TD Wealth

Written by: Patricia Greco, CPA, CA

Investment Policy – Fiduciary duty in the Spotlight

The fiduciary duties of the Board of Directors are forever in the spotlight ensuring that, at all times, board members are overseeing the management of risk and are acting in the best interest of the organization. Having a comprehensive up-to-date investment policy is a "must have" to demonstrate a standard of care in the governance and management of the organization when it comes to its finances.

Today, the environment for not-for-profit organizations is more challenging than ever. Unpredictable financial markets, shifting donor patterns and a changing regulatory and funding environment all contribute to the uncertainty. Not-for profit organizations depend on returns from their investment portfolio to help support programs, grants and administrative overhead. A key challenge is striking the right balance between capital preservation and the need to grow capital while also focusing on income generation.

Charitable organizations may be bound by their investment powers as set out in the document that created the charity, such as the letters patent or as set out in the Trustee Act. For those organizations, these documents should be consulted in establishing an Investment Policy to ensure the investment strategies are in accordance with either the letters patent or the Trustee Act, as applicable. Whether you are a Director of a not-for profit or a charitable organization, there are considerations in establishing your investment policy.

Whose responsibility is it?

The Board of Directors may decide to establish an Investment Committee in which case the Investment Committee acts in an advisory role to the Board of Directors. The Investment Committee will be responsible for overseeing the investment management functions including, the annual review of the investment policy, internal standards and procedures for investing, monitoring adherence to the investment policy and monitoring investment performance. If external investment managers are involved, the Investment Committee approves their appointment.

The investment policy may elaborate on the responsibilities of the Board of Directors and the Investment Committee.

What do we want to achieve?

Investment objectives represent the articulated goals that the Board of Directors has set out for the organization when it comes to investing funds. Investment objectives provide important context to the investment policy and must be properly aligned with the overall goals of the organization to ensure the overall goals are met. Since investment objectives take into consideration risk tolerance, liquidity requirements, timelines and expected rate of return, they play a role in ensuring prudent and effective management of investments.

Examples of investment objectives may be:

1. To preserve capital while also preserving the purchasing power of the organization.
2. To maintain liquidity necessary to meet all operating and capital requirements.
3. To optimize the rate of return within the organization's risk parameters.

What are authorized versus restricted investments?

The investment policy should specify which investments are considered authorized and any investments that are restricted and therefore not permitted. The organization's risk tolerance and time horizon will influence authorized versus restricted investments. There may be different investments authorized depending on whether the investable funds are held for the short or long term.

The Trustee Act requires that trust property may be invested in any form of property in which a prudent investor might invest. This leaves it open to judgment and we need to return to the requirement of standard of care for Directors to ensure that investments made are considered appropriate and prudent for the organization.

What are the criteria to consider when investing?

There are seven factors set out in the Trustee Act that an organization can consider when making investment decisions. The following criteria are useful whether an organization is required to follow the Trustee Act or not:

1. General economic conditions;
2. Possible effect of inflation or deflation;
3. Any expected tax consequences of investment decisions or strategies;
4. The role that each investment or course of action plays within the overall portfolio;
5. The expected total return from income and the appreciation of capital;
6. Needs for liquidity, regularity of income and preservation or appreciation of capital; and,
7. An asset's special relationship or special value, if any, to the purposes of the charity or to one or more of the beneficiaries.

Hiring a qualified professional?

It is common that human resources in not-for-profit organizations and charities are strained with respect to time and skill sets when it comes to investing the assets of the organization. Where it is not feasibly possible to dedicate resources internally to manage the investment of funds, the Board of Directors may delegate the function to an external Investment Manager. The Investment Policy should address the duties and responsibilities of the Investment Manager including the requirement to abide by the organization's specific policies and guidelines and any performance reporting requirements.

It is the responsibility of the Board of Directors (with input from the Investment Committee) to monitor the performance of the Investment Manager.

Performance Monitoring and Reporting

Whether the duties of investing are delegated to an external agent or managed internally by staff, the Board of Directors is responsible for monitoring the performance of the Investment Manager. The Investment Policy should outline the reporting requirements, which will include timelines for reporting (monthly, quarterly or, as a minimum, annually) and the nature of reporting to enable the Directors to monitor performance, compliance with the Investment Policy and to consider any required revisions to investment planning for the future.

A comprehensive Investment Policy is the first step in demonstrating standard of care and effective risk management. Regardless of the amount of investable funds, having an investment policy provides a framework for the management of the organization's investments. It supports the investment objectives and the objectives of the organization as a whole and is the first step in demonstrating to your stakeholders that managing investment risk is taken seriously.

To discuss your investment policy and strategy, contact Patricia Greco, CPA, CA, Investment Advisor, GRC Wealth Management, TD Wealth Private Investment Advice, 905-707-7012 or patricia.greco@td.com. www.grcwealth.com.