pension plan.

It was also stated from the outset that the review would not address:

- The general principle of devolving responsibility for the governance of the OMERS pension plans to those who pay into and benefit from the plan; or
- The decision to create a supplemental plan for the police, fire and paramedics sectors.

Responses to Questions for Consideration

To help guide conversations with stakeholders, a series of questions was compiled based on the main areas of focus for the review. The questions were included in the Consultation Framework, which was posted on the review website on June 7, 2012, and were intended to encourage stakeholders to reflect on their

experiences with the OMERS governance model since 2006. We emphasized that these questions would not apply to all stakeholders equally and that stakeholders could raise other issues within the focus of the review.

We will now revisit those questions and the comments that we received in relation to those questions.

Stakeholder Interests

1. Are the interests of employers, members and retirees fairly represented in decisions made by the OMERS Administration and Sponsors Corporation boards?

No examples were provided during the review of specific decisions made by either board that were deemed to be unfair to particular employers, members and retirees. Decision makers on both boards need to be mindful however of the differences in cost pressures experienced by different sector employers that participate in the plan.

This is especially true for organizations that do not currently hold a seat on one or both of the OMERS corporations. There is a concern raised by these organizations that decisions may not take into consideration their viewpoints. Fairness in representation on both boards is discussed more broadly later in the report.

2. Are methods used by the OMERS Administration and Sponsors Corporation boards to solicit the input of stakeholders sufficient?

Some groups expressed displeasure with the extent to which the boards seek and include stakeholder input. The main issue is that information is provided at stakeholder meetings once in the spring and once in the fall but that there is little opportunity for input into decision-making as the stakeholder meetings are primarily used as an opportunity to report back on decisions that have already been made. Suggestions for improving stakeholder contributions in board discussions included an easily accessible online submission form and open SC meetings.

Additionally, we heard concerns from stakeholders who feel disenfranchised and would like to be directly represented on the boards. On the other side, we heard compelling arguments in terms of the practicality in achieving this representation. This is discussed more broadly later in the report.

3. Is the current composition of both corporations' boards fair in representing employers, members and retirees in the OMERS plans?

A number of concerns were raised around the degree to which the current composition of the two boards represents all members and retiree interests. In particular, we heard that the non-unionized/management group, smaller unions and retirees feel either unrepresented or underrepresented on the boards.

4. Is the process for choosing new members of both corporations' boards fair in representing employers, members and retirees in the OMERS plans?

The SC has adopted by-law #4 and by-law #13 which outline the rules and conditions on representation on the SC and AC boards, respectively. Generally speaking, the by-laws operate under principles which suggest that representation is achieved based on headcount amongst other considerations (such as the representation of specific sectors).

Groups that are unrepresented on the boards and who are unable to achieve a board position under the processes outlined in by-laws #4 and #13 have expressed concern about having their voice heard when decisions are made by the two corporations' boards. There was also some concern expressed by some retiree organizations about the method adopted for choosing their representatives on the boards. These are discussed more broadly later in the report.

Efficiency

1. Is the current governance model of OMERS conducive to efficient governance?

The general consensus was that the bicameral model (two governing bodies with separated sponsor and fiduciary responsibilities) is desirable for OMERS. That being said, it was also acknowledged that there are a number of issues and

tensions in the relationship between the boards. To a large extent these issues could be addressed through greater collaboration. This boils down to better and more regularized communications and making a greater effort to involve each other in areas of mutual interest. These opportunities are discussed in detail below.

2. Are there examples of efficient governance models in major public service pension plans across Canada and world-wide which should be compared to the current OMERS governance structure?

The OTPP, HOOPP and the Canada Pension Plan Investment Board (CPPIB) were oft-cited examples of efficient governance models in our discussions around the capacity of the AC board. The OTPP and CPPIB examples were used to support the position that an expert board should be appointed, while the HOOPP example was used to support a representational model. These concepts and the overall capacity of the AC board are discussed later in this report.

3. Are there requirements in the *OMERS Act, 2006* which should be devolved to either the Administration or Sponsors Corporation boards?

This question received considerable attention during the review and many competing views were posited on the optimal allocation of board responsibilities. As the consultation phase progressed, it became clear that opening the OMERS Act to change responsibilities was not necessary (or desirable) to achieve the vast majority of potential improvements to the OMERS governance structure. There is really no need for the legislature to deal with these issues if a resolution between the two boards achieves the same purpose.

4. Do the two OMERS corporate boards work efficiently and effectively with one another?

The working relationship between the OMERS boards was discussed extensively in our consultations. We heard that although there were some initial growing pains, the relationship has evolved gradually since 2006. This evolution is evidenced by joint signals of commitment to improving collaboration (the AC/SC Framework

Agreement, recently approved joint frameworks for growth, etc.). Nevertheless, some stakeholder groups expressed concerns over the working relationship, and these appear to be justified. But both boards appear to be open to furthering efficiencies. We elaborate on this further later in the report.

5. Are decisions on the OMERS plans being made by the appropriate corporation's board?

The roles and responsibilities of the AC and SC boards was one of the main topics discussed in consultations. To determine where appropriate authorities should rest, we turned to the OMERS Act. The authorities of each board are clearly set out in the legislation and with appropriate communication and collaboration, the interests of both boards can be addressed. This topic is further discussed below.

Accountability

1. Does the governance model of OMERS ensure that appropriate levels of accountability are upheld for various stakeholders (employers, members, retirees)?

As mentioned earlier, client service surveys of employers and members indicate a high degree of satisfaction with the pension information that is communicated to them. There is general consensus among stakeholders that the service provided to pensioners is top rate.

There are some communications challenges however between the boards and stakeholder groups. An example of this is raised later on in the report.

2. Are the methods used by the OMERS Administration and Sponsors Corporation sufficient in providing information on decisions?

As stated earlier, many stakeholders are not satisfied with the information that they receive on how decisions are reached on either board. While meetings with stakeholders take place on a bi-annual basis, there is a perception that these are

often information sessions outlining where decisions have already been made and are inadequate in meeting the needs of stakeholders to weigh in on decision-making.

Decision-Making

1. How effective is the decision-making process for OMERS Sponsors Corporation board decisions?

The Association of Municipalities of Ontario (AMO) and the Canadian Union of Public Employees (CUPE) represent the greatest number of employers and employees in OMERS. Under the OMERS Act this had been recognized through provisions that allow for those two organizations to have a greater number of votes. The Province opted to use weighted voting rather than expanding the size of the board which may have made it unwieldy. The practice of weighted voting was continued by the SC in its by-law #4. Some stakeholders have questioned the continuation of weighted voting in the SC's by-law which continues the dominance of CUPE and AMO.

As mentioned earlier, all members of the SC board need to consider the unique challenges and cost pressures of different sectors represented in the plan when decisions are made.

Given the weighted voting, it comes as no surprise that the representatives of those two organizations are the co-chairs of the SC board and have been so since the SC was created in 2006. During the consultation, no stakeholder suggested that meetings have not been well run and that the SC board has been compromised in making decisions because of it. The SC has considered this issue a few times with a number of changes which has resulted in the creation of a regular process for choosing the co-chairs. Nonetheless, in view of the fact that this continues to be an issue for many stakeholders, the SC board may want to consider reviewing this process on a regular basis to ensure that board members

are of the opinion that decisions are being made in an equitable way. This would include considering the possibility of rotating chair positions between the organizations represented on the SC board.

Financial Sustainability of the OMERS Plans

1. Has the current governance structure ensured the overall fairness and financial stability of OMERS?

Despite a commendable financial record and numerous awards, some stakeholders argued that the governance structure of OMERS could be enhanced to ensure the long-term sustainability of the plan. In particular, we heard that it was paramount for an organization with \$55 billion in net assets and a global portfolio to have an AC board with the highest level and mix of expertise making and overseeing important financial decisions. These views were well supported throughout the literature on the subject by experts in the field of pension governance. We expand on this below.

2. Is *the OMERS Act, 2006* flexible enough for investment decisions to be made that result in the best possible returns for OMERS beneficiaries?

No examples were provided regarding restrictions in the OMERS Act that would impede investment decisions. Since 2006, both boards have made efforts to develop investment decision-making processes where there are areas of mutual interest. This has not always been optimal. However, the boards recognize that growth, in a measured and disciplined manner, is an important component of ensuring the long-term sustainability of the plan. In the course of this review the boards discussed and approved joint principles and process frameworks for third-party capital and membership growth. We consider this to be a significant step in the right direction.

Potential Subsidization of the Supplemental Plan for Police, Fire and Paramedics

1. Does the current governance structure ensure that main OMERS plan funds are not used for costs associated with the supplemental plan for the police, fire and paramedics sectors?

This issue was hardly, if ever, raised in consultations. Subsidization of the supplemental plan for the fire, police and paramedics sectors by the main OMERS plan is prevented by law and since this issue was not raised, we have concluded that there is a broad consensus that subsidization of this sort is not taking place.

Three Main Themes

The focus of this review is on the governance of OMERS. Governance relates to the process of decision-making and the processes by which decisions are implemented. Good governance is associated with the success of both countries and organizations and it has been widely discussed in the context of pension plan administration. There is an overwhelming consensus among experts that good governance is a foundational aspect of successful and resilient pension plans. Attention is particularly drawn to the following critical success factors:

- There should be clarity and alignment of roles and responsibilities;
- Sponsor and fiduciary functions should be administered by bodies that are independent of one another, but there must also be a common understanding of key opportunities and challenges and the environment in which the organization is operating; and,
- Good governance is paramount and at the heart of this is a well-managed pension plan overseen by a fiduciary board that possesses top-of-class talent on its board and that is well connected to stakeholders.

Not surprisingly perhaps these success factors are reflected in the three major themes that emerged during our consultations:

1. The need for aligned, efficient and transparent decision-making processes with clear accountability structures;
2. A number of stakeholders raised concerns about fairness in representation on both boards; and,
3. There are concerns about unevenness in the capacity of members on the administration board.

We now deal with these issues in turn.

1. Aligned, Efficient and Transparent Decision-Making Processes with Clear Accountability Structures

It is important at the outset to outline the authorities provided to the SC and AC under the OMERS Act.

Under this Act, the SC is responsible for:

- Setting contribution rates and establishing reserves;
- Determining the composition of the AC and SC boards and the method of choosing its members;
- Setting remuneration and expenses policies through by-law for both boards; and,
- Plan design, making amendments to the plan texts and making decisions on whether or not the valuation is to be filed earlier than required under the Pension Benefits Act, 1990 (within three years currently).

All votes are by majority except for benefit changes, setting contribution rates, making decisions on stabilization reserves and determining the composition of the AC board. The SC can require the AC to recover its costs from the plan (if lawful) and it can also ask the AC to collect a fee for other expenses.

The AC is responsible for:

- Administering the plans;
- Acting as the trustee of the pension funds under the OMERS Act;
- Setting the actuarial methods and assumptions and establishing the funding policy to be used for the purpose of preparing the valuation;

- Appointing the actuary and auditor;
- Establishing investment policies and managing and allocating the assets of the plans; and,
- Providing the SC with information that the SC may reasonably request for the purpose of carrying out its objects, and advising and assisting the SC by providing reasonable technical support.

Generally, the fiduciary body oversees the day-to-day operations of the plan in paying out pensions and making investments while the sponsor body makes higher level strategic decisions on contribution rates and benefit levels and the future direction of the plan provisions.

There is general agreement about the authorities outlined above and who is responsible for those authorities in particular areas. But tensions have arisen over so-called “cross-over” areas or “touch-points”. These are areas in which both boards wish to have greater involvement in areas within the authority of the other.

This is particularly crucial given that the actions of one board in some areas have an impact on the decision-making ability of the other board. For example, actuarial assumptions determined by the AC board have an impact on the SC board’s ability to make plan changes and set contribution rates. On the other hand, decisions made by the SC board on plan membership growth have an impact on investment and funding decisions made by the AC board.

As part of an effort to work in areas of common interest, the two boards have established a Framework Agreement and a Joint Council in an effort to address issues of mutual interest and perceived areas of overlap. Despite the existence of these formal agreements and structures it was evident in this review that communication gaps and other challenges remained.

For example, both boards recently addressed the issue of the different contribution rates between members with an NRA of 60 and those with an NRA of 65. The police and fire sectors are generally in the first category while the rest of the OMERS membership is in the second category. There is an evaluation

periodically to determine the relative cost of benefits applicable to each group following which the contribution rates are developed to achieve the appropriate balance. The concern is not the decision that was ultimately made on this issue, but what followed. We make two points on this:

First, these are important decisions so information associated with them should be clearly and transparently provided to plan members and sponsors. We are not convinced that this occurred.

Secondly, in this case the boards engaged in a letter writing campaign to one another rather than using the mechanisms for communication that they had put in place. This is emblematic of challenges in the relationship between the boards.

On a more positive note, the substantial amount of agreement achieved by the SC and AC board chairs over a series of meetings with the Review Team spoke to the value of regular face-to-face communication on issues of joint interest and suggests that it should be a cornerstone of improvements going forward.

The board chairs acknowledged that communications in general need to improve, not only between boards but between the boards and sponsors. Pension experts emphasize the necessity of keeping stakeholders informed, particularly during periods of economic uncertainty. This assists with understanding and obtaining buy-in when difficult choices are being made.

The AC board must be sensitive to the reasons for sponsor interests and concerns and to engage in problem-solving discussions with sponsors.

At the same time, sponsors must respect the fiduciary responsibilities of administrators and avoid any perception that an effort is being made to exert influence in those areas.

The key touch-points are as noted below:

Strategic Planning

Despite the fact that there is one OMERS organization, it is quite telling that both the AC and SC have separate strategic plans and/or statements. This leads to

the possibility of two competing visions for OMERS that can confuse members, employers and investors alike. Discussions on a joint strategic plan commenced in September 2012 and the two boards should continue working on developing a common strategic plan. This should be an organizational priority.

Plan Growth

The AC views plan growth as an important component of the plan for the long-term sustainability of the plan and consistent with its fiduciary obligation to protect all plan members. Growth is intended to mitigate the impact of rising costs due to plan maturity, an aging membership and increasing longevity. As a result, the AC is actively pursuing plan growth opportunities as a key priority.

The opportunities for growth being pursued can be divided into these categories:

1. Agreements to bring in capital from third parties for co-investment;
2. New membership from OMERS portfolio companies;
3. Opportunities to take advantage of domestic plan consolidation currently being considered by the Province; and,
4. Membership growth within and outside the municipal sector.

There is an acknowledgement that the SC is the gatekeeper for plan growth under the OMERS Act. This includes not only municipalities and local boards but also “associated employers” which are organizations that provide a program or service on behalf of a municipality or local board and certain corporations incorporated under *the Electricity Act, 1998*. Associated employers have been a long-standing component of the OMERS plan and Cabinet had designated a number of associated employers prior to the enacting of the OMERS Act.

Under the 2010 Budget amendments to the OMERS Act, the SC was given the ability to determine whether certain new types of employers could participate in the OMERS plans. These are subsidiaries created by the AC and the AC's investment entities that manage investments on behalf of the AC. The SC also has the right to determine the conditions under which these employers participate in the plan.

The intention of the government in naming the SC as the gatekeeper reflects the fact that the vast majority of sponsor organizations view OMERS as a municipal plan providing a service primarily to employees in the municipal sector. There is a suggestion held by many stakeholders that including non-municipal employers places pressure on the plan to open up board representation and threatens the focus of the organization away from consideration of the municipal financial climate. This point of view continues to influence the comfort level that the SC has in terms of new growth and this is clearly their prerogative.

In recent discussions with the Reviewer, the SC board chairs agreed with the AC perspective on the need for growth. At the same time there was a general concern that the SC has not had sufficient awareness of the activities of the AC in soliciting opportunities for growth.

A number of round-table discussions between the SC and AC board chairs and the Review Team resulted in the identification of principles regarding plan growth in each of the avenues outlined above. These were subsequently approved by the boards of both corporations.

There is agreement that SC staff need to be involved with AC staff on proposals for plan growth through membership growth. This involvement should occur early in the process and staff of both corporations would be expected to report back to their respective boards on progress. It is anticipated that this early participation by SC staff will allow the SC to provide guidance to the AC on the type of growth that it is comfortable approving. The aim is to maximize the speed and efficiency of decision-making. The SC is also interested in information on the demographics of new employers and the potential impact of their inclusion in the OMERS plan, the stability of prospective new employers and the health of an employer's industry. The implications for board representation are also of interest in cases where a new employer/s would bring a significantly large group of employees into the plan.

The SC co-chairs were also able to provide some guidance to the AC chair on types of growth their board might be comfortable with. The synopsis is as follows:

New Membership from OMERS Portfolio Companies

The SC has indicated that they are generally open to considering membership in the OMERS plan to OMERS portfolio companies, where permissible.

Membership growth within the Municipal Sector

In principle, there is acknowledgement that membership growth within the municipal sector is natural growth of the plan provided that there are no major concerns about an excessive amount of liabilities being taken into the plan and if the demographics do not drive a substantial subsidization of new members by existing employers and employees.

As a subset, the AC has contemplated the addition of new employers with one asset and liability pool with multiple classes. So for example, a municipal board or agency may have historically created their own pension plan and OMERS may want to consider a proposal to bring that plan into the main OMERS plan. Such a proposal could include considering the benefits of pooling the assets of that plan into one asset and liability pool. A different "class" of pension could also be considered to permit employees and the employer to contribute at a different level than other members of the main OMERS plan.

The joint principles and process framework related to membership growth discussed with the board chairs (and since approved by the two boards) leaves open the possibility of having different classes of employers in the manner described above.

Membership Growth beyond the Municipal Sector

While there is some interest in targeting the broader public sector for new employers (particularly in the midst of imminent decisions by the Province on pooling smaller pension plans), there is less comfort from a sponsor point of view to admit employers outside of the public sector beyond considering offering

membership to employees of companies that OMERS controls. The risks are considered to be too high. There is an exception where an employer is applying for membership for employees who are currently members of the OMERS plan and have been affected by downsizing, outsourcing or restructuring. It is arguable that the OMERS legislation has allowed for the admittance of employers in this situation under the "Associated Employer" umbrella.

It should be noted here that admitting employers beyond the traditional employers and associated employers would require a legislative change. The principles on membership growth discussed with the board chairs also affirms a commitment made in August 2010 to provide a joint submission to the Province on membership growth. Under that proposed authority, the request to the Province called for the opportunity to potentially bring in any employer that the SC deemed appropriate without provincial approval. The 2010 Budget changes can be viewed as a response to that submission and indicate that while the Province is comfortable with broadening OMERS to potentially include the AC's investment entities, it did not cross the line to include private sector employers. The OMERS Act references other public sector employers and charities but that section remains unproclaimed. This decision was perhaps made to avoid complaints from private sector pension providers who would be faced with a new very large and resource deep competitor. OMERS would have potentially competed with private sector pension providers for private sector pension business, but there would continue to be no competition in the municipal sector where OMERS maintains a monopoly.

The overall consensus reached by representatives of both boards in recent discussions represents a significant advancement in providing clarity on decision-making and would result in a greatly improved avenue for consultation and information sharing at regular intervals.

Plan Changes

There is an interest by the AC in plan change decisions which are clearly in the realm of the SC board under the legislation. There is a clear difference in terms of plan changes. The participants from the two boards identified four different types:

1. Housekeeping;
2. Compliance;
3. Technical; and,
4. Specified changes.

Specified changes are those of a more “political” nature and concern matters such as changes to benefits or contribution rates. While the AC has an interest in decisions of this type and their impact on plan funding, the main concern centred on the other types of plan change decisions.

Round table discussions involving the chairs of the SC and AC boards and the Review Team led to the conclusion that it was sensible to set in place a set of principles and processes to engage staff of both corporations to meet to discuss potential housekeeping, compliance and/or technical plan changes. Housekeeping changes would be brought forward as part of the plan text amendment and restatement process which occurs every two to three years. Compliance and routine technical changes would be brought directly to the SC for consideration and discussion. More complicated technical changes would be posted for 21 days on the SC website before a decision is made at the next SC meeting. This is a reasonable approach to ensuring that changes can be made to the plan text in a timely manner and allows the AC to respond to those changes quickly and efficiently.

Plan Funding – Actuarial Valuations and Assumptions

There was a great deal of discussion about the interest that sponsors had in the actuarial valuation and assumption setting process for the plan. Discussion in this area generally focused on two issues:

1. The setting of the actuarial assumptions; and,
2. Risk appetite.

Actuarial Assumptions

Under the OMERS Act the AC is responsible for setting the actuarial assumptions for the plan. This is not in dispute by the SC but there is an understanding that sponsors have an interest in knowing how the assumptions are set, the process for choosing the actuary for OMERS and for providing feedback to the AC on sponsor positions.

On the recommendation of the Review Team, the board chairs have worked hard to find a resolution to this and have identified an actuarial assumption setting process that allows for the SC to receive information and to provide feedback at key times in the process including the point and time when the actuary is appointed, when assumptions are set and economic forecasting is undertaken.

Risk Appetite

The OMERS Act also provides the AC with the authority to make investments. This is not in dispute by the SC but there is a concern from sponsors regarding risk. The downturn in the markets since 2008 has led to poorer investment returns and increasing liabilities. Both of these factors inevitably lead to pressures on the SC to raise contribution rates (which are already considered by many sponsors to be too high) or decrease benefits. The overwhelming majority of employers within the OMERS world would speak to the limited capacity that they have to spend additional funds on contributions. The SC board has already stated an interest to the AC in adding a level of conservatism in terms of the asset-liability mix.

It is understandable for sponsors to have an interest in how actuarial assumptions are determined and to express their concern for decisions made on investment decisions that are perceived to be of greater risk. There was a willingness expressed by the AC representatives in recent discussions to provide additional information to the SC on how decisions are made and to listen to their concerns.

It is important to note however that decisions on investments and actuarial assumptions are clearly AC board responsibilities which need to be made independently of sponsors. The sponsor concern seems to be driven by the fact that the AC board does not have the expertise to assess and potentially challenge investment policies developed by AC staff. Increasing the mix of capacity on the AC board may go a long way in ensuring that these concerns are met.

2. Fairness in Representation on Both Boards

With sponsorship of the OMERS plans lying with approximately 36 unionized and non-union employee groups and almost a thousand employers, it is inevitable that some sponsors will not have an opportunity to sit at the board table of either the SC or AC.

The groups that were most concerned about fairness in representation on both boards can be placed into three broad groups:

1. Management and non-unionized employees;
2. Smaller unions; and,
3. Retiree groups.

SC by-laws #4 and #13 outline the rules and conditions on representation on the SC and AC boards, respectively.

Generally speaking, the by-laws operate under principles which suggest that representation is achieved based on headcount amongst other considerations (including sector representation). Permanent seats are assigned to employers, associations and unions that represent the largest number of active members in the plan. The public and separate school board employer representatives are rotated which had been a long-standing practice on the pre-2006 OMERS board. Retiree groups have a method of rotating their representatives which will be discussed further later.

The transitional sections of the OMERS Act put in place rotating seat positions that presumably would allow all other employer, associations and employee

groups to have an opportunity at representation but on a cycle that would leave those groups potentially waiting for a hundred or so years for another turn at being represented. Provincial officials have suggested that it was well known that the rotating seats were unworkable but they were necessary to have something in place in the event that the SC could not come up with an agreement on composition.

The process put in place by the SC works more practically and is a reasonable effort to ensure that those groups representing the largest number of employers and employees are at the board tables. Those who are not at the table however have made known to the Reviewer their desire to be heard and their issues considered.

Management and non-unionized employees

Approximately 20.6% of active members in the OMERS plan are either management employees or are non-unionized. Associations who represent some of these members are seeking employee representation for these members on both the AC and SC boards.

In an earlier version of Bill 206 which became the OMERS Act, a position for the management/non-unionized group was contemplated for the AC board. This representative would have been chosen by the Association of Municipal Managers, Clerks and Treasurers of Ontario (AMCTO) which represents 2,200 of the members. At the time, AMCTO committed to developing a protocol with other associations to solicit their opinions, to potentially co-endorse candidates and to ensure that the representative chosen would report back to not only AMCTO but the other organizations as well.

Along with AMCTO, the largest associations in this category are the City of Toronto Administrative, Professional, Supervisory Association (COTAPSA) with 3,500 members and the Ontario Association of School Board Officials which represents 1,000 members and claims to represent 4,000 district school board employees. Other associations would include the Ontario Municipal Administrators' Association, the Ontario Human Resources Association, the Municipal Law

Departments Association of Ontario and the Municipal Finance Officers Association.

In principle, they have a strong case. It is easy to envision circumstances where the needs of this particular group of employees would be substantially different than those of the trade unions and associations that represent employees on both boards.

Their numbers are substantial as well. If an association represented the entire group, it would easily qualify to sit on the employee side of both tables under the rules put into place by the SC board representing more employees than any other union or employee group in the plan other than CUPE.

The idea that they should be at the table in principle was raised by a number of stakeholders outside of the unaffiliated associations from both employer and employee associations.

It has been suggested that the reason why the unaffiliated position was removed from Bill 206 and why no unaffiliated position is mentioned in the SC by-laws is because of substantial pressure from trade unions. Indeed, it is not difficult to understand the concern that the unions may have that an employee representative from the management ranks may feel pressure from their employer to support the position of employers causing a threat to the balance between employers and employee groups. This very point was raised during the review as a real possibility and this opinion came from an employer group and not a union.

The strongest argument for not providing unaffiliated employees with a seat at either corporation's table, however, is that no one association can claim to represent all the employees. COTAPSA could claim to be the largest, but their 3,500 members falls significantly short of the Ontario Public Service Employees Union (OPSEU) with just under 9,000 members. OPSEU represents the smallest number of active members among the employee groups on the boards.

In some cases, employees are members of one or more associations. Others are not represented by any association. Notable as well is the absence of discussion of a protocol amongst the associations for choosing a representative or communicating with each other on board directions or decision-making. There also remains the very large issue of how to communicate with employees who are not aligned with an association.

Smaller unions

The Review Team also heard from unions that represent fewer members than OPSEU's 9,000 members. Historically, this group has voiced its opinion on potential plan changes under the umbrella of the Coalition for OMERS Pension Fairness and CUPE regularly informs these unions about plan information and decisions but representatives of smaller unions suggest that this type of consultation is not sufficient.

Retiree groups

The retiree group is different than the unaffiliated member group and the smaller unions in that they already have a representative on both corporations' boards. Under a 2007 agreement facilitated by Martin Teplitsky, the Municipal Retirees Organization of Ontario (MROO), the Police Pensioners Association of Ontario (PPAO), the Police Retirees of Ontario and the Association of Retired Fire Fighters of Ontario formed a committee to determine the name of a nominee to be provided to the SC for appointment to either board. Currently, MROO holds a seat on the AC and the PPAO holds the seat on the SC.

It has been suggested that with three out of the four members of the committee, the retiree groups from the fire and police sectors hold a disproportionately large advantage in insuring that at least one of the board positions goes to those sectors. There is a perception that a retiree representative from the fire and police sectors could be viewed as representing more of a sectoral position than one for all retirees in decisions on the SC.

The ideal answer for both the smaller unions and the retiree groups would be to increase the size of the boards. This is problematic though as a larger board is likely to be more unwieldy and decisions (particularly those requiring a 2/3 majority) might be more difficult to attain. The Review Team is also aware of concerns expressed by some stakeholders that increasing the size of either board would make them less representational.

Proposal for Improved Communication and Engagement Mechanisms

The SC co-chairs were encouraged to consider options that would increase communications and engagement with smaller and disenfranchised organizations. Ideas ranged from the status quo to providing additional seats on both boards. The co-chairs noted that the main challenge is that many groups have overlapping membership and representation. Conversely, some members are not represented by any association or group. Another issue is the lack of a mechanism to accurately identify all representative groups. A mechanism would need to be in place for appointing one person to represent all parties. Membership in the groups or associations is often optional, limiting accountability. Rotation of representation through the identified groups and associations could lead to a limited continuity in knowledge and may reduce the effectiveness of the representative.

A three-level approach to improving communications and engagement with these groups was discussed and there was general agreement on the part of the boards with the following:

1. The boards recognized that there is considerable room for improving communications and engagement with all stakeholders and they acknowledged the importance of making this an organizational priority;
2. An improved approach to communications would see the board proactively reaching out to stakeholders, with an emphasis on those currently concerned about lack of voice. An example of this would be the extension of invitations to these groups to attend OMERS information sessions, and a

willingness to adjust the timing of these meetings, or to add meetings in an effort to provide information and receive advice from stakeholders earlier in the decision-making-making cycle; and,

3. In the circumstances it would seem that an advisory committee or some alternative forum would be the most effective mechanism for communications and engagement (both outward to the groups and inward to the SC). It is possible that such a committee or forum might be permitted to provide specified plan changes (typically benefit changes) for consideration by the SC and to propose changes to any proposed specified plan changes brought forward by SC board members.

The leadership of both the AC and SC could meet with the advisory committee/forum at their meetings. It is anticipated that the leadership of both corporations would engage representatives of the three groups in discussions on strategic planning, plan administration, pension reform and the economic outlook.

The advisory committee or forum could serve as a focus group to allow the SC and AC to solicit feedback on the views of unaffiliated members. As a result, members of the committee would be expected to communicate and engage with unaffiliated members beyond the organizations that they represent.

Advisory committee/forum members could be compensated for their travel expenses and meeting space, with some staff support being provided.

The creation of a mechanism of this type represents the best opportunity for improving communication and receiving input into decision-making short of providing a seat at each board table.

The details of how this form of engagement mechanism would work must be finalized and this is probably best done in collaboration with representatives of the target groups. The same is true for the potential composition of the committee or forum and how representatives would be chosen. An obvious first step is for the corporation to reach out to these three groups or categories of

members, to communicate its willingness to improve communications and to open up a channel for engagement.

Leaders of the unaffiliated associations are to be commended for their strong representations to the Review Team. They will no doubt be disappointed that we are not recommending additional seats on the boards to ensure their constituencies a more direct form of representation. Their case after all rests on the virtuous principles of fairness and equity. We accept that these general principles are important in the context of good governance. Nevertheless, we are comfortable with the current outcome for the following reasons:

First, the representational mix on the boards is the result of conscious choices, first on the part of the government, and latterly on the part of the SC. Second, we heard no compelling information suggesting that the current representational mix on the boards has resulted in inequities or unfairness in relation to these groups. Third, and most importantly, there is a route to representation for organizations with large numbers of members that meet the threshold in current SC by-laws necessary to obtain a seat on the board, but this form of agency and representation must be firm and well-established. From the SC's perspective, the loose-knit nature of the unaffiliated groups is not solid enough to endow them with representative legitimacy. This must obviously be demonstrated in a more tangible way. What that means in the context of OMERS is best raised by representatives of the unaffiliated groups with the SC.

As it now stands, the commitments and processes outlined above should move stakeholders and unaffiliated groups a considerable way forward in obtaining more information in a timely way and having a better opportunity to understand and influence decisions affecting plan members.

3. The Capacity of the Administration Board

The most significant issue emerging in our consultations with stakeholders and experts related to the level of expertise and capacity on the AC board. As noted earlier this is the operational board for the pension plan – it administers \$55 billion in assets, oversees pension fund investments and the administration

of pension payments and members services. It is also responsible for annual actuarial valuations of the plan.

Governance literature and pension experts emphasize the importance of best-in-class board capacity as a critical success factor in the achievement of pension plan goals. It is widely believed that the current AC board does not meet this standard. In fact, this point is uncontested although some sponsors make the case that sub-optimal board capacity might be an acceptable consequence of choosing board members that are “representative” of the sponsors who appoint them. We believe that these different perspectives are reconcilable and indeed that they must be reconciled to ensure the ongoing health of the pension plan and to protect the interests of plan members.

We provide below a more detailed discussion of good governance practices in this area, a description of the board appointment process, and the advice received on this matter in the course of our consultations. Our conclusions and recommendations flow from that.

Good Governance and Board Capacity

Pension experts emphasize that good governance is critical in achieving and maintaining a high-performance pension plan. In the view of experts ideal governance models feature a best-in-class fiduciary board working alongside a best-in-class management team. The board provides a healthy check on the performance of the management team and holds it accountable. It has the ability to unleash its management team to make deals within certain parameters and also has the right to rein in that management team if it feels that it is going in a direction that it does not believe is in the best interests of plan members.

Another feature of model governance structures is the appointment of strong and independent board chairs. The Ontario Teachers' Pension Plan (OTTP) and Canada

Pension Plan Investment Board (CPPIB) have made such appointments and this has served them well.

There is no question about the high quality of the OMERS management team which has a strong reputation and track record as a global deal-maker. It is also positioning itself as a key player in providing investment management expertise to third parties.

On the other hand there is a widely held view on the part of experts, competitor plans and the broader financial community that the strength of OMERS management team is not sufficiently matched by the capacity of the AC board. This raises questions for some about the board's capacity to evaluate information provided by management. One expert and former chair of a large pension plan told us that "OMERS has done well in spite of its sub-optimal governance structure but this weakness will eventually rear its head." Some stakeholders believe that this perceived weakness has resulted in the SC asserting interest in fiduciary matters such as investments as a check on the direction of the management team. Given the clear lines which are established in pension legislation regarding the separation of sponsor and fiduciary responsibilities, even a perception of lines being crossed is unhealthy.

Some stakeholders made the case to us that the current appointment process should be changed to give the AC board more control over the quality of its board members. Others told us that the issue lies more with how appointments are made and who is appointed rather than with the locus of decision-making. This is discussed below.

The Board Appointment Process

Under the OMERS Act, the SC has the authority to determine the composition of the AC and how the members are chosen. A decision on composition needs approval of 2/3 SC board votes.

In response to this legislative requirement, the SC established by-law #13 setting out the process for choosing members and lays out a process to have a

nominating advisory committee which requires inviting the AC chair and the chair of the AC governance committee to participate. Sponsors are asked to provide the SC with up to three names (in practice, the SC is often provided with only one name). Prior to the submission of the three names, the committee requests a meeting with the sponsor body to discuss competencies and needs for the board. The full SC board accepts or rejects a sponsor body's nomination by a majority vote although rejection rarely if ever takes place. The sponsor body has the right to bring the matter to arbitration if its choice is rejected.

Sponsors have mainly two choices to make when they put forward the name of a potential representative. They can either suggest a "representative" who has a history and understanding of the viewpoint of the sponsor but usually requires training to learn more about pension plan governance or an "expert" who may have a looser affiliation with the sponsor but is considered to be a leader in one or more of the competencies associated with plan governance – typically investments, pension law or administration, audit, compliance, financial and risk management and/or economic forecasting.

Some sponsors have had issues with the use of the words "representative" and "expert" and suggest that "representative" board members have brought an expertise in an aspect of governance to the board table. These are not absolute concepts and there is plenty of room between them. In practice, this is about finding the best mix of capacities for a board that is charged with overseeing over \$55 billion in assets. For simplicity's sake however, we will continue to use these words and when we refer to the term "expert", we will be referring to recognized leaders in the pension or broader investment fields, which is arguably a component of capacity that OMERS plan members would want to see discussed.

In practice since 2006, a couple of sponsors have used search firms to put forward the names of "experts" while the vast majority of sponsors have put forward the names of "representatives". This apparently runs counter to thinking by provincial officials in 2006 as to how the nominating process might unfold. It was anticipated that sponsor bodies would place "political" or representative actors at the SC board table in view of its partial role in fulfilling a "collective bargaining" role. On

the other hand it was assumed that pension and finance professionals would play a significant role at the AC board table.

This is certainly what has transpired in many other large public sector plans and in particular two key competitors with OMERS for investments: the OTPP and the CPPIB. Those two boards feature best-in-field professionals appointed by sponsors or sponsor bodies. Both those plans have separate bodies or mechanisms for sponsors to continue making “political” decisions (such as benefit changes, longer-term strategic directions and views on investment philosophies) while leaving the fiduciary body to act independently on matters relating to pension and investments.

Neither model, on its own, guarantees perfect outcomes. It is quite telling that in a recent report on a potential new pooled pension asset manager, William Morneau recommends a hybrid board with a majority of board members having strong skill sets in governance including investments, risk management, legal, accounting, human resources and strategic planning.

Stakeholder Perspectives on the Capacity of the Administration Board

- In the course of the review it became clear that a growing number of sponsors are concerned about the capacity of the AC board. Towards the end of the review the SC signalled its support in ensuring the AC board has the capacity to fulfil its responsibilities and recognized the need for its leadership in this area. The SC board also supports the recommendation in this report that an independent chair be appointed to the AC board;
- Pension experts familiar with OMERS identified concerns about the unevenness of the capacity of the AC board; this appears to be a broadly held view among those knowledgeable about large Canadian pension plans;
- Importantly, in its written presentation to the reviewer, the AC board raised substantial concerns about its own level of capacity to administer

and oversee a large pension fund holding \$55 billion in assets on behalf of over 420,000 plan members. The AC board called for a much more rigorous process for determining key board capacities and for selecting the talent aligned with those capacities. The AC board also called for the appointment of an independent chair. It is very rare for a board to suggest that its composition should change and be replaced with a different and more appropriate mix of skills and expertise. This must be taken very seriously;

- As noted above, there is an associated concern with the capacity of the AC board to manage and oversee the very high-powered OMERS executive team. This concern is shared by some members on both the AC and SC boards, together with some external pension professionals and experts.

Additionally, concerns have been raised by a number of parties, including pension experts and the AC board, that the current “representative” focus of appointments to the AC board might result in a perception of conflict on the part of AC board members between their allegiance to the appointing sponsor and their fiduciary responsibilities to plan members or a perception that board members are not acting in an adequately independent manner from the management team. Even at the level of perception, this is a worrisome finding. There is a minority view that sees no conflict here, arguing that AC board members are appointed to represent all plan members and hence their fiduciary and sponsor responsibilities are indivisible. We are not persuaded by this argument and take the view that it runs contrary to trends and jurisprudence in fiduciary responsibilities. It has become evident that in their sum, these issues are having an external reputational impact on the pension plan. Pension experts, industry experts, members of the financial community and competitor plans view the current capacity of the AC board as being a vulnerability for OMERS going forward. We would expect that this will be of some concern to both of the boards, to sponsors and stakeholders and, not least, to plan members. This weakness can be addressed and we believe this can be done quickly and successfully with concerted action and leadership.

Conclusions and Recommendations on Board Capacity

We conclude that the AC Board needs much stronger capacity to enable it to oversee and manage \$55 billion in assets and one of the largest and most important pension plans in Canada. And it needs to get there in a timely manner. We base this assertion on what we have heard from experts and pension governance literature on governance standards, the emerging higher standard for pension fiduciaries and a potential perception that sponsors could conceivably, and likely innocently, attempt to influence their representatives to vote on board matters in the best interests of the sponsor rather than plan members.

Fiduciary responsibilities are evolving and the experts believe that the standards for pension plans are getting much higher and certainly much higher than in a corporate setting. In fact, the standards are now so high that some experts were of the view that they would not prospectively sit on the AC board in the absence of a full transition to a best-in-field fiduciary board.

Impartiality – and independence from sponsors and management – is the key to fiduciary responsibility. There can be no room for any perception that members of the fiduciary board are influenced by anything other than the interests of plan members as a whole. The establishment of a board with greater professional stature would provide greater assurance that fiduciary responsibilities are being carried out without distractions or the perception of external pressures.

This needs to be kept in mind in any analysis and determination of the timing of a transition to a board with higher capacity. A lengthy transition period would hamper the plan's ability to attract best-in-class board members for the reasons outlined above. A board with a higher level of capacity should be able to take on its responsibilities in a relatively short period of time. Board members with expertise in pensions, investments and governance may not initially be fully knowledgeable about the OMERS plan but it would not take as much effort to get them up to speed as "representative" members.

Part of the argument for a "representative" board is that a board member with an understanding of the interests and culture of the sponsor will be more effective

in protecting plan member interests than one appointed based on the expertise they bring to the table. We find this unconvincing and suspect that a great many plan members would also question this assertion. Also, while appreciating that many sponsors provide training to their representatives and that board member training is provided by OMERS management, the level of training that board members receive varies a great deal. Many sponsor organizations simply do not have the capacity or resources to train their board members to adequately evaluate management decisions. It is arguable that no level of training provided by organizations and/or management can put a board member in a position to properly evaluate whether or not investment in a train system in Europe for example is in the best interests of plan members. International financial transactions are seemingly becoming more complex by the day.

An expert on foreign investment however would be better placed to make that determination and in doing so would arguably be better positioned to protect the interests of plan members and sponsors.

Some sponsors from the unions may balk at the notion of appointing a Bay Street banker familiar with international deals. The concept of a high capacity board however, is not limited to Bay Street bankers and a board comprised of bankers would obviously not bring a healthy balance of perspectives. A high capacity board could potentially be drawn from the financial community and from “Main Street” experts with top-of-class skill sets and extensive knowledge of collective bargaining and a history and understanding of the labour movement. These are not mutually exclusive and we find it hard to believe that such appointees would be insensitive to the culture of unions and employers.

The transition to a higher capacity board would not necessarily mean the end of a “representative” presence on the AC board. The Reviewer accepts the argument that some degree of representation on the AC board is important given that OMERS is a jointly sponsored pension plan. But representation should not trump better capacity and better governance. In this respect we return to William

Morneau's 2012 report on pooled pensions which deals in part with governance.¹ Morneau recommends a hybrid board with a majority of board members having strong skill sets in governance including investments, risk management, legal, accounting, human resources and strategic planning.

While the Morneau model envisions having a minority of representatives on the prospective board, the people occupying these positions would need to meet minimum financial standards and/or work experience. This appears to provide a reasonable balance in continuing to provide for some representative involvement at the board level. It would also be responsive to those sponsors who remain cautious about improving capacity, and to one who told us that an AC board without any representative members would never be acceptable.

We certainly heard and understand the great importance that many stakeholders expressed in having sponsor organizations make the nominations to the AC board. There is nothing wrong with this approach and we are not recommending that it should change. Sponsor organizations can put forward nominees that lead to a board having far greater capacity to further the interests of plan members than is in place today. Although some sponsor organizations have undertaken thorough processes to ensure that they nominate candidates with greater capacity, most have not, for the most part, done so since 2006.

The different approach being proposed by the Review Team continues some elements of the current approach. The nominating advisory committee would continue to meet with sponsor groups regarding nominations and outline the skill sets needed on the AC board. Nominees would continue to be brought forward by sponsors to the SC to make the appointments.

The difference is the sense of urgency and rigour regarding the skill sets needed on the AC board. It is imperative that the nominating committee make the convincing case to sponsors to reach higher with their nominees. Choosing a representative from within the sponsor's own organization is not necessarily

¹ Morneau, William. "Facilitating Pooled Asset Management for Ontario's Public-Sector Institutions". October 2012

appropriate when the task will involve approving international deals and forecasting the direction of the economy.

The case to be made is that the AC needs lawyers on the board who are acknowledged as being the top experts in pension law. It needs auditors, risk management experts and compliance officers that have performed the function in large national or international organizations. It needs individuals who have executed financial deals in the international markets. It needs the best prognosticators who can quickly identify where the economy is heading and make recommendations on investment strategies that can quickly reflect these changes.

If needed, sponsors can use a search firm to help them find these people. They may ultimately decide against the search firm's recommendations or use the ability to put forward three names to have other candidates vetted against those put forward by a search firm. Regardless, the bar will be moved higher.

The transition to a higher capacity board should occur relatively quickly and should not necessarily await the natural expiry of current appointment terms. A revised cycle of appointments should be provided to sponsors to encourage shortening the terms of existing members.

Finally, the adoption of term limits would be a very healthy step which would ensure renewal and also ensure that the right balance of skill sets on the AC board is being achieved.

Board Chair

As a final note in this section, we deal with the importance of having an independent board chair to lead the AC board.

An independent chair has contributed to good governance and the success of the OTPP and the CPPIB. Experts note that an independent board chair helps to ensure unbiased governance practices given that he or she would not be affiliated with any plan sponsor.

A strong independent chair would support the board in overseeing the work of the CEO and management team, attract higher calibre talent to the board, and anchor the independence of the fiduciary board.

This would also provide for greater continuity of leadership. Both boards support the appointment of an independent chair for the AC board and the idea has also been tested with a number of sponsors and stakeholders. Every stakeholder consulted is in agreement with this recommendation.

We therefore recommend that priority be given to the appointment of a strong, independent chair to lead the AC board. This would be a new fifteenth voting position on the board and it should be filled by the fall of 2013. This individual should have the following attributes:

- Extensive board experience, including experience in the role of chair;
- An established track record of collaborative leadership;
- Knowledge of the areas of finance and good governance; and,
- Highly respected with a well-known public profile.

While the formal appointment power clearly remains with the SC board, both boards agree that this appointment should be made through a collaborative process that deeply involves the AC board from start to finish. There should be a wide recruitment effort with support from a professional search firm. Both boards should be involved in developing selection criteria, concluding a short list for interviews and participating on the interview panel. Ideally, the boards will find consensus on the successful candidate. Failing this, the SC should make every effort to find consensus with the AC on two or three finalists from which the SC would make a final selection.

The collaborative nature of this appointment will be hugely important. It will send a strong and positive message to potential candidates, to the boards and their respective management teams and to external observers. This will be a very significant step in the evolution towards better governance at OMERS.

Recommendations

Earlier in the report we emphasize a bias towards OMERS-based approaches to tackling challenges and seizing opportunities identified in the report as opposed to making recommendations for legislative changes. This respects the devolved ownership of the plan under the post-2006 governance model. In this sense our belief is that the best solutions will be consensual ones arrived at by the owners and stakeholders. In our view the current authorities under the OMERS Act provide the boards with sufficient latitude to implement all of the recommendations made below. While this report is being provided to the Minister of Municipal Affairs and Housing in a manner that we believe fully complies with our terms of reference, the recommendations are predominantly directed at the OMERS boards and in many cases reflect the consensus or agreement of one or, more often, both boards.

Aligned and efficient decision-making processes with clear accountability structures

Recommendation 1:

The AC and SC boards should continue to move towards adopting one strategic plan for OMERS.

Recommendation 2:

The SC and AC boards have approved principles and process agreements on plan growth, plan changes and actuarial valuations and assumptions which were developed in discussions between the chairs and the Review Team.

- (a) It is recommended that the boards collectively identify an accountable executive/s responsible for implementing these protocols with a requirement that there be quarterly reports to the boards on progress and outcomes; and,
- (b) It is further recommended that in the event that issues associated with other “touch-points” give rise to tensions in the relationship between the

boards, that the chairs should meet together in a concentrated effort to find consensus on principles and processes that will address the issues to the satisfaction of both boards.

Recommendation 3:

The SC board should continue to review the process for selecting chairs or co-chairs to ensure that board members have confidence that decisions are made in an equitable manner. It is suggested that AMO and CUPE consider from time to time supporting representatives of other organizations for the co-chair positions.

Fairness in representation on both boards

Recommendation 4:

The AC and SC boards should develop a comprehensive strategy for improving communication with sponsors and stakeholders, including unaffiliated organizations, and providing for improved input on decision-making. The goal in this respect should be to achieve the same level of service provided to members and employers.

A three-level approach to improving communications and engagement with these groups was discussed and there was general agreement on the part of the boards with the following:

- a) Improving communications and engagement with all stakeholders should become an organizational priority for OMERS;
- b) The boards should proactively reach out to stakeholders, with an emphasis on those currently concerned about lack of voice. An example of this would be the extension of invitations to these groups to attend OMERS information sessions and a willingness to adjust the timing of these meetings or to add meetings, in an effort to provide information and receive advice from stakeholders earlier in the decision-making cycle; and

- c) The SC board, or both boards collectively, should create an advisory committee or an alternative engagement forum with representatives of unaffiliated members, small unions and the retiree groups not represented on the SC board. In the current circumstances a new advisory committee or some alternative forum would be the most effective mechanism for communications and engagement (both outward to the groups and inward to the SC and AC). It is possible that such a committee or forum might be permitted to provide specified plan changes (typically benefit changes) for consideration by the SC and to propose changes to any proposed specified plan changes brought forward by SC board members.

The leadership of both the AC and SC would meet with the advisory committee/forum at its meetings which would number up to four annually. It is anticipated that the leadership of both corporations would also engage representatives of the three groups in discussion on strategic planning, plan administration, pension reform and the economic outlook and other issues affecting OMERS.

The advisory committee or forum would serve as a focus group to allow the SC and AC to solicit feedback on the views of unaffiliated members. As a result, members of the committee would be expected to communicate and engage with unaffiliated members beyond the organizations that they represent.

Advisory committee/forum members should be compensated for their travel expenses. Meetings space and some staff support should also be provided.

The details of how this form of engagement mechanism will work must be finalized and this is best done in collaboration with representatives of the target groups. The same is true for the potential composition of the committee or forum and how representatives would be chosen. An obvious first step is for the corporation to reach out to these three groups or categories of members, to communicate its willingness to improve communications and to open up a channel for engagement.

Recommendation 5:

Associations representing unaffiliated members should work together to devise an equitable method for choosing representatives to the advisory committee/ forum and for generally working together to speak on pension issues collectively. They might also consider mechanisms to reach out to plan members who are not represented by any association or union.

High-level expertise and capacity on the administration board**Recommendation 6:**

The two boards should work collaboratively on a fast-track plan to improve the capacity of the AC board.

A higher capacity board should have a majority of board members with demonstrated prior experience and skills in areas such as governance, investments, risk management, law, accounting, human resources, strategic planning and government relations. The nomination process should be assessed to ensure that it contributes to this outcome.

No more than four seats would be designated for representative board members.

The following mechanisms should be put in place in order to effectively pave the way towards a higher capacity board:

1. An implementation plan and critical path with timelines, desired outcomes and executive accountabilities. This should be communicated widely to sponsors, stakeholders and plan members; there should also be quarterly updates on the boards' websites and annual updates in the annual reports published by the boards;
2. A rigorous capacity matrix which aligns board skills to the plan's strategic directions and desired outcomes;
3. An assessment of current board capacity in relation to that matrix with an emphasis on identifying capacity gaps; and

4. A transition plan to accelerate the cycle of board appointments in order to address capacity gaps.

An Independent Administration Corporation Board Chair

Recommendation 7:

Priority should be given to the appointment of a strong, independent chair to lead the AC board. This would be a new and fifteenth position on the board and it should be filled by the fall of 2013. This individual should have the following attributes:

- Extensive board experience, including experience in the role of chair;
- An established track record of collaborative leadership;
- Knowledge in the areas of finance and good governance; and,
- Highly respected with a well-known public profile.

This appointment should be made through a collaborative process that deeply involves the AC board from start to finish. There should be a wide recruitment effort with support from a professional search firm. Both boards should be involved in developing selection criteria, concluding a short list for interviews and participating on the interview panel. Ideally, the boards will find consensus on the successful candidate. Failing this, the SC should make every effort to find consensus with the AC on two or three finalists from which the SC would make a final selection.

Implementation

Recommendation 8:

By virtue of the process undertaken in the course of this review, there will be no surprises in these recommendations for the OMERS boards. Some recommendations have been crafted together with representatives of the boards and many have already been endorsed by both boards, at the very least at the level of principle.

There are a small number of manageable recommendations. There is no reason why implementation should not commence on all of them in short order.

The following recommendations speak to effective implementation and are based on best practices observed in other large and complex organizations. They are also made in light of the fact that the report will be released publicly by the Minister no later than 30 days following receipt.

- a) The board or boards with responsibility for the various recommendations should respond quickly to the recommendations with an emphasis on communicating to sponsors, stakeholders and plan members;
- b) Implementation should be a top priority for OMERS with the full commitment of board chairs, both CEOs and the AC senior management team;
- c) Implementation of these recommendations can, for the most part, occur quite rapidly. The re-composition of the AC board might require a 24-month phase-in but certainly no longer and the lion's share of that work should be completed in 12-18 months;
- d) Initial joint board discussions on the recruitment process for an independent chair should commence immediately, as should the process of reaching out proactively to stakeholders;
- e) A critical path should be developed for the implementation of each recommendation indicating key milestones, expected outcomes and executive and board member accountabilities. The critical path should be updated quarterly and be communicated on a quarterly basis to sponsors, stakeholders and plan members (at the very least on the boards' websites). Updates should also be provided in each of the next two annual reports;
- f) Identified executives should be accountable for implementation of each recommendation. In the case of executive leads, success in meeting key milestones, identified outcomes and eventual implementation should be included in performance contracts;

- g) Two special-purpose joint board meetings should be scheduled in the spring and fall of 2013 for the purpose of evaluating progress towards goals; and,
- h) A written progress report on implementation of the recommendations should be provided to the Minister of Municipal Affairs and Housing within one year of the report being released by the Minister.

ISBN: 978-1-4606-0956-9 (Print)

ISBN: 978-1-4606-0958-3 (HTML)

ISBN: 978-1-4606-0960-6 (PDF)