



Category: Investments

Subject: Definition of “mutual fund” and “pooled fund”

No: 2014-002

OSFI has been asked whether a fund established as a limited partnership by a corporation meets the definition of “pooled fund” or “mutual fund”.

Subsection 2(1) of the *Pension Benefits Standards Regulations, 1985* (the “PBSR”) defines the terms “mutual fund” or “pooled fund” as:

“mutual fund” or “pooled fund” mean a fund established by a corporation that is duly authorized to operate a fund in which moneys from two or more depositors are accepted for investment and where shares allocated to each depositor serve to establish the proportionate interest at any time of each depositor in the assets of the fund.

The terms “mutual fund” and “pooled fund” are used in paragraph 9(3)(a) of Schedule III to the PBSR. This paragraph provides that the 10% quantitative limit set out in subsection 9(1) does not apply in respect of investments in a segregated, mutual or pooled fund that complies with the requirements applicable to a plan that are set out in Schedule III.

Whether a partnership meets the definition of a “mutual fund” or “pooled fund” in subsection 2(1) of the PBSR for the purposes of section 9 of Schedule III to the PBSR will depend on the particulars of the fund in question. The following is an example of where a partnership can meet the definition of a “mutual fund” or “pooled fund”:

- the fund is a limited partnership that was established by a corporation, such as its general partner;
- two or more investors, all of whom are independent from the general partner, have contributed capital to the fund and have acquired units of, or other limited partnership interests in the fund;
- the units or other limited partnership interests held by an investor in the fund are allocated to each investor and serve to establish the proportionate interest at any time of each investor in the assets of the fund;
- the units or other limited partnership interests of the fund can be sold or redeemed in a timely manner; and
- the primary purpose of the fund is to invest the moneys of the fund’s investors.

