



## **GUIDELINE No.5**

# **GUIDELINE ON FUND HOLDER ARRANGEMENTS**

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## INTRODUCTION

In October 2004, the Canadian Association of Pension Supervisory Authorities (CAPSA) released *Guideline No. 4: Pension Plan Governance Guidelines and Self-Assessment Questionnaire* to assist pension plan administrators in meeting their governance responsibilities, by achieving and maintaining good governance practices.

Good pension plan governance requires control mechanisms that encourage good decision making, proper and efficient practices, clear accountability, and regular review and evaluation. It contributes to positive pension plan performance and demonstrates due diligence by the plan administrator. This *Guideline on Fund Holder Arrangements* highlights good governance practices related to fund holder arrangements of the pension plan and pension fund.

Please note that this guideline has been prepared to contribute to the consistent development and maintenance of fund holder agreements in all Canadian jurisdictions. While this guideline addresses issues and matters generally related to fund holder arrangements, the application of this guideline will vary depending on the specific structure of the pension plan (e.g, single-employer versus multi-employer).

NOTE: The guideline may not reflect the position of any provincial or federal government or agency.

## PURPOSE

One of the major participants in the operation of a pension fund is the fund holder. There are two basic types of fund holder arrangements: trusts and insurance contracts. However, both types of arrangements have changed significantly since the 1960s, when pension legislation first appeared and details of fund holder arrangements tended to become more complicated. This paper arises from the need to clarify the nature of fund holder arrangements and their related responsibilities.

This guideline focuses on fund holder arrangements by:

- Expanding on *Guideline No. 4* by highlighting the governance principles related to fund holder arrangements.
- Identifying the permitted types of fund holder arrangements.
- Discussing the respective roles and responsibilities of key players.
- Providing stakeholders with information on what the regulator looks for when examining fund holder arrangements.

## FUND HOLDER PRINCIPLES

When dealing with the pension fund's assets and fund holder arrangements, the plan administrator, in addition to complying with applicable pension legislation, should abide within these following principles:

1. Hold the pension fund's assets – regardless of investment type – exclusively for the pension plan.
2. Keep the pension fund's assets separate and apart from the employer's assets.
3. Ensure that the pension fund's assets are held separate and apart from the fund holder's assets, except as permitted by applicable pension legislation.
4. Ensure that the assets are invested either directly or indirectly in accordance with legislative requirements, SIP&P and any other investment policies established for the pension plan.
5. Act in a fiduciary role in relation to the pension fund. If a fiduciary function is delegated to a third party, that party also needs to act in a fiduciary role as required by the appropriate legislation in respect to the delegated function.
6. Ensure that the respective roles, duties, responsibilities and obligations of all parties providing services related to operation of the pension fund are clearly defined and understood.

## KEY PLAYERS IN FUND HOLDER ARRANGEMENTS

The key players in fund holder arrangements are the:

- **administrator** – the individual, group, body or entity that is ultimately responsible for the oversight, management and administration of the pension plan and its pension fund, as well as the investment of the pension fund. This function includes, but is not limited to, selecting and monitoring the activities of third-party service providers.
- **fund holder** – the financial institution or party that is retained by the administrator to hold the pension fund’s assets in accordance with the terms of the fund holder agreement(s), the requirements of legislation (including the Income Tax Act) and the terms of the pension plan.
- **custodian** – the financial institution that holds some or all of the pension fund’s assets pursuant to an agreement with the fund holder. (Although the custodian is not a fund holder, the fund holder may also be a custodian.)

Other important players in various aspects of administering, investing and managing the pension fund’s assets include:

- **employer** – a business or party that employs plan members for remuneration and who is required to make contributions to the pension plan on behalf of plan members, collect contributions (if any) from plan members and remit them to the pension fund.
- **plan sponsor** – the individual or entit(y)ies that is responsible for designing the pension plan, setting the benefit structure for various classes of plan members, and for establishing, amending or terminating the pension plan.
- **third-party service provider** – the entity (or entities) or individual(s) that is/are retained by the administrator to perform some or all of the delegated duties (that the

administrator is required to perform) associated with the pension plan and pension fund.

**Note:** Any one of the players listed above may act in more than one role. Therefore, it is important to know in *which role* each player is acting when decisions are being made.

- **regulator** – the provincial or federal jurisdiction in which pension plans are registered, and that oversees the application of pension legislation (provincial or federal) to pension plans.
- **Canada Revenue Agency** – the agency that administers the provisions of the Income Tax Act (Canada), (ITA) that require compliance by pension plans and fund holder arrangements.

## RESPONSIBILITIES RELATED TO THE PENSION FUND’S ASSETS

All parties that are involved in the administration and investment of the pension fund have an obligation and duty to perform their functions with prudence and due diligence.

The primary purpose of this section is to expand on Fund Holder Principle No. 6, by outlining the responsibilities of various parties in relation to the pension fund’s assets. This section will clarify the manner in which each party, who is involved with the pension plan’s assets, has a role and responsibility of adhering to the six principles that are outlined in this guideline.

### 2.1 Responsibilities of the Employer

With respect to the pension fund’s assets, the employer’s responsibility is to remit contributions to the pension fund, within the time periods and in the amounts required by applicable pension legislation, the terms of the pension plan and the relevant terms of any collective agreements. By fulfilling this responsibility, the employer meets its funding obligation and helps ensure that the pension fund’s assets are held separate and apart from its own assets (Principle No. 1). The employer is also responsible

for keeping accurate and up-to-date records on each plan member's length of service and earnings, and any other information that is required by the administrator. In addition, the employer must provide this information to the administrator in a timely manner.

**Note:** For matters such as establishing, amending or terminating the pension plan, and determining plan provisions, the employer is acting as the plan sponsor and is entitled to act in its own best interests, subject to the terms of the pension plan, applicable legislation and any relevant collective agreement. However, where an employer enters into a contract with a fund holder, it does so in the capacity as the administrator (see section 2.3 – Responsibilities of the Administrator).

## 2.2 Responsibilities of the Plan Sponsor

The plan sponsor is the individual or entity that is responsible for establishing the pension plan, and for ensuring that it always has an administrator. The plan sponsor is also responsible for making amendments to the pension plan and deciding if it should be wound up. If the pension plan is wound up, the administrator is responsible for ensuring that it is wound up in accordance with the requirements of applicable pension legislation and pension plan documents.

**Note:** The plan sponsor is entitled to make decisions about the pension plan (e.g., pension plan amendments, whether to continue the pension plan, etc.) that are in the business' best interests, subject to the terms of the pension plan, applicable legislation and any relevant collective agreement.

While the plan sponsor will often be the employer, other parties may take on this role (e.g., the plan sponsor is the corporate parent of the employer or a union). In these circumstances, it is appropriate for the plan sponsor's actions to reflect its responsibilities – and not those of the employer.

## 2.3 Responsibilities of the Administrator

The administrator is responsible for the overall administration of the pension plan, and the administration and investment of the pension fund. The pension plan and pension fund must be administered and invested in accordance with applicable pension legislation, the ITA and pension plan documents. (For a concise list of requirements for each jurisdiction, see [Table 1 – Who is the Administrator.](#))

When acting as an administrator, a party is held to a fiduciary standard of care (Principle No. 4). (For a concise list of requirements for each jurisdiction, see [Table 1 – Role of the Administrator as a Fiduciary.](#)) In this fiduciary role, the administrator must carry out its duties in a manner that:

- Treats plan members and beneficiaries fairly and in an even-handed manner.
- Conforms to the fiduciary standard of care, as set out in applicable legislation (i.e., the standard of care, skill and diligence of a prudent person).
- Interprets the pension plan's terms fairly, impartially and in good faith.
- Prevents personal interests from being in conflict with those of plan members and beneficiaries.
- Ensures that plan members and beneficiaries receive the benefits that were promised to them (within the scope of the administrator's authority).

**Note:** For the purpose of this guideline, the term "fiduciary" is understood to include "trustee" and signifies a legal relationship in which a high standard of care must be exercised when dealing with the interests of another person.

### 2.3.1 Administrator Responsibilities Regarding the Pension Fund and Fund Holder

One of the administrator's primary duties is to select one or more fund holders to manage the pension fund, and to ensure that the pension fund is administered and invested in accordance with relevant pension plan documents, applicable pension legislation and the ITA. The administrator's duties in relation to the pension fund and the fund holder also include, but are not limited to:

- Ensuring that the pension fund's assets (when held by a fund holder), are held under an agreement that complies with applicable pension legislation. (This includes abiding by Principle No. 3, which requires the pension fund's assets to be held separate and apart from the fund holder's assets.) (For a concise list of requirements for each jurisdiction, see [Table 1 – Who Can Hold Funds and Type of Agreement/Contract.](#))
- Making sure that the duties, roles and expectations of all parties to the agreement are clearly set out in the fund holder agreement (Principle No. 6).
- Determining whether a trust has been established and, if not, setting up a trust to hold the assets.
- Monitoring and supervising the fund holder's activities relating to the delegated functions
- Filing true copies of the fund holder agreement, and all amendments or replacements, with the Canada Revenue Agency and the regulator on a timely basis.
- Remitting or ensuring proper remittance of contributions to the pension fund.
- Providing investment direction to the fund holder – if the fund holder is also responsible for investing some or all of the pension fund's assets – in accordance with provisions of the pension plan's Statement of Investment Policies and Procedures (SIP&P).

- Giving investment direction to an investment manager – if the investment manager is responsible for making investment choices for some or all of the pension fund's assets – in accordance with provisions of the SIP&P.
- Ensuring that the administrator, or a third-party service provider acting on behalf of the administrator, has a process in place to monitor the pension fund's overall investments for compliance with the legislative requirements, the SIP&P and any other policies established by the administrator.
- Making sure that the pension fund's investments comply with applicable pension legislation and the ITA.
- Monitoring the activities of the fund holder to ensure that the pension fund's assets are administered in accordance with the fund holder agreement, the SIP&P and applicable pension legislation.
- Ensuring that the fund holder has sufficient information regarding contribution remittances to perform its duties as required by pension legislation (e.g., contribution reporting is required in Alberta and Ontario).
- Directing the fund holder, in accordance with the terms of the pension plan, and applicable legislation, regarding payments that need to be made from the pension fund.
- Executing the fund holder agreement(s).
- Maintaining a current record that clearly identifies every investment held on behalf of the pension plan, the name in which the investment is held and, where appropriate, the name in which the investment is registered.

This list indicates that a high level of conduct is required by an administrator. (For a concise list of requirements for each jurisdiction, see [Table 1 – Administrator duties relevant to the fund holder responsibilities.](#))

**Note:** In Québec, the pension committee is the fund holder. It may take arrangements to support the

administration and investment of the pension fund's assets. The pension committee must ensure that the pension fund is administered and invested in accordance with relevant pension plan documents, applicable pension legislation and ITA.

### **2.3.2 Delegation of Duties by the Administrator**

Although the administrator may delegate some or all of its functions to third-party service providers, as is commonly found with multi-employer pension plans where a board of trustees is the administrator, it is ultimately responsible for monitoring them, to ensure that the delegated duties are being performed accurately and in a timely manner. The administrator is also responsible for making sure that all of its actions, and those of any service providers to which it has delegated functions, meet the appropriate standard of care and compliance requirements. Further, a third-party administrator, where required by applicable legislation, may be required to act in a fiduciary capacity when performing delegated duties. (For more information on this topic, refer to *Governance Guideline No. 4*, which outlines certain expectations about how administrators should conduct themselves from a governance perspective.)

### **2.3.3 Governance Matters Regarding the Pension Fund**

The administrator should comply with the governance principles that are outlined in *Governance Guideline No. 4* and summarized below:

- Have clear documentation for each action that is taken.
- Ensure that appropriate records are kept by the fund holder.
- Conduct a regular review of performance measures.
- Maintain written policies on documentation, recordkeeping, costing and pension fund investment.
- Where payable from the fund, directly or indirectly, monitor fees and expenses to make sure that they are reasonable, appropriate and competitive.

For single-employer pension plans, the same party often takes on multiple roles (i.e., the roles of the administrator, employer and plan sponsor). For multi-employer pension plans, the same party often acts in the roles of administrator and fund holder, while Quebec-registered pension plans legislation requires a pension committee to act in the roles of the administrator and fund holder. Although the same party is acting in multiple roles, it has different duties and obligations when it acts in each of these capacities.

For example, when this party acts as the administrator, it is a fiduciary that must conform to a high standard of care when dealing with the interests of plan members and beneficiaries. While acting in the role of the employer or plan sponsor, it is not acting as a fiduciary. In these situations, it is important and sometimes difficult to clearly distinguish between the two roles.

A number of possible scenarios regarding these duties are set out below.

#### **Example 2.3.3**

The list below provides examples of situations where a party has more than one role regarding the pension plan.

1. In a single-employer pension plan, the employer may also be the plan sponsor and administrator.
2. A single-employer pension plan may include a number of related employers where one employer acts as the plan sponsor and administrator on behalf of all of the employers.
3. In a multi-employer pension plan, the board of trustees often acts as both the administrator and fund holder (trustee). In addition, the plan sponsor may be the union.
4. In Quebec, the pension committee acts as both the administrator and trustee. Therefore, it also acts as the fund holder. However, the employer will generally still have the plan sponsor

role.

5. In Ontario, a pension committee may act as the administrator, but is not automatically the trustee. Therefore, it cannot act as the fund holder unless the pension committee is structured to meet the criteria to act as trustee. When the pension committee acts as the administrator, it would enter into an agreement with the fund holder.

## 2.4 Responsibilities of the Fund Holder

The fund holder is the financial institution or party that is retained by the administrator to hold all or part of the pension fund's assets exclusively for the pension plan. If the fund holder is a trustee, any investment from the pension fund that can be registered, must be registered in the name of the trust for the pension plan. If an investment cannot be so registered, the records of the fund holder must clearly indicate it is held in trust for the pension plan. If the fund holder is not a trustee, any investments of the pension fund must be held by a financial institution, in a name that clearly indicates they are held on behalf of the pension plan.

The fund holder is responsible for:

- Holding funds in a manner that is required by applicable pension legislation and the ITA. Typically, the fund holder must be a trust company, an insurance company, or another entity that is permitted by applicable legislation. (For a concise list of requirements for each jurisdiction, see [Table 1 – Who Can Hold Funds and Type of Agreement/Contract.](#))
- Acting under the terms of a fund holder agreement that meets the requirements of applicable pension legislation. Typically, the agreement must be a trust agreement or an insurance contract. (For a concise list of requirements for each jurisdiction, see [Table 1 – Who Can Hold Funds and Type of Agreement/Contract.](#))
- Where required by applicable pension legislation, reporting omissions or delays in

contribution remittances to the regulator. (For a concise list of requirements for each jurisdiction, see [Table 1 – Fund Holder Duties.](#))

- Meeting the reporting and recordkeeping responsibilities that are set out in the fund holder agreement.
- Acting on direction from the plan administrator on the investment of the pension fund's assets, unless this duty is delegated under the agreement, in accordance with the pension plan's SIP&P, applicable pension legislation and the ITA.
- Ensuring that the pension fund's assets are held separate and apart from the employer's and fund holder's assets – except as permitted under applicable pension legislation (Principles No. 2 and 3).
- Ensuring that the pension plan's funds are held exclusively for the pension plan (Principle No. 1) and that the fund holder has clear, accurate and up-to-date records that reflect this requirement.

The administrator must develop a structure that encompasses all of the requirements. Depending on the roles delegated to the trustee, i.e. that of the classic trustee, the directed trustee, or the custodial trustee, the structure put in place could vary and how the assets are held will be impacted accordingly.

If the administrator has delegated fund holder functions that involve his/her own fiduciary duties, the fund holder is obligated to conduct itself as a fiduciary as required by the appropriate legislation in respect to the delegated function.

### Example 2.4

In a typical defined contribution pension plan where the fund holder agreement is an insurance contract (e.g., a group annuity policy), the fund holder arrangement would be made up of one or more documents and involve:

- An insurance contract – that is issued to the administrator (typically the plan sponsor) by an insurance company –



*and provides* underlying guaranteed and market-based (segregated fund) investment options.

- A services agreement between the administrator and the insurance company, that sets out the recordkeeping and reporting duties of the insurance company, and the fees associated with those duties.

## 2.5 The Custodian

The fund holder may perform custodial duties for the pension fund, or may delegate some or all of those duties to a custodian or multiple custodians.

The custodian(s) holds the pension fund's assets pursuant to a contract between the custodian(s) and the fund holder. The custodian(s) must maintain records that indicate the ownership of an investment, so it can be traced back to the pension plan that owns the investment.

**Note:** When a custodian is retained by a board of trustees for a multi-employer pension plan or a pension committee for a Quebec-registered pension plan, its role should be clearly documented in the fund holder arrangement.

### 2.5.1 Responsibilities of the Custodian

The custodian's responsibilities are generally solely related to the safekeeping and servicing of the pension fund's assets. The custodian is responsible for holding these assets in accordance with the terms of the custodial agreement, and must be capable of segregating the pension plan's assets (Principles No. 2 and 3), and meeting the reporting and recordkeeping requirements of the custodial agreement. A custodian does not have legal title to assets and does not have the same tax reporting obligations. In addition, the custodian is retained through a contract and only owes duties to the party that retained its services.

#### Example 2.5.1

If a board of trustees (or a Quebec pension committee) is the administrator, it may also

perform the role of fund holder (trustee), and will usually enter into a custodial agreement with a financial institution. In this case, the custodial agreement will often resemble an agreement between the administrator and fund holder, as described in section 2.4. As the custodian, the financial institution must follow the directions of the board of trustees – who is acting in this case, in the role of fund holder, although, the board of trustees will carry out many other responsibilities in the role of administrator.

## 2.6 The Third-Party Service Provider

The third-party service provider is an entity or individual that is retained by the administrator and to whom the administrator delegates the responsibility to perform some or all of the delegated duties of the administrator that are associated with the operation of the pension plan and pension fund. Third-party service providers may include insurance companies, consulting firms, recordkeepers, investment managers and any other entities that provide services to the administrator.

## 2.7 The Regulator

The regulator is the agency or entity that was set up pursuant to provincial or federal pension legislation, to regulate pensions in a particular jurisdiction in accordance with applicable pension legislation.

## 2.8 Canada Revenue Agency

Canada Revenue Agency is the agency that administers the provisions of the ITA that require compliance by pension plans and pension funds – including requirements that apply to the fund holder and investments of the pension fund.

## 3.0 Roles and Responsibilities of Multiple Fund Holders

The administrator may retain multiple fund holders for one pension plan. In this situation, the administrator is required to negotiate fund holder agreements with each fund holder, which take into account the duties and obligations that are included in applicable pension legislation.

Multiple fund holders are most frequently retained by pension plans that offer benefits under a defined benefit *and* defined contribution provision. In this case, the administrator will often engage one fund holder for the defined benefit portion (most often a trust company) and a second fund holder for the defined contribution portion (generally an insurance company). Larger or more complex pension plans may also have multiple fund holders.

**Example 3.0**

A fund holder arrangement for a pension plan that offers benefits under both a defined benefit and defined contribution provision could be structured in the following ways:

*Fund Holder Agreement Options*

- a) The administrator establishes an insurance contract for the assets regarding the defined contribution provision and a trust for the assets regarding the defined benefit provision.
- b) Where both the defined benefit and defined contribution components of fund are held in the trust fund, the administrator and trustee establish a trust agreement that sets out the trustee's duties regarding the trust fund.

The assets of the defined benefit component are held in the trust fund and the defined contribution component is held by the trustee through an insurance contract issued to the trustee by an insurance company as an asset of the trust fund.

An administrative services agreement is entered into between the insurance company, the administrator and the trustee. It sets out the insurer's reporting duties to the trustee and the administrator's right to provide instructions to the insurance company.

A services agreement is made between the plan sponsor and insurance company. It sets out the insurer's recordkeeping and reporting duties regarding plan members, for the defined contribution component of the

pension plan and the fees associated with those duties.

In all of these situations, the administrator, insurance company and trustee will want to ensure that their roles and responsibilities are clearly defined and understood.

*Services Agreement Options*

- a) A services agreement is made between the insurance company, administrator and trustee. It sets out the insurer's information reporting duties to the trustee and the administrator's right to provide instructions to the insurance company.
- b) A services agreement is made between the plan sponsor and insurance company. It sets out the insurer's recordkeeping and reporting duties regarding plan members, for the defined contribution component of the pension plan and the fees associated with those duties.

In all of these situations, the administrator, insurance company and trustee will want to ensure that their roles and responsibilities are clearly defined and understood.

A pension plan may have multiple fund holders for other reasons, such as a merger of pension plans, or transferring a group of plan members from another pension plan. The administrator must ensure that all fund holders are performing all duties that are required by applicable legislation, and that the pension fund, as a whole, is being invested in accordance with legislative requirements.

**REGULATOR EXAMINATIONS AND REVIEW OF FUND HOLDER ARRANGEMENTS**

When a regulator examines a pension plan's fund holder arrangements, the focus is on compliance with relevant legislation and sound governance processes. The scope of the examination, and any requisite regulatory response, will vary based on the circumstances giving rise to the review. During the

course of its review activities, the regulator will consider some or all of the compliance criteria, as well as other relevant issues when it:

- Examines fund holder arrangement documentation to determine the type of arrangement and to confirm that there are appropriate documents to support the arrangements whether it is:
  - a trust, governed under the appropriate jurisdiction;
  - an insurance contract; or
  - another permitted fund holder arrangement.
- Verifies that the administrator has undertaken due diligence in the selection and monitoring of fund holders and third party service providers.
- Verifies that the administrator has a process in place to monitor the investment of assets for compliance with legislative requirements and that the process is being followed.
- Examines the custodial documentation.
- Looks for written documentation that specifies which responsibilities have been delegated, who made the delegations and who received the delegated responsibilities.
- Examines any related party transactions to confirm if they are permitted.
- Considers what records have been created to document the retention of service providers and their respective duties.

- Confirms if there are documents that provide direction for internal employees who are engaged in the fund holder selection process.
- Determines the type of agreements and committee mandates that are in place for service providers and employees.
- Establishes how service provider payments and performance are documented.
- Verifies if the administrator regularly reports back to the plan sponsor's board of directors, or the delegated body (if required), regarding agents, consultants and other service providers that are being used.
- Establishes if the plan sponsor's board of directors or delegated body has an overall policy on the retention of agents, consultants and other service providers.
- Determines whether a conflict of interest policy has been considered and if the resulting decision is documented.
- Confirms if the conflict of interest policy is being followed.
- Considers whether documents are easy to access and if they are stored in one central location.
- Contemplates to what extent plan documents are being reviewed, updated and followed.

## GLOSSARY OF TERMS

**administrator** – the individual, group, body or entity that is ultimately responsible for the oversight, management and administration of the pension plan and its pension fund. This function includes, but is not limited to, selecting and monitoring the activities of third-party service providers.

**Canada Revenue Agency (CRA)** – the agency that oversees the provisions of the Income Tax Act (ITA) that require compliance by pension plans and fund holder arrangements.

**custodian** – the financial institution that holds some or all of the pension fund's assets pursuant to an agreement with the fund holder. (Although the custodian is not a fund holder, the fund holder may also be a custodian.)

**employer** – a business or party that employs plan members for remuneration and who is required to make contributions to the pension plan on behalf of plan members, collect contributions (if any) from plan members and remit them to the pension fund.

**fund holder** – the financial institution or party that is retained by the administrator to hold the pension fund's assets in accordance with the terms of the fund holder agreement(s), the requirements of legislation (including the Income Tax Act) and the terms of the pension plan.

**fund holder agreement** – a written agreement (or agreements) between the administrator and the fund holder that sets out the services that will be provided by the fund holder, to support the administration and investment of the pension fund's assets.

**fund holder arrangements** – arrangements that are made for the administration and investment of the pension fund. They include, but are not limited to, the fund holder agreement(s), custodial agreement, third-party services agreements, and other services agreements.

**Income Tax Act (ITA)** – refers to Canada's Income Tax Act (1985, c.1 (5<sup>th</sup> Supp.)) and includes its regulations.

**pension fund** – the total amount of assets that are held in trust by one or more fund holders, or in an insured arrangement to support the benefits of a pension plan.

**plan members/beneficiaries** – the individuals that participate in the pension plan and have an immediate or deferred benefit entitlement under the pension plan.

**plan sponsor** – the individual or entity that is responsible for designing the pension plan, setting the benefit structure for various classes of plan members, and for establishing, amending or terminating the pension plan.

**regulator** – the provincial or federal jurisdiction in which pension plans are registered, and that administers the application of pension legislation (provincial or federal).

**third-party service provider** – the entity (or entities) or individual(s) that is/are retained by the administrator to perform some or all of the delegated duties (that the administrator is required to perform) associated with the pension plan and pension fund.

## **APPENDIX A**

This appendix provides an overview of who may be the administrator, funder holder or custodian, and therefore hold a position in the management and administration of a pension fund.

### **A. Administrator**

Depending on the requirements of applicable pension legislation and the ITA, the administrator may be any one of the following:

- a) the plan sponsor;
- b) a board of trustees (most common in multi-employer pension plans);
- c) the employer;
- d) a pension committee;
- e) a separate party appointed by the plan sponsor to be the administrator;
- f) an insurance company (in the case of a “simplified” pension plan or contract);
- g) the party that is appointed by the regulator or government (whichever is applicable) to be the administrator;
- h) the entity that is named the administrator, pursuant to applicable pension legislation and the ITA; or
- i) any other party that is named the administrator, as permitted by applicable pension legislation.

To learn about the requirements for each jurisdiction, regarding who can be the administrator of a pension plan, see [Table 1 – Who is the Administrator](#).

### **B. Fund Holder**

Pension legislation and the ITA dictate that the pension fund must be held in the name of the pension plan by one of the following:

- a) an insurance company licensed to do business in Canada under an insurance contract;
- b) a trust – that is governed by a written trust agreement – with a trust corporation in Canada;
- c) a group of individual trustees where there are:
  - o three or more individuals, and
  - o at least three of these trustees reside in Canada, and
  - o at least one trustee is not a connected person, or a partner of the employer, or a proprietor of the employer’s business (note: this type of fund holder must have a custodian to hold the pension fund’s assets); or
- d) any other party that is permitted by pension legislation.

To learn about the requirements for each jurisdiction, regarding who can be the fund holder of a pension plan, see [Table 1 - Who can hold funds and type of agreement/contract](#).

### **C. Custodian**

Pension legislation requires that the pension fund be held separate and apart from the employer’s and fund holder’s assets, and be in the name of the pension plan.

The custodian is a financial institution that holds some or all of the pension fund's assets, pursuant to a custodial services agreement with the fund holder.