

Friday, October 28, 2022, 8:30 a.m.
WSI Board Room (In-Person)
1600 E Century Ave, Bismarck, ND
[Click here to join the meeting](#)

AGENDA

I. CALL TO ORDER AND ACCEPTANCE OF AGENDA

A. Executive Summary

II. ACCEPTANCE OF MINUTES (September 2022)

III. BOARD EDUCATION (20 minutes)

A. Currency – Mr. Anderson

IV. INVESTMENTS (45 minutes)

A. Annual Performance Review – Mr. Anderson

B. Equity Transition Update - Mr. Chin

C. IPS Approvals – Mr. Chin

1. Arts Across the Prairie Maintenance Endowment Fund

2. TFFR

(Break)

V. GOVERNANCE (75 minutes)

A. Investment Committee – Treasurer Beadle

B. Governance & Policy Review Committee Update – Dr. Lech

1. First Reading SIB Governance Manual Amendments

C. Legacy & Budget Stabilization Fund Advisory Board Update – Mr. Anderson

1. Legacy Fund IPS Update

D. Securities Litigation Committee – Mr. Heringer

E. Annual SIB Customer Satisfaction Survey Results – Ms. Sauter

VI. Quarterly Monitoring Reports (20 minutes)

A. Annual Budget/Expense Report – Mr. Skor

B. Investment Ends – Mr. Posch

C. Executive Limitations/Staff Relations – Ms. Murtha

VII. OTHER (5 minutes)

Next Meetings:

SIB Investment Comm Meeting – November 10, 2022

TFFR GPR Comm Meeting – November 10, 2022

SIB Audit Comm Meeting – November 15, 2022

SIB GPR Comm Meeting – November 16, 2022

TFFR Board Meeting – November 17, 2022

SIB Meeting – November 18, 2022

VIII. ADJOURNMENT

EXECUTIVE SUMMARY

SIB Regular Meeting

October 28, 2022 – 8:30 am CT

- I. **Agenda:** The **August Board Meeting** will be held at the WSI Conference room to accommodate in person attendance; however, a link will also be provided so that Board members and other attendees may join via video conference. The board member video link is included in the email with the Board materials.
- II. **Minutes (Board Action):** The September 23, 2022, Board meeting minutes are included for review and approval.
- III. **Board Education – Currency (Information Only):** Mr. Anderson will provide the Board with education on how the price of currency impacts the investment portfolio. The uncertainty of the price of currency flows thru and significantly impacts the returns of global market indexes, earnings of companies, and the cost of living.
 - III. **A. Investments - Staff Performance Review (Board Action):** Staff will present the annual performance review.
 - B. Investments – Equity Transition Update (Information Only):** Staff will present an update on portfolio changes previously approved by the Board.
- IV. **A. Governance – Investment Committee Update (Information Only):** The Committee Chair will provide the Board with an overview of discussion items from the most recent committee meeting.
 - B. Governance & Policy Review Committee Update (Information Only):** The Committee Chair will provide an update on GPR committee activities. Written materials will be provided after the committee meets on Monday October 24, 2022.
 - 1. Governance – Introduction & First Reading – Amendment to Policy (Board Action):** Ms. Murtha will present policy amendments and changes to the SIB Governance manual reviewed/discussed by the Investment and GPR committees.
 - C. Governance – Legacy Advisory Committee Update (Information Only):** Mr. Anderson will provide an update on presentations to the Legacy & Budget Stabilization Fund Advisory Committee.
 - D. Governance - Securities Litigation Committee Update (Information Only):** The Committee Chair will provide the Board with an overview of discussion items from the most recent committee meeting.
 - E. Governance – Annual SIB Customer Satisfaction Survey Results Policy (Board Action):** Ms. Sauter will present the results of the annual SIB customer satisfaction survey.
- V. **A-C. Reports (Board Action):** Staff will provide monitoring reports on annual budget/expenses, investment ends, and executive limitations/staff relations.

Adjournment.

**NORTH DAKOTA STATE INVESTMENT BOARD
MINUTES OF THE
SEPTEMBER 23, 2022, BOARD MEETING (IN PERSON)**

MEMBERS PRESENT: Brent Sanford, Lt. Governor, Chair
Dr. Rob Lech, TFFR Board, Vice Chair
Thomas Beadle, State Treasurer
Glenn Bosch, Legacy/Budget Stab. Adv. Board Rep
Jon Godfread, Insurance Commissioner
Joseph Herringer, Commissioner of Unv & School Lands
Cody Mickelson, TFFR Board
Adam Miller, PERS Board
Mel Olson, TFFR Board
Yvonne Smith, PERS Board

MEMBERS ABSENT: Claire Ness, PERS Board, Parliamentarian
Bryan Klipfel, Director of WSI

STAFF PRESENT: Scott Anderson, CIO
Missy Kopp, Exec Assistant
Rachel Kmetz, Accounting Mgr
Jan Murtha, Exec Dir
Matt Posch, Sr. Investment Officer
Sara Sauter, Internal Audit Supvr
Ryan Skor, CFO/COO
Dottie Thorsen, Internal Auditor
Susan Walcker, Senior Financial Accountant

GUESTS: John Arnold, Insurance Dept
Alex Browning, Callan
Craig Chaikin, Callan
Dean DePountis, Attorney General's Office
Keith Kempenich, Legacy/Budget Stab. Adv. Board
LuAnn Thiel, NDIT
Members of the Public

CALL TO ORDER:

Lt. Gov. Sanford, Chair, called the State Investment Board (SIB) regular meeting to order at 8:30 a.m. on Friday, September 23, 2022. The meeting was held in the Workforce Safety and Insurance Board Room, 1600 E Century Ave., Bismarck, ND.

The following members were present representing a quorum: Treasurer Beadle, Commissioner Heringer, Dr. Lech, Mr. Mickelson, Mr. Miller, Lt. Gov. Sanford, and Ms. Smith.

ACCEPTANCE OF AGENDA:

The Board considered the agenda for the September 23, 2022, meeting.

IT WAS MOVED BY DR. LECH AND SECONDED BY MR. OLSON AND CARRIED BY A VOICE VOTE TO APPROVE THE AGENDA AS DISTRIBUTED.

AYES: COMMISSIONER HERINGER, TREASURER BEADLE, MR. MILLER, MR. OLSON, MR. MICKELSON, DR. LECH, MS. SMITH, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: COMMISSIONER GODFREAD, MR. KLIPFEL AND MS. NESS

MOTION CARRIED

MINUTES:

The Board considered the minutes of the August 26, 2022, SIB meeting.

IT WAS MOVED BY DR. LECH AND SECONDED BY TREASURER BEADLE AND CARRIED BY A VOICE VOTE TO APPROVE THE AUGUST 26, 2022, MINUTES AS DISTRIBUTED.

AYES: MR. MICKELSON, COMMISSIONER HERINGER, MS. SMITH, TREASURER BEADLE, DR. LECH, MR. OLSON, MR. MILLER, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: COMMISSIONER GODFREAD, MR. KLIPFEL, AND MS. NESS

MOTION CARRIED

Commissioner Godfread arrived at 8:42 a.m.

BOARD EDUCATION:

Governance for Growth:

Mr. Anderson provided education on how the SIB's evolving governance model can support further program growth. Mr. Anderson discussed the time horizon of decision making. The current governance model falls into a minimal delegation model where external managers are responsible for executing a mandate, investment staff make recommendations and provide opinions on investment strategy, and the Board is responsible for making policy and final decisions. We are moving toward a "some delegated authority" model where decision making moves toward the Investment Committee which is a hybrid committee made up of Board members, staff, and outside experts.

Mr. Anderson discussed the near-term plans for modifications to the SIB Governance manual and post-legislative session modifications. Some sections of the manual need modifications because of the addition of the Investment Committee. There are also some sections of the manual that are out of date and some changes that need to be made for TFFR. Staff plan to work on the necessary changes now so we can operate. After completion of legislative session, staff recommend a complete rewrite of the manual. Mr. Anderson outlined the proposed process for making these modifications. Board discussion followed.

INVESTMENTS:

Callan Performance Review:

Mr. Browning and Mr. Chaikin, Callan, provided the performance review for the period ended June 30, 2022. Each of the Trust's asset allocations were within policy ranges and cash flows were managed to rebalance towards strategic targets. Total Fund returns for PERS, TFFR, WSI, and Legacy Funds have each exceeded their respective benchmarks on a net-of-fee basis for the trailing five-year period. The Budget Stabilization Fund had a -2% return when compared to its benchmark which is a sizable drawdown when compared to the expected benchmark risk. The return indicates that consideration should be made whether a different implementation of the policy benchmark would reduce the occurrence of potential return fluctuations of that size.

Fixed Income Portfolio Changes:

IT WAS MOVED BY DR. LECH AND SECONDED BY TREASURER BEADLE AND CARRIED BY A ROLL CALL VOTE TO ENTER INTO EXECUTIVE SESSION PURSUANT TO NDCC 44-04-18.4(1), 44-04-19.1(9), AND 44-04-19.2 TO DISCUSS CONFIDENTIAL COMMERCIAL INFORMATION AND CONTRACT NEGOTIATING STRATEGY.

AYES: MR. OLSON, COMMISSIONER HERINGER, MR. MICKELSON, COMMISSIONER GODFREAD, MS. SMITH, MR. MILLER, TREASURER BEADLE, DR. LECH, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: MR. KLIPFEL AND MS. NESS

MOTION CARRIED

The executive session began at 9:49 a.m. and ended at 10:25 a.m. In attendance were Board members, RIO staff, Mr. DePountis, Mr. Browning, and Mr. Chaikin.

IT WAS MOVED BY DR. LECH AND SECONDED BY MR. OLSON AND CARRIED BY A ROLL CALL VOTE TO TERMINATE DECLARATION TOTAL RETURN BOND FUND, THE SSGA LONG TREASURY INDEX, AND THE SSGA GOV/CREDIT INDEX; UTILIZE STATE STREET AND ETFS TO MANAGE PASSIVE INDEX EXPOSURE; AND REALLOCATE FIXED INCOME PORTFOLIOS AND WORK WITH EXISTING MANAGERS AS DIRECTED.

AYES: TREASURER BEADLE, MR. MICKELSON, COMMISSIONER GODFREAD, COMMISSIONER HERINGER, MS. SMITH, DR. LECH, MR. MILLER, MR. OLSON, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: MR. KLIPFEL AND MS. NESS

MOTION CARRIED

Job Service Plan Investment Policy Statement (IPS):

Mr. Skor discussed the Job Service Plan IPS which requires Board approval.

IT WAS MOVED BY TREASURER BEADLE AND SECONDED BY MS. SMITH AND CARRIED BY A ROLL CALL VOTE TO ACCEPT THE JOB SERVICE NORTH DAKOTA RETIREMENT PLAN IPS.

AYES: MS. SMITH, MR. MILLER, MR. OLSON, MR. MICKELSON, DR. LECH, COMMISSIONER GODFREAD, COMMISSIONER HERINGER, TREASURER BEADLE, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: MR. KLIPFEL AND MS. NESS

MOTION CARRIED

The Board recessed at 10:30 a.m. and reconvened at 10:54 a.m.

GOVERNANCE:

Governance & Policy Review (GPR) Committee Update:

Dr. Lech provided an update from the GPR Committee meeting on September 21, 2022. Mr. Anderson provided the Governance for Growth presentation to the Committee and asked for their feedback before presenting to the Board. The Committee provided feedback and discussed the plan for updating the SIB Governance Manual.

2nd Reading & Final Adoption – Policy B-6 & Draft Charter for Executive Review & Compensation Committee (ERCC):

Mr. Skor discussed the amended Policy B-6 and Draft Charter for the ERCC. Both were provided to the Board for second reading and final adoption.

IT WAS MOVED BY DR. LECH AND SECONDED BY TREASURER BEADLE AND CARRIED BY A ROLL CALL VOTE TO APPROVE THE 2ND READING AND FINAL ADOPTION OF AMENDMENTS TO POLICY B-6 AND DRAFT CHARTER FOR THE ERCC.

AYES: TREASURER BEADLE, MR. OLSON, COMMISSIONER HERINGER, DR. LECH, MR. MILLER, COMMISSIONER GODFREAD, MR. MICKELSON, MS. SMITH, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: MR. KLIPFEL AND MS. NESS

MOTION CARRIED

Legacy Fund Earnings Committee Update:

Mr. Anderson provided an update from the Legacy Fund Earnings Committee meeting on September 22, 2022. Mr. Anderson presented to the Committee on market performance and performance of the Legacy Fund. There was discussion about the asset allocation project with RVK and how the in-state program affects the allocation. It was discussed that the in-state program's purpose is to find viable investments and not economic development such as grants. Staff have conducted many interviews of in-state stakeholders, and these have resulted in good feedback.

QUARTERLY MONITORING REPORTS:

Annual Technology Report:

Ms. Thiel, Customer Success Manager from NDIT, provided the Annual Technology Report. Ms. Thiel discussed the tools and technologies that RIO has access to through IT unification. RIO has been assigned an Information Security Officer who is responsible for reporting quarterly security reports to RIO's executive staff and is the main point-of-contact for security resources. NDIT is building a strong business resilience program to assist RIO with ensuring disaster recovery plans are in place. RIO has two dedicated IT positions who transitioned to NDIT but continue to support RIO. Additional NDIT staff are participating in the TFFR Pioneer project to provide assistance. Board discussion followed.

Mr. Mickelson left the meeting at 11:00 a.m.

Quarterly TFFR Ends Report:

The TFFR Ends Report for the quarter ending June 30, 2022, was provided for Board acceptance.

Executive Limitations/Staff Relations:

Mr. Skor provided the Executive Limitations/Staff Relations report. Interviews are in progress for the four investment positions. There was a good group of candidates and staff have conducted many interviews. The Communications & Outreach Director initial interviews have been completed. Staff plan to schedule second interviews in October. State email accounts have been created for Board and Committee members who are not state employees. This allows those members to access PeopleSoft to view their payroll information and W-2s. Fiscal staff will be contacting affected Board and Committee members to schedule a demonstration of PeopleSoft.

IT WAS MOVED BY DR. LECH AND SECONDED BY TREASURER BEADLE AND CARRIED BY A VOICE VOTE TO ACCEPT THE ANNUAL TECHNOLOGY, QUARTERLY TFFR ENDS, AND EXECUTIVE LIMITATION/STAFF RELATIONS REPORTS.

AYES: MR. OLSON, COMMISSIONER GODFREAD, TREASURER BEADLE, COMMISSIONER HERINGER, DR. LECH, MR. MILLER, MS. SMITH, AND LT. GOV. SANFORD

NAYS: NONE

ABSENT: MR. KLIPFEL, MR. MICKELSON, AND MS. NESS

MOTION CARRIED

ADJOURNMENT:

With no further business to come before the SIB, Lt. Gov. Sanford adjourned the meeting at 11:19 a.m.

Prepared by:

Missy Kopp, Assistant to the Board



CURRENCY

Scott M Anderson, CFA
October 28, 2022

NORTH
Dakota
Be Legendary.

Retirement & Investment

CURRENCY IS CASH

| REGION | CURRENCY | UNITS/\$ ¹ |
|--------|----------|-----------------------|
| EUROPE | EUR (€) | 1.02 |
| UK | GBP (£) | 0.88 |
| JAPAN | YEN (¥) | 148.7 |
| CHINA | RMB (¥) | 7.20 |

1. Spot price – Bloomberg 10/14/2022

BUT THERE ARE PRICE DIFFERENCES OF GOODS BETWEEN COUNTRIES



| REGION | BIG MAC ¹ | IMPLIED EXCHANGE RATE | ACTUAL EXCHANGE RATE UNITS/ \$ | UNDERVALUE |
|--------|----------------------|-----------------------|--------------------------------|------------|
| US | \$5.15 | 1 | 1 | 0% |
| EUROPE | €4.65 | 0.90 | 1.02 | -13% |
| UK | £3.69 | 0.72 | 0.88 | -18% |
| JAPAN | ¥390 | 75.73 | 148.7 | -49% |
| CHINA | ¥24 | 4.66 | 7.20 | -35% |

THE RETURN ON CURRENCIES SHOULD BE ZERO OVER TIME

EXPECTED RETURN = 0%

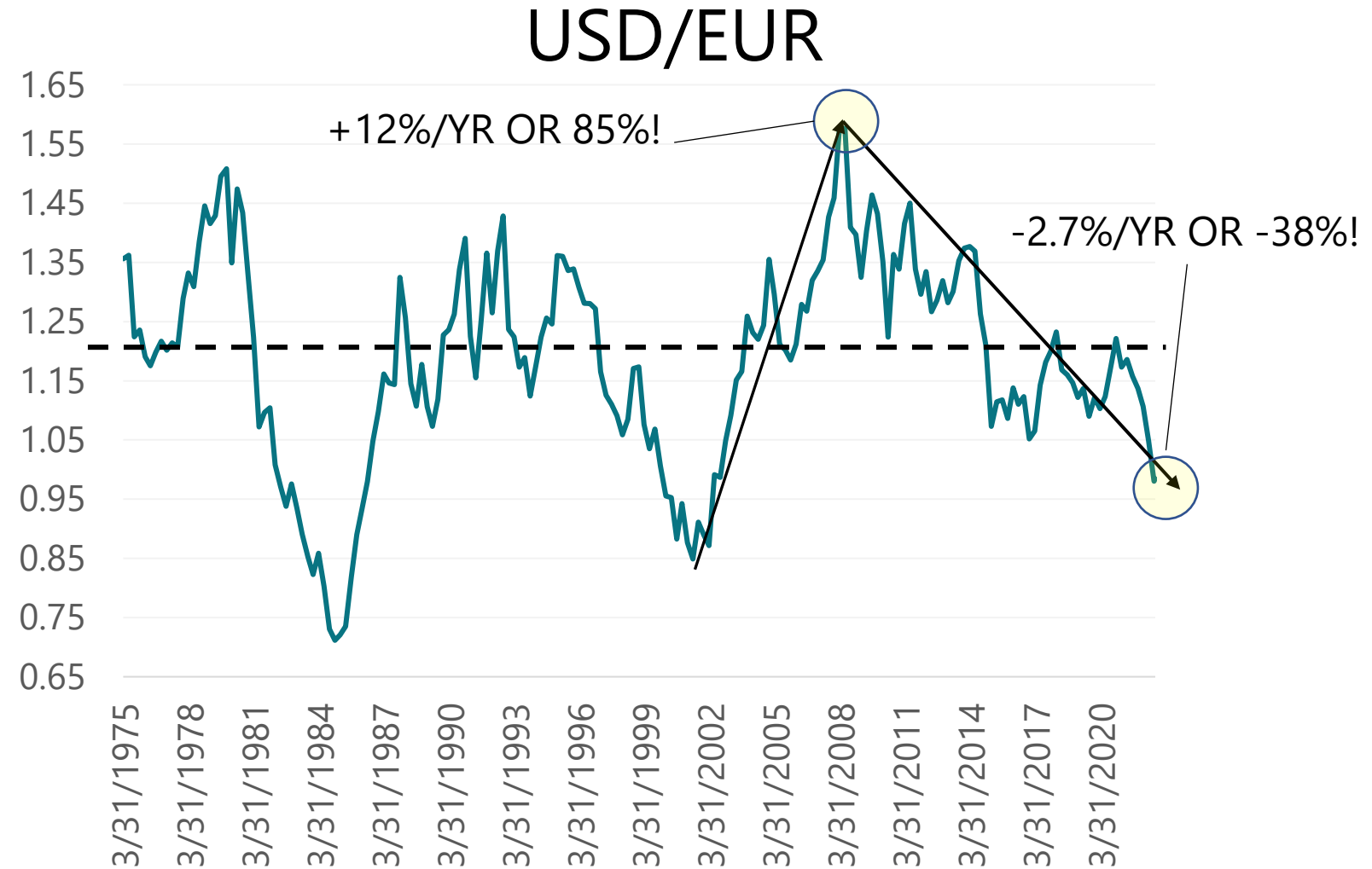
| CURRENCY | UNCERTAINTY ¹ |
|--------------|--------------------------|
| EUR (€) | 9% |
| GBP (£) | 11% |
| YEN (¥) | 9% |
| RMB (¥) | 5% |
| EQUITIES | 17% |
| FIXED INCOME | 4% |

CORRELATIONS IN USD (\$)

| | EUR | GBP | YEN | RMB |
|-----|-------|-------|-------|-------|
| EUR | 1 | 0.86 | -0.74 | -0.57 |
| GBP | 0.86 | 1 | -0.54 | -0.78 |
| YEN | -0.74 | -0.54 | 1 | 0.06 |
| RMB | -0.57 | -0.78 | 0.06 | 1 |

BUT MAJOR TRENDS ARE OBSERVED

| USD/EUR (1966 – TODAY) ¹ | |
|-------------------------------------|------|
| CURRENT | 0.98 |
| AVERAGE | 118 |
| HIGH | 158 |
| LOW | 71 |



A GLOBAL PORTFOLIO HAS BOTH LOCAL AND CURRENCY RETURN¹

| | OCT 2000 - 2022 | OCT 2000 - 2009 | OCT 2009 - 2022 |
|------------------------|-----------------|-----------------|-----------------|
| MSCI WORLD EX US USD | 3.14% | 3.45% | 3.14% |
| MSCI WORLD EX US LOCAL | 3.24% | -0.51% | 5.92% |
| CURRENCY RETURN | -0.10% | 3.96% | -2.78% |
| % CURRENCY RETURN | 3.1% | 115% | 89% |
| MSCI EM USD | 6.64% | 14.52% | 1.49% |
| MSCI EM LOCAL | 8.41% | 14.73% | 4.34% |
| CURRENCY RETURN | -1.77% | -0.21% | -2.85% |
| % CURRENCY RETURN | 27% | 1.4% | 191% |

1. Bloomberg 10/14/2022
2. The MSCI US index produced USD returns of 5.86%, -1.2%, 11.1% for Oct 2000 – 2022, Oct 2000 – 2009, and Oct 2009 – 2022 respectively

CURRENCY CARRY RETURN¹

**NON-US INDEXES HAD
A BIG HEAD WIND!**

| CURRENCY | 1 YR SPOT RETURN (USD) | 1 YR INTEREST RETURN (3 MO) | TOTAL CURRENCY RETURN |
|----------|------------------------------|-----------------------------------|-----------------------------|
| EUR (€) | -15.2% | -0.1% | -15.3% |
| GBP (£) | -17.6% | 1.3% | -16.3% |
| YEN (¥) | -23.3% | -0.1% | -23.4% |
| RMB (¥) | -11% | 3.3% | -7.7% |
| USD (\$) | | 1.4% | 1.4% |

A STRONG DOLLAR MATTERS

- US BASED GLOBAL COMPANIES TRANSLATE INTERNATIONAL EARNINGS BACK TO STRONG US DOLLARS LOWERING PROFITS
- DOLLAR DENOMINATED DEBT COSTS SOAR/LOCAL DEBT LESS ATTRACTIVE TO US INVESTORS
- US PRODUCTS BECOME PRICIER IN LOCAL TERMS REDUCING EXPORTS AND LOCAL DEMAND
- US FINANCIAL ASSETS MAY BECOME MORE EXPENSIVE IN LOCAL TERMS REDUCING INVESTMENT FLOWS
- US IMPORTS ARE LESS EXPENSIVE
- INTERNATIONAL TRAVEL IS LESS EXPENSIVE FOR US CITIZENS

DIRECT IMPACT TO ECONOMIES

| | BRENT CRUDE OIL ¹ | |
|--------------|------------------------------|---------|
| | USD (\$) | EUR (€) |
| JANUARY 2022 | \$87 | €76 |
| CURRENT | \$90 | €91 |
| % CHANGE | 4% | 20% |

1. FRED – St Louis Fed; 1.137 \$/Euro Jan 2022; .98 \$/Euro 10/14/2022



YEAR END PERFORMANCE

Scott M Anderson, CFA
October 28, 2022

NORTH
Dakota
Be Legendary.

Retirement & Investment

PERFORMANCE – BENCHMARK INDICES

AS OF JUNE 30, 2022

| Benchmark Indices (% change, annualized) | YTD | 1 Yr | 5 Yr | 10 Yr | 10 Yr Volatility |
|---|------------|-------------|-------------|--------------|-----------------------------|
| Russell 1000 | -20.9% | -13.0% | 11.0% | 12.8% | 17.1% |
| Russell 2000 | -23.4% | -25.2% | 5.2% | 9.2% | 21.6% |
| S&P 500 | -20.0% | -10.6% | 11.3% | 12.9% | 17.0% |
| MSCI ACWI IMI Net | -20.4% | -16.5% | 6.7% | 8.7% | 13.8% |
| MSCI World ex US | -18.8% | -16.8% | 2.7% | 5.3% | 14.0% |
| MSCI Emerging Markets | -17.6% | -25.3% | 2.2% | 3.0% | 15.4% |
| Bloomberg Aggregate | -10.3% | -10.3% | 0.9% | 1.5% | 3.7% |
| Bloomberg Gov/Credit | -11.0% | -10.9% | 1.0% | 1.6% | 4.2% |
| Bloomberg US High Yield | -14.2% | -12.8% | 2.1% | 4.4% | 4.8% |
| NCREIF Property Index (6/30/2022) | 8.7% | 21.5% | 8.9% | 9.66% | 2.5% |

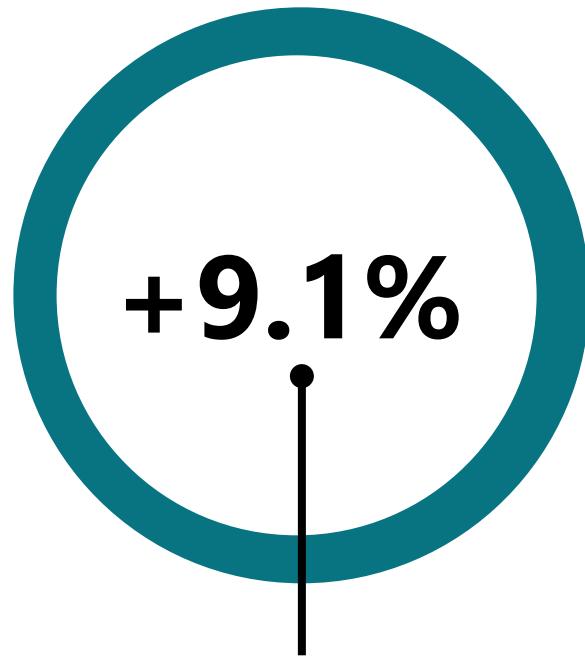
Source: Callan, Bloomberg

PERFORMANCE – BENCHMARK INDICES

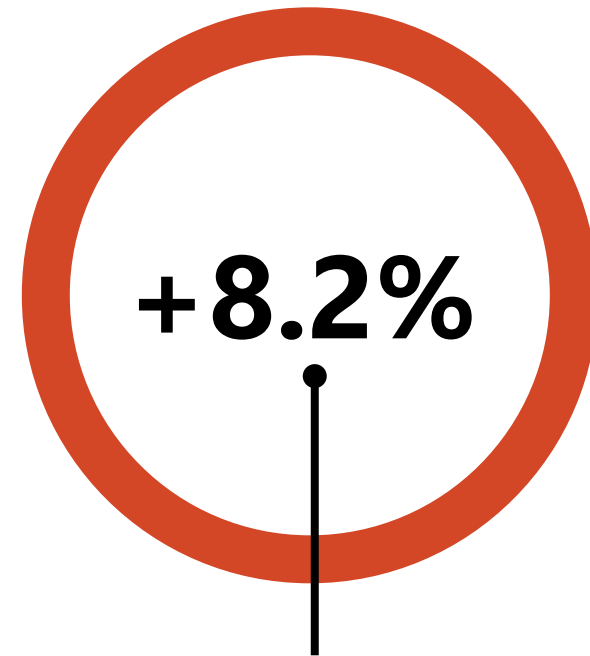
| Summary of Returns | | | | | |
|---|------------|-------------|-------------|--------------|-----------------------------------|
| August 31, 2022 | | | | | |
| Benchmark Indices (% change, annualized) | YTD | 1 Yr | 5 Yr | 10 Yr | 10 Yr Volatility |
| PERS Policy Benchmark | -9.9% | -6.9% | 6.9% | 7.5% | 7.7% |
| Russell 1000 | -16.9% | -13.0% | 11.6% | 13.0% | 17.3% |
| Russell 2000 | -17.2% | -17.9% | 6.9% | 10.0% | 21.7% |
| S&P 500 | -16.1% | -11.2% | 11.8% | 13.1% | 17.2% |
| MSCI ACWI IMI Net | -17.8% | -16.2% | 6.7% | 8.7% | 13.8% |
| MSCI World ex US | -18.7% | -18.6% | 2.1% | 4.9% | 14.0% |
| MSCI Emerging Markets | -17.5% | -21.8% | 0.6% | 2.9% | 15.4% |
| Bloomberg Aggregate | -10.8% | -11.5% | 0.5% | 1.4% | 3.8% |
| Bloomberg Gov/Credit | -11.5% | -12.3% | 0.7% | 1.4% | 4.3% |
| Bloomberg US High Yield | -11.2% | -10.6% | 2.6% | 4.5% | 4.9% |
| NCREIF Property Index (06/30/2022) | 8.7% | 21.5% | 8.9% | 9.66% | 2.5% |

Source: Callan, Bloomberg

HAS INFLATION PEAKED?¹



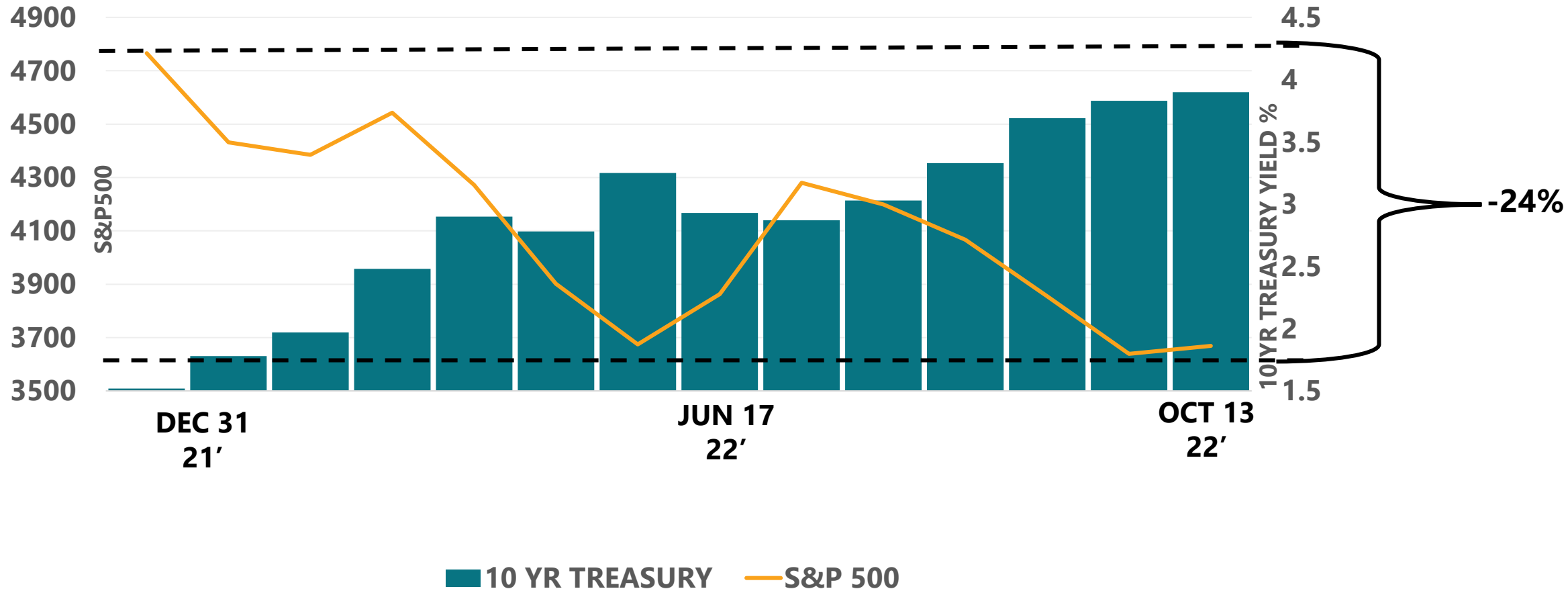
**ANNUAL INFLATION RATE
(June 2021 thru June 2022)**



**ANNUAL INFLATION RATE
(September 2021 thru September 2022)
6.6% Ex Food & Energy**

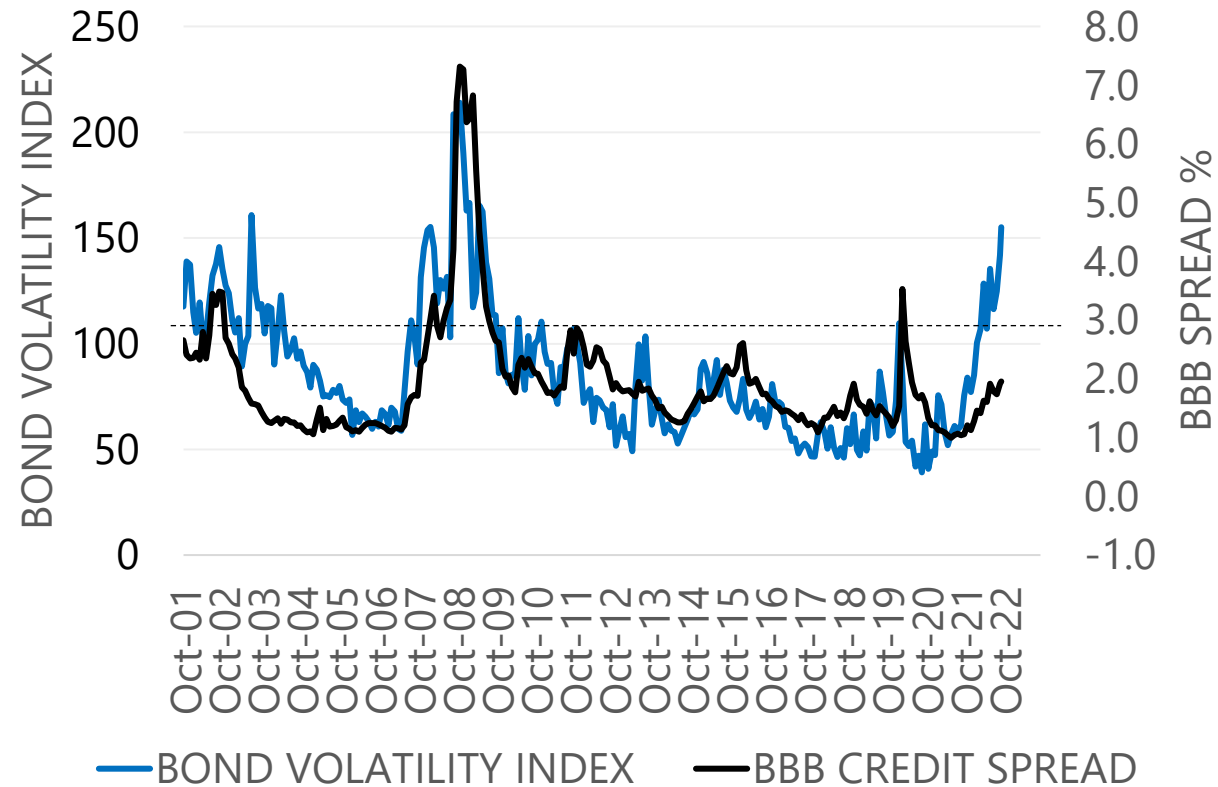
1. Bureau of Labor Statistics

THE S&P500 HAS TRACKED INFLATION EXPECTATIONS¹



1. FRED (Federal Reserve Bank of St. Louis)

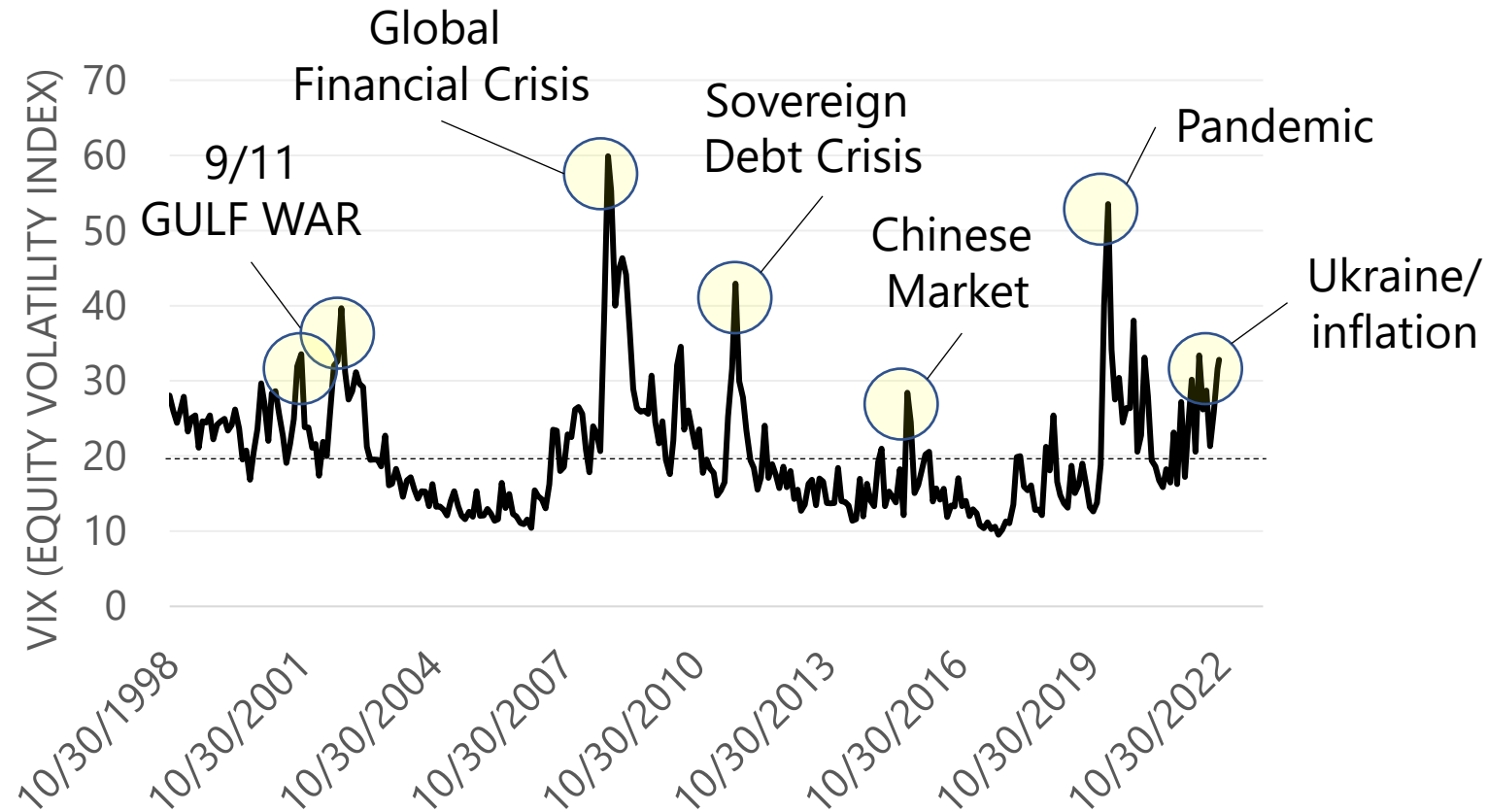
BOND VOLATILITY HIGH¹



- TREASURY MARKET LESS LIQUID
- TREASURIES ARE AN IMPORTANT SOURCE OF LIQUIDITY
- FUTURES OFTEN BOUGHT AND SOLD VERSUS OFF THE RUN PHYSICAL TREASURIES TO RAISE CASH AND TO PROFIT FROM MIS-PRICINGS

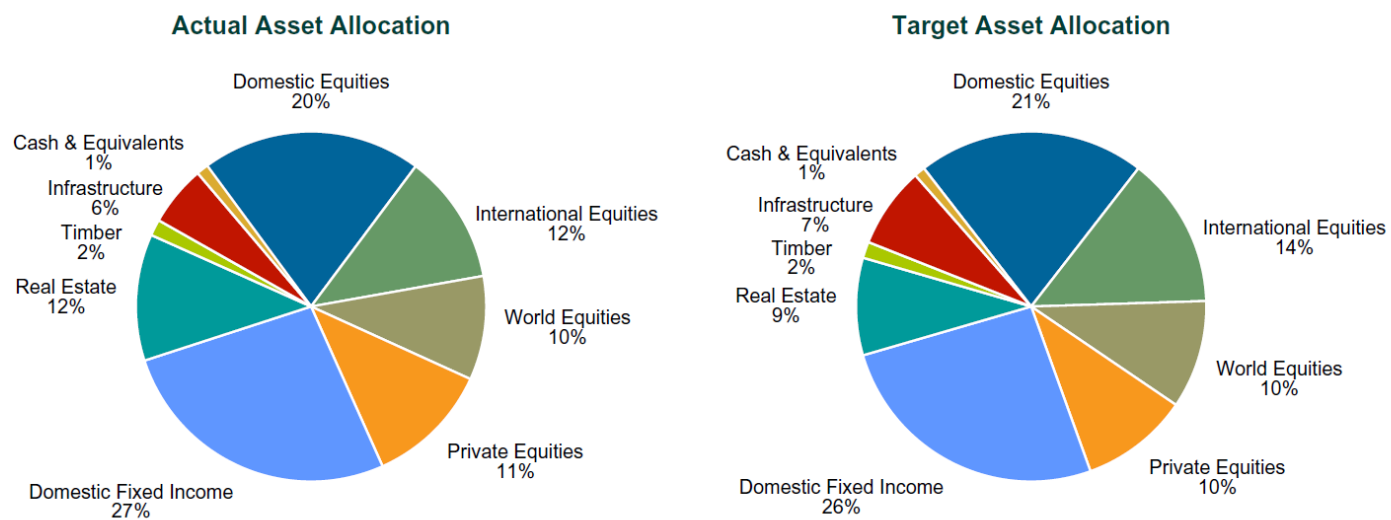
1. Ice BofA Bond Market Option Volatility Index; Bloomberg BBB Credit OAS

EQUITY VOLATILITY HIGH¹



1. CBOE equity volatility index

ASSET ALLOCATION – TFFR (JUNE 2022)



| Asset Class | \$000s Actual | Weight Actual | Target | Percent Difference | \$000s Difference |
|------------------------|------------------|------------------|---------------|-----------------------|----------------------|
| Domestic Equities | 605,783 | 20.4% | 21.0% | (0.6%) | (18,440) |
| International Equities | 355,980 | 12.0% | 14.0% | (2.0%) | (60,169) |
| World Equities | 285,126 | 9.6% | 10.0% | (0.4%) | (12,123) |
| Private Equities | 340,640 | 11.5% | 10.0% | 1.5% | 43,391 |
| Domestic Fixed Income | 792,421 | 26.7% | 26.0% | 0.7% | 19,574 |
| Real Estate | 348,310 | 11.7% | 9.0% | 2.7% | 80,786 |
| Timber | 45,291 | 1.5% | 1.5% | (0.0%) | (0) |
| Infrastructure | 166,438 | 5.6% | 7.5% | (1.9%) | (55,794) |
| Cash & Equivalents | 32,500 | 1.1% | 1.0% | 0.1% | 2,775 |
| Total | 2,972,489 | 100.0% | 100.0% | | |

PERFORMANCE – TFFR¹

AS OF JUNE 30, 2022

| TFFR (\$3.0 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|------------------------------|---------------------|---------------|---------------|---------------|----------------------|
| TOTAL FUND RETURN | -11.2% | -6.3% | 7.0% | 7.2% | 9.2% |
| POLICY BENCHMARK | -11.3% | -6.2% | 6.9% | 7.0% | 9.2% |
| TOTAL RELATIVE RETURN | 0.10% | -0.1% | 0.1% | 0.2% | |

1. After fees performance

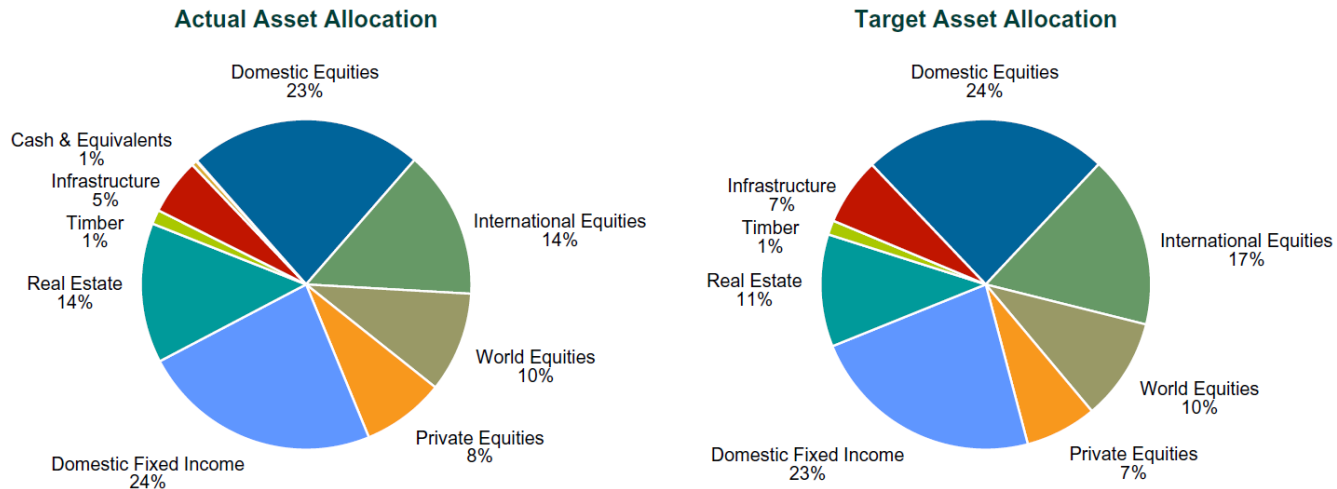
PERFORMANCE – TFFR¹

AS OF AUGUST 31, 2022

| TFFR (\$3.0 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|------------------------------|---------------------|---------------|---------------|---------------|----------------------|
| TOTAL FUND RETURN | -10.0% | -7.2% | 7.7% | 7.0% | 9.4% |
| POLICY BENCHMARK | -9.3% | -6.1% | 7.9% | 7.1% | 9.5% |
| TOTAL RELATIVE RETURN | -0.7% | -1.1% | -0.2% | -0.1% | |

1. After fees performance

ASSET ALLOCATION – PERS (JUNE 2022)



| Asset Class | \$000s Actual | Weight Actual | Target | Percent Difference | \$000s Difference |
|------------------------|------------------|---------------|---------------|--------------------|-------------------|
| Domestic Equities | 847,751 | 22.9% | 24.1% | (1.2%) | (44,539) |
| International Equities | 535,542 | 14.5% | 16.9% | (2.4%) | (89,056) |
| World Equities | 364,349 | 9.8% | 10.0% | (0.2%) | (5,626) |
| Private Equities | 300,283 | 8.1% | 7.0% | 1.1% | 41,300 |
| Domestic Fixed Income | 870,557 | 23.5% | 23.0% | 0.5% | 19,616 |
| Real Estate | 507,289 | 13.7% | 11.0% | 2.7% | 100,317 |
| Timber | 50,739 | 1.4% | 1.4% | (0.0%) | 0 |
| Infrastructure | 203,272 | 5.5% | 6.6% | (1.1%) | (41,969) |
| Cash & Equivalents | 19,964 | 0.5% | 0.0% | 0.5% | 19,964 |
| Total | 3,699,747 | 100.0% | 100.0% | | |

PERFORMANCE – PERS¹

AS OF JUNE 30, 2022

| PERS (\$3.7 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|------------------------------|---------------------|---------------|---------------|---------------|----------------------|
| TOTAL FUND RETURN | -11.6% | -6.7% | 7.1% | 7.2% | 9.4% |
| POLICY BENCHMARK | -12.0% | -7.0% | 6.5% | 6.7% | 9.2% |
| TOTAL RELATIVE RETURN | 0.4% | 0.3% | 0.6% | 0.5% | |

1. After fees performance

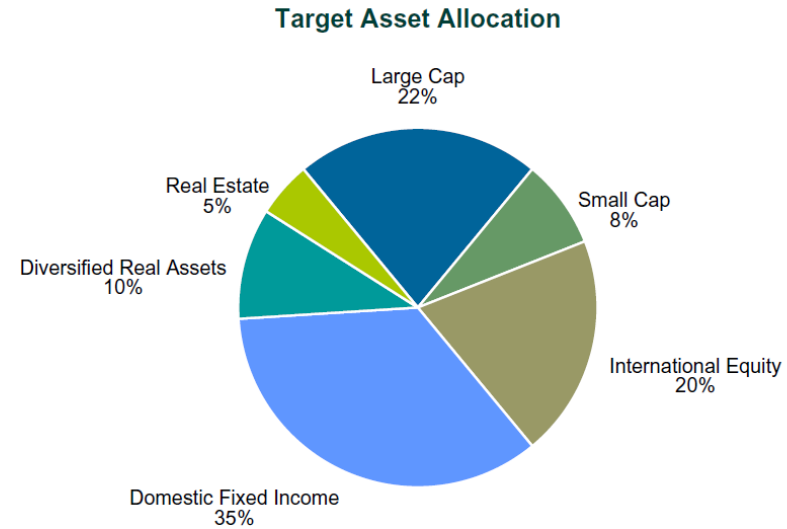
PERFORMANCE – PERS¹

AS OF AUGUST 31, 2022

| PERS (\$3.7 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|------------------------------|---------------------|---------------|---------------|---------------|----------------------|
| TOTAL FUND RETURN | -10.4% | -7.6% | 7.8% | 7.0% | 9.6% |
| POLICY BENCHMARK | -9.9% | -6.9% | 7.5% | 6.9% | 9.5% |
| TOTAL RELATIVE RETURN | -0.5% | -0.7% | 0.3% | 0.1% | |

1. After fees performance

ASSET ALLOCATION – LEGACY FUND (JUNE 2022)



| Asset Class | \$000s Actual | Weight Actual | Target | Percent Difference | \$000s Difference |
|-------------------------|------------------|---------------|---------------|--------------------|-------------------|
| Large Cap | 1,674,225 | 21.1% | 22.0% | (0.9%) | (74,441) |
| Small Cap | 586,928 | 7.4% | 8.0% | (0.6%) | (48,950) |
| International Equity | 1,399,965 | 17.6% | 20.0% | (2.4%) | (189,731) |
| Private Equity | 44,510 | 0.6% | 0.0% | 0.6% | 44,510 |
| Domestic Fixed Income | 2,845,789 | 35.8% | 35.0% | 0.8% | 63,821 |
| Diversified Real Assets | 868,498 | 10.9% | 10.0% | 0.9% | 73,650 |
| Real Estate | 471,487 | 5.9% | 5.0% | 0.9% | 74,063 |
| Cash & Equivalents | 57,078 | 0.7% | 0.0% | 0.7% | 57,078 |
| Total | 7,948,481 | 100.0% | 100.0% | | |

1. After fees performance

PERFORMANCE – LEGACY FUND¹

AS OF JUNE 30, 2022

| LEGACY FUND (\$7.9 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|--|-------------------------|---------------|---------------|---------------|--------------------------|
| TOTAL FUND RETURN | -13.4% | -10.1% | 4.8% | 5.4% | 9.6% |
| POLICY BENCHMARK | -13.7% | -10.5% | 4.1% | 5.0% | 9.0% |
| TOTAL RELATIVE RETURN | 0.3% | 0.4% | 0.7% | 0.4% | |

1. After fees performance

PERFORMANCE – LEGACY FUND¹

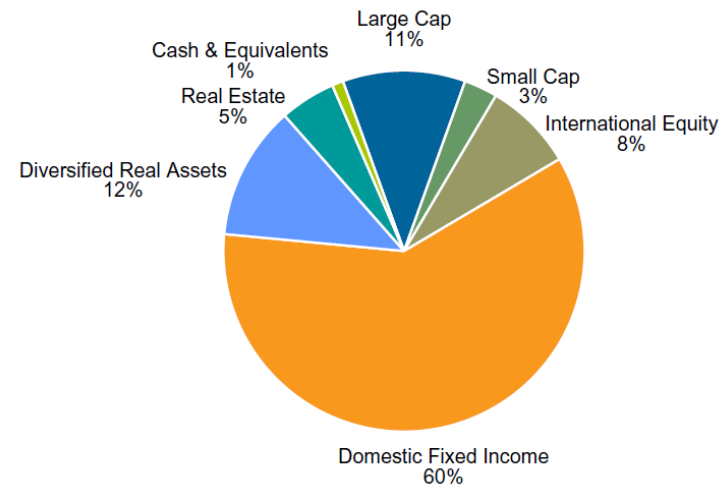
AS OF AUGUST 31, 2022

| LEGACY FUND (\$8.2 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|--|-------------------------|---------------|---------------|---------------|--------------------------|
| TOTAL FUND RETURN | -12.1% | -11.2% | 5.3% | 5.3% | 9.8% |
| POLICY BENCHMARK | -12.1% | -10.8% | 4.7% | 5.0% | 9.4% |
| TOTAL RELATIVE RETURN | 0.0% | -0.4% | 0.6% | 0.3% | |

1. After fees performance

ASSET ALLOCATION – WSI (JUNE 2022)

Target Asset Allocation



| Asset Class | \$000s Actual | Weight Actual | Target | Percent Difference | \$000s Difference |
|-------------------------|------------------|---------------|---------------|--------------------|-------------------|
| Large Cap | 178,043 | 8.7% | 11.0% | (2.3%) | (48,047) |
| Small Cap | 35,935 | 1.7% | 3.0% | (1.3%) | (25,726) |
| International Equity | 146,575 | 7.1% | 8.0% | (0.9%) | (17,854) |
| Domestic Fixed Income | 1,291,932 | 62.9% | 60.0% | 2.9% | 58,713 |
| Diversified Real Assets | 257,559 | 12.5% | 12.0% | 0.5% | 10,915 |
| Real Estate | 127,277 | 6.2% | 5.0% | 1.2% | 24,508 |
| Cash & Equivalents | 18,044 | 0.9% | 1.0% | (0.1%) | (2,509) |
| Total | 2,055,364 | 100.0% | 100.0% | | |

PERFORMANCE – WSI¹

AS OF JUNE 30, 2022

| WSI (\$2.1 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|------------------------------|---------------------|---------------|---------------|---------------|----------------------|
| TOTAL FUND RETURN | -11.1% | -9.0% | 2.5% | 3.9% | 6.0% |
| POLICY BENCHMARK | -10.9% | -8.7% | 2.1% | 3.4% | 5.1% |
| TOTAL RELATIVE RETURN | -0.2% | -0.4% | 0.4% | 0.5% | |

1. After fees performance

PERFORMANCE – WSI¹

AS OF AUGUST 31, 2022

| WSI (\$2.1 BILLION) | YEAR TO DATE | 1 YEAR | 3 YEAR | 5 YEAR | RISK (5 YEAR) |
|------------------------------|---------------------|---------------|---------------|---------------|----------------------|
| TOTAL FUND RETURN | -10.6% | -10.1% | 2.2% | 3.7% | 6.2% |
| POLICY BENCHMARK | -10.2% | -9.5% | 1.8% | 3.2% | 5.4% |
| TOTAL RELATIVE RETURN | -0.4% | -0.6% | 0.4% | 0.5% | |

1. After fees performance

PERFORMANCE – OTHER FUNDS¹

June 30, 2022

| | Year to Date | | | | Risk |
|---|--------------|-----------|-----------|-----------|-----------------------|
| | 6/30/2022 | 6/30/2022 | 6/30/2022 | 6/30/2022 | 5 Yrs Ended 6/30/2022 |
| Bismarck Employees \$118.6 million | | | | | |
| Total Fund Return - Net | -10.24% | -5.90% | 5.97% | 6.34% | 7.8% |
| Policy Benchmark Return | -11.14% | -6.75% | 5.25% | 5.74% | 7.9% |
| Total Relative Return | 0.89% | 0.85% | 0.72% | 0.60% | |
| Bismarck Police \$48.2 million | | | | | |
| Total Fund Return - Net | -10.59% | -5.96% | 6.43% | 6.68% | 8.3% |
| Policy Benchmark Return | -11.47% | -6.85% | 5.71% | 6.09% | 8.5% |
| Total Relative Return | 0.88% | 0.89% | 0.72% | 0.59% | |
| Grand Forks Pension \$72.9 million | | | | | |
| Total Fund Return - Net | -12.78% | -7.63% | 7.01% | 7.33% | 9.9% |
| Policy Benchmark Return | -13.35% | -8.56% | 6.34% | 6.78% | 10.0% |
| Total Relative Return | 0.57% | 0.93% | 0.68% | 0.55% | |
| Grand Forks Parks \$8.6 million | | | | | |
| Total Fund Return - Net | -11.64% | -7.39% | 6.72% | 7.09% | 9.0% |
| Policy Benchmark Return | -11.32% | -6.80% | 6.33% | 6.73% | 8.7% |
| Total Relative Return | -0.32% | -0.60% | 0.39% | 0.37% | |
| Job Service \$86.3 million | | | | | |
| Total Fund Return - Net | -7.11% | -6.01% | 0.98% | 2.56% | 4.1% |
| Policy Benchmark Return | -9.27% | -7.91% | 1.46% | 3.04% | 4.3% |
| Total Relative Return | 2.16% | 1.90% | -0.48% | -0.47% | |

August 31, 2022

| | Year to Date | 1 Year | 3 Year | 5 Year | Risk |
|---|--------------|-----------|-----------|-----------|-----------------------|
| | 8/31/2022 | 8/31/2022 | 8/31/2022 | 8/31/2022 | 5 Yrs Ended 8/31/2022 |
| Bismarck Employees \$120.0 million | | | | | |
| Total Fund Return - Net | -9.17% | -6.69% | 6.40% | 6.17% | 8.0% |
| Policy Benchmark Return | -9.33% | -6.87% | 5.97% | 5.83% | 8.1% |
| Total Relative Return | 0.16% | 0.18% | 0.43% | 0.35% | |
| Bismarck Police \$48.8 million | | | | | |
| Total Fund Return - Net | -9.40% | -6.70% | 7.00% | 6.54% | 8.5% |
| Policy Benchmark Return | -9.53% | -6.86% | 6.59% | 6.20% | 8.8% |
| Total Relative Return | 0.14% | 0.16% | 0.41% | 0.33% | |
| Grand Forks Pension \$72.8 million | | | | | |
| Total Fund Return - Net | -11.32% | -8.46% | 7.74% | 7.23% | 10.1% |
| Policy Benchmark Return | -10.96% | -8.23% | 7.47% | 6.99% | 10.3% |
| Total Relative Return | -0.36% | -0.23% | 0.27% | 0.24% | |
| Grand Forks Parks \$8.7 million | | | | | |
| Total Fund Return - Net | -10.50% | -7.85% | 7.36% | 6.88% | 9.2% |
| Policy Benchmark Return | -9.34% | -6.53% | 7.24% | 6.83% | 8.9% |
| Total Relative Return | -1.16% | -1.32% | 0.12% | 0.05% | |
| Job Service \$85.5 million | | | | | |
| Total Fund Return - Net | -7.09% | -6.98% | 0.64% | 2.33% | 4.2% |
| Policy Benchmark Return | -8.60% | -8.38% | 1.44% | 2.95% | 4.6% |
| Total Relative Return | 1.51% | 1.41% | -0.81% | -0.62% | |

PERFORMANCE – OTHER FUNDS¹

INSURANCE TRUST FUNDS

June 30, 2022

| | Year to Date | 1 Year | 3 Year | 5 Year | Risk 5 Year |
|---|---------------|---------------|---------------|---------------|----------------|
| Budget Stabilization \$717.7 million | | | | | |
| Total Fund Return - Net | -5.35% | -5.51% | 0.17% | 1.05% | 2.8% |
| Policy Benchmark Return | -3.06% | -3.51% | 0.32% | 1.07% | 1.3% |
| Total Relative Return | -2.29% | -1.99% | -0.15% | -0.01% | |
| Fire & Tornado \$19.0 million | | | | | |
| Total Fund Return - Net | -13.62% | -11.36% | 2.47% | 3.81% | 7.9% |
| Policy Benchmark Return | -13.04% | -11.26% | 2.26% | 3.56% | 6.9% |
| Total Relative Return | -0.59% | -0.11% | 0.21% | 0.25% | |
| State Bonding \$3.6 million | | | | | |
| Total Fund Return - Net | -6.43% | -6.21% | 0.02% | 1.36% | 2.8% |
| Policy Benchmark Return | -5.73% | -5.69% | -0.21% | 1.00% | 2.3% |
| Total Relative Return | -0.70% | -0.52% | 0.22% | 0.36% | |
| Insur. Reg. Trust \$6.6 million | | | | | |
| Total Fund Return - Net | -10.56% | -8.72% | 2.98% | 3.70% | 5.8% |
| Policy Benchmark Return | -9.98% | -8.45% | 2.16% | 3.17% | 5.6% |
| Total Relative Return | -0.58% | -0.27% | 0.82% | 0.52% | |
| Petrol. Tank Release \$5.9 million | | | | | |
| Total Fund Return - Net | -5.78% | -5.56% | 0.09% | 1.36% | 2.5% |
| Policy Benchmark Return | -5.21% | -5.17% | -0.13% | 1.01% | 2.1% |
| Total Relative Return | -0.57% | -0.39% | 0.23% | 0.34% | |
| State Risk Mgmt \$4.0 million | | | | | |
| Total Fund Return - Net | -13.47% | -10.90% | 2.60% | 4.10% | 7.5% |
| Policy Benchmark Return | -13.25% | -11.40% | 2.36% | 3.79% | 6.5% |
| Total Relative Return | -0.22% | 0.50% | 0.24% | 0.32% | |
| State Risk W/C \$3.3 million | | | | | |
| Total Fund Return - Net | -14.21% | -11.17% | 3.27% | 4.67% | 8.5% |
| Policy Benchmark Return | -14.24% | -12.00% | 3.04% | 4.42% | 7.6% |
| Total Relative Return | 0.03% | 0.83% | 0.23% | 0.24% | |
| NDACo \$6.8 million | | | | | |
| Total Fund Return - Net | -14.58% | -12.31% | 2.36% | 3.72% | 8.1% |
| Policy Benchmark Return | -13.69% | -11.79% | 2.20% | 3.50% | 7.0% |
| Total Relative Return | -0.89% | -0.52% | 0.16% | 0.21% | |

| | Year to Date | 1 Year | 3 Year | 5 Year | Risk 5 Year |
|--|---------------|---------------|---------------|---------------|----------------|
| Bismarck Def. Sick \$0.7 million | | | | | |
| Total Fund Return - Net | -13.74% | -11.83% | 1.89% | 3.43% | 7.4% |
| Policy Benchmark Return | -12.96% | -11.48% | 1.66% | 3.09% | 6.3% |
| Total Relative Return | -0.78% | -0.35% | 0.23% | 0.34% | |
| FargoDome \$40.0 million | | | | | |
| Total Fund Return - Net | -15.55% | -12.50% | 3.49% | 4.64% | 10.1% |
| Policy Benchmark Return | -15.05% | -12.53% | 3.56% | 4.65% | 9.4% |
| Total Relative Return | -0.50% | 0.03% | -0.07% | -0.01% | |
| Cultural Endowment \$0.5 million | | | | | |
| Total Fund Return - Net | -14.89% | -10.96% | 4.75% | 5.70% | 10.8% |
| Policy Benchmark Return | -15.13% | -11.76% | 4.68% | 5.73% | 10.1% |
| Total Relative Return | 0.24% | 0.80% | 0.06% | -0.03% | |
| Board of Medicine \$2.8 million | | | | | |
| Total Fund Return - Net | -12.56% | -10.58% | 2.04% | 2.84% | 6.5% |
| Policy Benchmark Return | -12.05% | -10.17% | 1.58% | 2.54% | 5.5% |
| Total Relative Return | -0.52% | -0.42% | 0.46% | 0.29% | |
| PERS Group Insurance \$32.1 million | | | | | |
| Total Fund Return - Net | -4.93% | -5.08% | 0.22% | 1.04% | 2.6% |
| Policy Benchmark Return | -2.82% | -3.26% | 0.34% | 1.05% | 1.2% |
| Total Relative Return | -2.11% | -1.82% | -0.12% | -0.01% | |
| Lewis & Clark \$0.8 million | | | | | |
| Total Fund Return - Net | -14.96% | -12.93% | 2.04% | 0.00% | 0.0% |
| Policy Benchmark Return | -13.82% | -12.11% | 1.92% | 0.00% | 0.0% |
| Total Relative Return | -1.15% | -0.83% | 0.13% | 0.00% | |
| AG Settlement \$3.0 million | | | | | |
| Total Fund Return - Net | -5.38% | -5.53% | 0.00% | 0.00% | 0.0% |
| Policy Benchmark Return | -3.07% | -3.53% | 0.00% | 0.00% | 0.0% |
| Total Relative Return | -2.31% | -2.01% | 0.00% | 0.00% | |
| Veterans' Cemetary \$0.4 million | | | | | |
| Total Fund Return - Net | -14.80% | -11.54% | 0.00% | 0.00% | 0.0% |
| Policy Benchmark Return | -14.52% | -11.46% | 0.00% | 0.00% | 0.0% |
| Total Relative Return | -0.29% | -0.08% | 0.00% | 0.00% | |
| PERS Retiree Health \$152.3 million | | | | | |
| Total Fund Return - Net | -17.63% | -14.95% | 3.99% | 5.12% | 11.4% |
| Policy Benchmark Return | -16.74% | -14.36% | 3.78% | 5.07% | 10.6% |
| Total Relative Return | -0.89% | -0.59% | 0.20% | 0.04% | |

PERFORMANCE – OTHER FUNDS¹

August 31, 2022

| | Year to Date | 1 Year | 3 Year | 5 Year | Risk 5 Year |
|---|--------------|---------|--------|--------|-------------|
| WSI \$2.1 billion | | | | | |
| Total Fund Return - Net | -10.60% | -10.11% | 2.17% | 3.69% | 6.2% |
| Policy Benchmark Return | -10.19% | -9.49% | 1.83% | 3.24% | 5.4% |
| Total Relative Return | -0.41% | -0.62% | 0.34% | 0.45% | |
| Legacy Fund \$8.2 billion | | | | | |
| Total Fund Return - Net | -12.14% | -11.18% | 5.28% | 5.25% | 9.8% |
| Policy Benchmark Return | -12.10% | -10.78% | 4.68% | 4.98% | 9.4% |
| Total Relative Return | -0.05% | -0.40% | 0.60% | 0.27% | |
| Budget Stabilization \$719.5 million | | | | | |
| Total Fund Return - Net | -5.11% | -5.42% | -0.02% | 1.01% | 2.8% |
| Policy Benchmark Return | -3.31% | -3.92% | -0.01% | 0.93% | 1.4% |
| Total Relative Return | -1.80% | -1.49% | -0.01% | 0.08% | |
| Fire & Tornado \$24.0 million | | | | | |
| Total Fund Return - Net | -12.62% | -12.17% | 2.59% | 3.70% | 8.1% |
| Policy Benchmark Return | -11.93% | -11.54% | 2.38% | 3.53% | 7.2% |
| Total Relative Return | -0.69% | -0.64% | 0.21% | 0.18% | |
| State Bonding \$3.6 million | | | | | |
| Total Fund Return - Net | -6.32% | -6.67% | -0.53% | 1.19% | 2.9% |
| Policy Benchmark Return | -5.86% | -6.30% | -0.82% | 0.81% | 2.4% |
| Total Relative Return | -0.46% | -0.37% | 0.29% | 0.38% | |
| Insur. Reg. Trust \$6.8 million | | | | | |
| Total Fund Return - Net | -9.66% | -9.30% | 3.17% | 3.63% | 6.1% |
| Policy Benchmark Return | -8.95% | -8.53% | 2.38% | 3.17% | 5.9% |
| Total Relative Return | -0.71% | -0.77% | 0.78% | 0.46% | |
| Petrol. Tank Release \$5.9 million | | | | | |
| Total Fund Return - Net | -5.64% | -5.94% | -0.40% | 1.20% | 2.6% |
| Policy Benchmark Return | -5.31% | -5.70% | -0.69% | 0.84% | 2.2% |
| Total Relative Return | -0.34% | -0.24% | 0.30% | 0.36% | |
| State Risk Mgmt \$3.6 million | | | | | |
| Total Fund Return - Net | -12.27% | -11.44% | 2.61% | 4.08% | 7.8% |
| Policy Benchmark Return | -11.95% | -11.52% | 2.37% | 3.81% | 6.9% |
| Total Relative Return | -0.31% | 0.08% | 0.24% | 0.26% | |

| | Year to Date | 1 Year | 3 Year | 5 Year | Risk 5 Year |
|--|--------------|---------|--------|--------|-------------|
| State Risk W/C \$3.3 million | | | | | |
| Total Fund Return - Net | -12.77% | -11.67% | 3.47% | 4.70% | 8.8% |
| Policy Benchmark Return | -12.59% | -11.91% | 3.28% | 4.53% | 8.0% |
| Total Relative Return | -0.18% | 0.23% | 0.19% | 0.17% | |
| NDACO \$6.9 million | | | | | |
| Total Fund Return - Net | -13.65% | -13.25% | 2.36% | 3.60% | 8.4% |
| Policy Benchmark Return | -12.67% | -12.27% | 2.22% | 3.46% | 7.4% |
| Total Relative Return | -0.98% | -0.98% | 0.14% | 0.14% | |
| Bismarck Def. Sick \$0.8 million | | | | | |
| Total Fund Return - Net | -12.96% | -12.76% | 1.81% | 3.25% | 7.7% |
| Policy Benchmark Return | -12.16% | -12.00% | 1.56% | 2.97% | 6.6% |
| Total Relative Return | -0.80% | -0.76% | 0.25% | 0.28% | |
| FargoDome \$40.7 million | | | | | |
| Total Fund Return - Net | -14.13% | -13.32% | 4.04% | 4.61% | 10.5% |
| Policy Benchmark Return | -13.20% | -12.32% | 4.25% | 4.77% | 9.8% |
| Total Relative Return | -0.93% | -1.00% | -0.21% | -0.15% | |
| Cultural Endowment \$0.5 million | | | | | |
| Total Fund Return - Net | -13.19% | -11.61% | 5.47% | 5.77% | 11.1% |
| Policy Benchmark Return | -12.91% | -11.46% | 5.54% | 5.95% | 10.5% |
| Total Relative Return | -0.28% | -0.14% | -0.07% | -0.18% | |
| Board of Medicine \$2.8 million | | | | | |
| Total Fund Return - Net | -11.98% | -11.64% | 2.14% | 2.77% | 6.8% |
| Policy Benchmark Return | -11.35% | -10.91% | 1.70% | 2.51% | 5.8% |
| Total Relative Return | -0.62% | -0.73% | 0.43% | 0.25% | |
| PERS Group Insurance \$32.2 million | | | | | |
| Total Fund Return - Net | -4.69% | -4.98% | 0.05% | 1.00% | 2.6% |
| Policy Benchmark Return | -3.05% | -3.64% | 0.03% | 0.92% | 1.3% |
| Total Relative Return | -1.64% | -1.34% | 0.02% | 0.08% | |
| Lewis & Clark \$0.8 million | | | | | |
| Total Fund Return - Net | -14.21% | -14.05% | 1.98% | 0.00% | 0.0% |
| Policy Benchmark Return | -12.95% | -12.68% | 1.90% | 0.00% | 0.0% |
| Total Relative Return | -1.26% | -1.36% | 0.08% | 0.00% | |
| AG Settlement \$3.0 million | | | | | |
| Total Fund Return - Net | -5.14% | -5.44% | 0.00% | 0.00% | 0.0% |
| Policy Benchmark Return | -3.32% | -3.94% | 0.00% | 0.00% | 0.0% |
| Total Relative Return | -1.82% | -1.51% | 0.00% | 0.00% | |
| Veterans' Cemetary \$0.4 million | | | | | |
| Total Fund Return - Net | -13.53% | -12.59% | 0.00% | 0.00% | 0.0% |
| Policy Benchmark Return | -12.87% | -11.70% | 0.00% | 0.00% | 0.0% |
| Total Relative Return | -0.67% | -0.89% | 0.00% | 0.00% | |
| PERS Retiree Health \$154.3 million | | | | | |
| Total Fund Return - Net | -16.21% | -15.38% | 4.68% | 5.05% | 11.7% |
| Policy Benchmark Return | -15.03% | -14.27% | 4.54% | 5.14% | 10.9% |
| Total Relative Return | -1.18% | -1.10% | 0.14% | -0.09% | |



EQUITY PORTFOLIO TRANSITION UPDATE

INVESTMENT STAFF
OCTOBER 28, 2022

NORTH
Dakota
Be Legendary.

Retirement & Investment

EXECUTIVE SUMMARY

1. OVER 90% OF THE EQUITY TRANSITION HAS BEEN COMPLETED
2. COMPLEX AND NUANCED TRANSACTION
 - APPROXIMATELY \$3.3 BILLION OF ADDS AND 3.3 BILLION OF REDEMPTIONS
 - OVER 1,900 SECURITIES ON THE SELL LIST AND OVER 5,400 ON THE BUY LIST
3. TRANSITION BREAKDOWN BY FUND:
 - PENSION TRANSITION: ~\$1.1 BILLION OF ADDS AND REDEMPTIONS
 - LEGACY FUND TRANSITION: ~\$2.0 BILLION OF ADDS AND REDEMPTIONS
 - INSURANCE: ~\$200 MILLION OF ADDS AND REDEMPTIONS

KEY STATISTICS

1. BREAKDOWN OF TRANSACTIONS:
 - 48% TRADED: SECURITIES TRADED TO BUILD TARGET PORTFOLIOS
 - 40% TRANSFERRED IN-KIND: SECURITIES KEPT AND TRANSFERRED
 - 12% CASH TRANSACTIONS: REDEMPTIONS AND SUBSCRIPTIONS INTO COMMINGLED FUNDS
2. PERCENT TRANSITION ACROSS SECTORS OF TRADED BOOK:
 - EMEA: 100% COMPLETE
 - US: 100% COMPLETE
 - APAC: 99.9% COMPLETE
 - OTHER: 99.9% COMPLETE
3. PERFORMANCE OF THE TRANSITION IS RELATIVELY FLAT TO THE BENCHMARK

NEXT STEPS

- HANDOVER FROM NORTHERN TO INVESTMENT MANAGERS AND IN-KIND TRANSFERS TO PASSIVE FUNDS OCCUR ON OCT. 20TH
- TWO OUTSTANDING COMMINGLED FUND PURCHASES TO BE COMPLETED ON OCT. 17TH AND NOV. 1ST
- TRANSITION EXPECTED TO BE COMPLETE ON NOV. 1ST

ARTS ACROSS THE PRAIRIE MAINTENANCE ENDOWMENT FUND
(A SEGMENT OF THE NORTH DAKOTA CULTURAL ENDOWMENT FUND)
INVESTMENT POLICY STATEMENT

1. FUND OVERVIEW

The North Dakota Cultural Endowment Fund (NDCE Fund) was created by the State Legislature in 1979 and is governed by NDCC 54-54-08.2.

The NDCE Fund was established “to improve the intrinsic quality of the lives of the state’s citizens now and in the future through programs approved by the council on the arts.” Such programs must:

- 1) Increase cultural awareness by the state’s citizens through programs in arts, crafts, theater, ethnic and folk arts, literature, journalism, public media, historic preservation and interpretation, visual arts, and architecture.
- 2) Make the items named in #1 above more available to the state’s citizens.
- 3) Encourage the development of talent in the areas named in #1 above within the state.
- 4) Preserve and increase understanding of North Dakota’s heritage and future.

Per House Bill No. 1015 passed during the 2021 Legislative Session, \$1,000,000 will be transferred from the strategic investment and improvements fund to the NDCE Fund with the intent that ND Council on the Arts (NDCA) expend up to \$50,000 annually for the maintenance of the public arts projects constructed as part of the *Arts Across the Prairie* placemaking program. It is the intent to continue to spend up to \$50,000 annually until the moneys (principal and income) derived from the strategic investment and improvements fund have been fully expended.

This capital has a different mission and spending profile compared to the original capital in the North Dakota Cultural Endowment Fund. As such, a separate portfolio with a new investment policy statement will be created to invest these monies. The portfolio will be named the “**Arts Across the Prairie Maintenance Endowment Fund**” (AAPME Fund).

2. FUND MISSION

The AAPME Fund’s mission is to provide up to \$50,000 annually for the maintenance of public arts projects constructed as part of the *Arts Across the Prairie* placemaking program.

3. RESPONSIBILITIES AND DISCRETION OF THE STATE INVESTMENT BOARD (SIB):

NDCA’s board is charged by law under NDCC 21-10-02.1 with the responsibility of establishing policies on investment goals and asset allocation of the NDCE Fund, which includes the AAPME Fund. The SIB is charged with implementing these policies and investing the assets of the AAPME Fund in the manner provided in NDCC 21-10-07, the prudent investor rule. Under this rule, the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

The SIB may delegate investment responsibility to professional money managers. Where a money manager has been retained, the SIB’s role in determining investment strategy and security selection is supervisory, not advisory. The SIB is responsible for establishing criteria, procedures, and making decisions with respect to hiring, keeping, and terminating money managers. SIB investment responsibility also includes selecting performance measurement services, consultants, report formats, and frequency of meetings with managers.

At the discretion of the SIB, the AAPME Fund’s assets may be pooled with other funds. In pooling funds, the SIB may establish whatever asset class pools it deems necessary with specific quality, diversification, restrictions, and performance objectives appropriate to the prudent investor rule and the objectives of the funds participating in the pools.

The SIB will implement changes to this policy as promptly as is prudent.

4. INVESTMENT PERFORMANCE AND RISK OBJECTIVES

NDCA's board's investment objectives are expressed in terms of reward and risk expectations relative to investable, passive benchmarks. The AAPME Fund's policy benchmark is comprised of policy mix weights of appropriate asset class benchmarks as set by the SIB.

- 1) The AAPME Fund's rate of return, net of fees and expenses, should at least match that of the policy benchmark over a minimum evaluation period of five years.
- 2) Risk, as measured by the annual standard deviation of net returns for the AAPME Fund, should not exceed that of the policy portfolio by more than 200 basis points over a minimum evaluation period of five years.

5. ASSET ALLOCATION

After consideration of all the inputs and discussion of its own risk tolerance, NDCA's board has chosen the following asset allocation:

| Asset Class | Policy Target (%) |
|---------------------|--------------------------|
| Public Equity | 70% |
| Public Fixed Income | 30% |
| Total | 100% |

Rebalancing of the AAPME Fund to this target allocation will be done in accordance with the SIB's rebalancing policy but not less than annually.

6. FUND SPECIFIC REQUIREMENTS

NDCA may spend up to \$50,000 annually until the AAPME Fund is fully expended. Annually is defined as the State's fiscal year (July 1st to June 30th).

7. RESTRICTIONS

While the SIB is responsible for establishing specific quality, diversification, restrictions, and performance objectives for the investment vehicles in which the AAPME Fund's assets will be invested, it is understood that:

- 1) Futures and options may be used to hedge or replicate underlying index exposure, but not for speculation.
- 2) Derivatives use will be monitored to ensure that undue risks are not taken by the money managers
- 3) No transaction shall be made which threatens the tax-exempt status of the AAPME Fund
- 4) All assets will be held in custody by the SIB's master custodian, or such other custodians as are acceptable to the SIB.
- 5) No unhedged short sales or speculative margin purchases shall be made.

8. INTERNAL CONTROLS

The SIB must have a system of internal controls in place to prevent losses of public funds arising from fraud or employee error. The controls deemed most important are the separation of responsibilities for investment purchases from the recording of investment activity, custodial safekeeping, written confirmation of investment transactions and established criteria for broker relationships. The annual financial audit must include a comprehensive review of the portfolio, accounting procedures for security transactions and compliance with the investment policy.

9. EVALUATION AND REVIEW

Investment management of the AAPME Fund will be evaluated against the vehicle's investment objectives and investment performance standards. Emphasis will be placed on five-year results. Evaluation should include an assessment of the continued feasibility of achieving the investment objectives and the appropriateness of the Investment Policy Statement for achieving those objectives.

Performance reports will be provided to NDCA's board periodically, but not less than quarterly. These reports will include:

- 1) A list of the advisory services managing investments for the board.
- 2) A list of investments at fair value, compared to previous reporting period, of each fund managed by each advisory service.
- 3) Earnings, percentage earned, and change in fair value of each fund's investments.
- 4) Comparison of the performance of each fund managed by each advisory service to other funds under the board's control and to generally accepted market indicators.

Annually, a report will be provided to NDCA's board that includes:

- 1) All material legal or legislative proceedings affecting the SIB.
- 2) Confirmation that the AAPME Fund is in compliance with this investment policy statement and/or any exceptions.

Kim Konikow

Executive Director, North Dakota Council on the Arts

Date: _____

Jan Murtha

Executive Director, RIO

Date: _____

Approved by Plan Administrator Board:

[DATE] Approved by SIB: [DATE]

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

1. PLAN CHARACTERISTICS AND FUND CONSTRAINTS

The North Dakota Teachers' Fund for Retirement (TFFR) is a successor pension benefit plan to the Teachers' Insurance and Retirement Fund (TIRF). TIRF was established in 1913, 24 years after North Dakota became a state, to provide retirement income to all public school and certain state teachers and administrators in the state of North Dakota. TIRF became TFFR in 1971. The plan is administered by a seven-member Board of Trustees comprised of: two active teachers, two retired teachers and one school administrator appointed by the Governor of North Dakota and two elected officials - the State Treasurer and the State Superintendent of Public Instruction.

The plan is a multi-employer defined benefit public pension plan that provides retirement, disability, and death benefits in accordance with Chapter 15-39.1 of the North Dakota Century Code (NDCC). Monthly retirement benefits are based on the formula: Number of Years of service X 2.0% X Final Average Salary. Adjustments to the basic formula are made depending on the retirement option selected.

Funding is provided by monthly employee and employer contributions scheduled to increase as follows:

| | 7/1/11 | 7/1/12 | 7/1/14 |
|----------|--------|--------|--------|
| Employee | 7.75% | 9.75% | 11.75% |
| Employer | 8.75% | 10.75% | 12.75% |

Employee and employer contributions will be reduced to 7.75% each when TFFR reaches 100% funded level on an actuarial value basis.

The TFFR Board has an actuarial valuation performed annually and an Experience Study and Asset Liability Study performed every five years. The actuarial assumed rate of return on assets was reduced to 7.25% from 7.75% as of July 1, 2020. Key plan and financial statistics are recorded in the most recent valuation report on file at the North Dakota Retirement and Investment office (RIO).

2. FUND GOALS

The Plan benefits are financed through both statutory employer and employee contributions and the investment earnings on assets held in the Fund. The TFFR Board recognizes that a sound investment program is essential to meet the pension obligations.

As a result, the Fund goals are to:

- 1) Improve the Plan's funding status to protect and sustain current and future benefits.
- 2) Minimize the employee and employer contributions needed to fund the Plan over the long term.
- 3) Avoid substantial volatility in required contribution rates and fluctuations in the Plan's funding status.
- 4) Accumulate a funding surplus to provide increases in retiree annuity payments to preserve the purchasing power of their retirement benefit.

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

The Board acknowledges the material impact that funding the pension plan has on the State/School District's financial performance. These goals affect the Fund's investment strategies and often represent conflicting goals. For example, minimizing the long-term funding costs implies a less conservative investment program, whereas dampening the volatility of contributions and avoiding large swings in the funding status implies a more conservative investment program. The Board places a greater emphasis on the strategy of improving the funding status and reducing the contributions that must be made to the Fund, as it is most consistent with the long-term goal of conserving money to apply to other important state/local projects.

3. RESPONSIBILITIES AND DISCRETION OF THE STATE INVESTMENT BOARD (SIB)

The TFFR Board is charged by law under NDCC 21-10-02.1 with the responsibility of establishing policies on investment goals and asset allocation of the Fund. The SIB is charged with implementing these policies and investing the assets of the Fund in the manner provided in NDCC 21-10-07, the prudent investor rule. Under this rule, the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. The Fund must be invested exclusively for the benefit of the members and their beneficiaries in accordance with this investment policy.

Management responsibility for the investment program not assigned to the SIB in Chapter 21-10 of the North Dakota Century Code (NDCC) is hereby delegated to the SIB, who must establish written policies for the operation of the investment program, consistent with this investment policy.

The SIB may delegate investment responsibility to professional money managers. Where a money manager has been retained, the SIB's role in determining investment strategy and security selection is supervisory, not advisory.

At the discretion of the SIB, the Fund's assets may be pooled with other funds. In pooling funds, the SIB may establish whatever asset class pools it deems necessary with specific quality, diversification, restrictions, and performance objectives appropriate to the prudent investor rule and the objectives of the funds participating in the pools.

The SIB is responsible for establishing criteria, procedures, and making decisions with respect to hiring, keeping, and terminating money managers. SIB investment responsibility also includes selecting performance measurement services, consultants, report formats, and frequency of meetings with managers.

The SIB will implement changes to this policy as promptly as is prudent.

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

4. RISK TOLERANCE

The Board is unwilling to undertake investment strategies that might jeopardize the ability of the Fund to finance the pension benefits promised to plan participants.

However, funding the pension promise in an economical manner is critical to the State/School Districts ability to continue to provide pension benefits to plan participants. Thus, the Board actively seeks to lower the cost of funding the Plan's pension obligations by taking on risk for which it expects to be compensated over the long term. The Board understands that a prudent investment approach to risk taking can result in periods of under-performance for the Fund in which the funding status may decline. These periods, in turn, can lead to higher required contribution rates. Nevertheless, the Board believes that such an approach, prudently implemented, best serves the long-run interests of the State/School District and, therefore, of plan participants.

5. INVESTMENT OBJECTIVES

The Board's investment objectives are expressed in terms of reward and risk expectations relative to investable, passive benchmarks. The Fund's policy benchmark is comprised of policy mix weights of appropriate asset class benchmarks as set by the SIB

- 1) The fund's rate of return, net of fees and expenses, should at least match that of the policy benchmark over a minimum evaluation period of five years.
- 2) The fund's risk, measured by the standard deviation of net returns, should not exceed 115% of the policy benchmark over a minimum evaluation period of five years.
- 3) The risk-adjusted performance of the fund, net of fees and expenses, should at least match that of the policy benchmark over a minimum evaluation period of five years.

6. POLICY ASSET MIX

Benefit payments are projected to occur over a long period of time. This allows TFFR to adopt a long-term investment horizon and asset allocation policy for the management of fund assets. Asset allocation policy is critical because it defines the basic risk and return characteristics of the investment portfolio. Asset allocation targets are established using an asset-liability analysis designed to assist the Board in determining an acceptable volatility target for the fund and an optimal asset allocation policy mix. This asset-liability analysis considers both sides of the plan balance sheet, utilizing both quantitative and qualitative inputs, in order to estimate the potential impact of various asset class mixes on key measures of total plan risk, including the resulting estimated impact of funded status and contribution rates. After consideration of all the inputs and a discussion of its own collective risk tolerance, the Board approves the appropriate policy asset mix for the Fund.

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

| Asset Class | Policy Target (%) |
|-----------------------------------|-------------------|
| Public Equity | 45% |
| Broad U.S. Equity | 27% |
| Global ex-U.S. Equity | 18% |
| Fixed Income | 27% |
| Core Fixed Income | 18% |
| High Yield | 8% |
| Cash Equivalents | 1% |
| Alternatives | 28% |
| Real Estate | 9% |
| Private Infrastructure | 9% |
| Timber | 0% |
| Private Equity | 10% |
| Total | 100% |

| Asset Class | Policy Target (%) |
|-------------------------------|-------------------|
| Global Equity | 55% |
| - Public Equity | 45% |
| - Private Equity | 10% |
| Global Fixed Income | 26% |
| - Investment Grade | 18% |
| - Non-Investment Grade | 8% |
| Global Real Assets | 18% |
| - Real Estate | 9% |
| - Other | 9% |
| Cash & Equivalents | 1% |
| Total | 100% |

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An allocation to Global Alternatives of up to 10% is authorized but shall not increase the expected volatility of the portfolio as measured in Section 5; and if utilized, all other targets will be adjusted pro-rata. The Board does not endorse tactical asset allocation, therefore, it is anticipated the portfolio be managed as close to the policy target as is prudent and practicable while minimizing rebalancing costs. Rebalancing of the Fund to this target will be done in accordance with the SIB's rebalancing policy.

7. RESTRICTIONS

While the SIB is responsible for establishing specific quality, diversification, restrictions, and performance objectives for the investment vehicles in which the Fund's assets will be invested, it is understood that:

- a. Futures and options may be used to hedge or replicate underlying index exposure, but not for speculation.
- b. Derivatives use will be monitored to ensure that undue risks are not taken by the money managers

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

- c. No transaction shall be made which threatens the tax exempt status of the Fund.
- d. All assets will be held in custody by the SIB's master custodian or such other custodians as are acceptable to the SIB.
- e. No unhedged short sales or speculative margin purchases shall be made.
- f. Social investing is prohibited unless it meets the Exclusive Benefit Rule and it can be substantiated that the investment must provide an equivalent or superior rate of return for a similar investment with a similar time horizon and similar risk.

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

For the purpose of this document, Social Investing is defined as *"The investment or commitment of public pension fund money for the purpose of obtaining an effect other than a maximized return to the intended beneficiaries."*

- g. Economically targeted investing is prohibited unless the investment meets the Exclusive Benefit Rule.

For the purpose of this document economically targeted investment is defined as an investment designed to produce a competitive rate of return commensurate with risk involved, as well as to create collateral economic benefits for a targeted geographic area, group of people, or sector of the economy.

Also, for the purpose of this document, the Exclusive Benefit Rule is met if the following four conditions are satisfied:

- 1) The cost does not exceed the fair market value at the time of investment.
- 2) The investment provides the Fund with an equivalent or superior rate of return for a similar investment with a similar time horizon and similar task.
- 3) Sufficient liquidity is maintained in the Fund to permit distributions in accordance with the terms of the plan.
- 4) The safeguards and diversity that a prudent investor would adhere to are present.

Where investment characteristics, including yield, risk, and liquidity are equivalent, the Board's policy favors investments which will have a positive impact on the economy of North Dakota.

8. INTERNAL CONTROLS

A system of internal controls must be in place by the SIB to prevent losses of public funds arising from fraud or employee error. Such controls deemed most important are the separation of responsibilities for investment purchases from the recording of investment activity, custodial safekeeping, written confirmation of investment transactions, and established criteria for broker relationships. The annual financial audit must include a comprehensive review of the portfolio, accounting procedures for security transactions and compliance with the investment policy.

9. EVALUATION AND REVIEW

Investment management of the Fund will be evaluated against the Fund's investment objectives. Emphasis will be placed on five year results. Evaluation should include an assessment of the continued feasibility of achieving the investment objectives and the appropriateness of the Investment Policy Statement for achieving those objectives.

Performance reports will be provided to the TFFR Board periodically, but not less than annually. Such reports will include asset returns and allocation data as well as information regarding all

Policy Type: TFFREnds

Policy Title: Investment Policy Statement

significant and/or material matters and changes pertaining to the investment of the Fund, including but not limited to:

- 1) A list of the advisory services managing investments for the board.
- 2) A list of investments at market value, compared to previous reporting period, of each fund managed by each advisory service.
- 3) Earnings, percentage earned, and change in market value of each fund's investments.
- 4) Comparison of the performance of each fund managed by each advisory service to other funds under the board's control and to generally accepted market indicators.
- 5) All material legal or legislative proceedings affecting the SIB.
- 6) Compliance with this investment policy statement.

TFFR Board Adopted: May 25, 1995.

Amended: November 30, 1995; August 21, 1997; July 15, 1999; July 27, 2000; September 18, 2003; July 14, 2005; September 21, 2006; September 20, 2007; October 27, 2011; September 26, 2013; January 21, 2016; September 21, 2017; January 25, 2018; November 19, 2020, April 22, 2021.

Approved by SIB: November 18, 2011, February 26, 2016, September 22, 2017, February 23, 2018, November 20, 2020, May 21, 2021.

ND Teachers' Fund for Retirement

ND State Investment Board

Date:

Date:

~~Janilyn Murtha~~
~~Chad~~
~~Roberts~~
Deputy Executive Director/
Chief Retirement Officer

~~David Hunter~~
~~Jan Murtha~~
Executive Director/~~CIO~~

MEMORANDUM

TO: SIB
FROM: Scott Anderson, Chief Investment Officer
DATE: October 7, 2022
RE: Investment Committee Update

The Investment Committee met Friday October 7, 2022. The meeting was called to order and Treasurer Beadle, the appointed Chair of the Investment Committee, welcomed members, discussed the appointing of the Chair – Treasurer Beadle and the Vice Chair, Land Trust Commissioner and Co-Board member Joe Heringer. Members of the committee then introduced themselves: Thomas Beadle, Joe Heringer, Prodosh Simlai, Ruilin Tian, Eric Chin and Scott Anderson. During the meeting Scott Anderson presented and the Investment Committee discussed: Governance for Growth and specific changes required of the governance manual to accommodate the Investment Committee, The Investment Committee Charter previously approved by the Board, and a summary of investment activities to date for the benefit of new Investment Committee members. The Investment Committee will present the proposed changes of the Governance Manual to the GPR Committee at an upcoming meeting.

The agenda and a link to the materials are included for your reference.

<https://www.rio.nd.gov/sites/www/files/documents/PDFs/SIB%20Investment/Board/Materials/siinvestmat20221007.pdf>

BOARD ACTION REQUESTED: Information Only.



State Investment Board
RETIREMENT & INVESTMENT

Investment Committee
Friday, October 7, 2022, 9:00 a.m.
Retirement and Investment Conference Room (Virtual)
Video Teleconferencing:
1600 E Century Ave, Suite 3, Bismarck, ND 58507
[Click here to join the meeting](#)

AGENDA

- I. CALL TO ORDER AND ACCEPTANCE OF AGENDA**
- II. ACKNOWLEDGEMENT OF APPOINTED CHAIR & VICE-CHAIR AND INTRODUCTION OF MEMBERS**
- III. GOVERNANCE FOR GROWTH – MR. ANDERSON**
- IV. INVESTMENT COMMITTEE CHARTER AND ACTIVITIES – MR. ANDERSON**
- V. INVESTMENT ACTIVITIES TO DATE 2022 – MR. ANDERSON**
- VI. DISCUSSION**
- VII. ADJOURNMENT**

MEMORANDUM

TO: SIB
FROM: Jan Murtha, Executive Director
DATE: October 27, 2022
RE: Introduction & First Reading – Policy Changes to Support Investment Committee Operations.

The Investment Committee and Governance and Policy Review Committee have reviewed and recommend changes to the SIB Governance Manual to facilitate Investment Committee operations.

Mr. Anderson will review these changes with the SIB for First Reading at the October meeting. Additional amendments may be accepted up to and at the time of Second Reading and Final Adoption tentatively scheduled for the November SIB meeting.

Prior to a second reading before the SIB, comment will be sought from the TFFR-GPR committee and the full TFFR Board during their regular scheduled meetings in November. The proposed changes and any amendments will also be submitted to AAG DePountis for legal review prior to second reading and final adoption.

BOARD ACTION: Motion to approve Introduction and 1st Reading of amendments to SIB Governance Manual as presented: B-5, B-7, E-1, E-2, E-2.1, E-3, E-3.1, E-3.2, E-3.3, E-3.4, E-3.5, E-3.6, E-4.1, E-5, E-7, E-7.1, E-8, E-8.1, E-9, E-10 and Exhibits.

POLICY TYPE: GOVERNANCE PROCESS

POLICY TITLE: *BOARD COMMITTEE PRINCIPLES*

Unless specifically provided by governance policy, board committees will be assigned ~~so as~~ to minimally interfere with the wholeness of the board's job and so as never to interfere with delegation from board to executive director. Board committees will be used sparingly.

1. Board committees are to help the board do its job, not to help the staff do its job. Committees ordinarily will assist the board by preparing policy alternatives and implications for board deliberation. Board committees are created to advise the board, not the staff. The Investment Committee is a hybrid committee comprised of Board members, Staff and external investment experts. The investment committee is delegated authority as provided by Board policy.
2. Board committees may not speak or act for the board except when formally given such authority for specific and time-limited purposes. Expectations and authority will be carefully stated in order not to conflict with authority delegated to the executive director.
3. Board committees cannot exercise authority over staff however committees will make requests of staff through the executive director unless staff is assigned to the committee. Because the executive director works for the full board, he or she will not be required to obtain approval of a board committee before an executive action. In keeping with the board's broader focus, board committees will normally not have direct dealings with current staff operations.
4. Board committees are to avoid over-identification with the committee's assignment. Therefore, a board committee which has helped the board create policy will not be used to monitor organizational performance on that policy. The Investment Committee is chartered to monitor certain investment strategy execution and investment performance in a more detailed way than the Board which receives independent performance appraisals and summarized updates on investment activities. The Board is the ultimate governance authority of the investment program.
5. This policy applies only to committees which are formed by board action, whether or not the committees include non-board members. It does not apply to committees formed under the authority of the executive director.
6. The chairperson will appoint board committees authorized by the board. The operational life span of a board committee will be defined at the time of appointment.

Policy Implemented: June 23, 1995.

Amended: November 22, 1996, February 27, 2015

POLICY TYPE: GOVERNANCE PROCESS

POLICY TITLE: ANNUAL BOARD PLANNING CYCLE

To accomplish its job outputs with a governance style consistent with board policies, the board will strive to follow a biennial agenda which (a) completes a re-exploration of *Ends* policies annually and (b) continually improves its performance through attention to board education and to enriched input and deliberation.

1. A biennial calendar will be developed.
2. The cycle will conclude each year on the last day of June in order that administrative budgeting can be based on accomplishing a one-year segment of the most recent board long-range vision.
 - A. In the first three months of the new cycle, the board will strive to develop its agenda for the ensuing one-year period.
 - B. Scheduled monitoring will be used to evaluate and adjust the annual agenda as needed.
3. Education, input, and deliberation will receive paramount attention in structuring the series of meetings and other board activities during the year.
 - A. To the extent feasible, the board will strive to identify those areas of education and input needed to increase the level of wisdom and forethought it can give to subsequent choices.
 - B. A board education plan will be developed during July and August of each year.
4. The sequence derived from this process for the board planning year ending June 30 is as follows: (Additional comments forthcoming)
 - A. July: Election of officers, appoints audit and investment committee, plan annual agenda, begin to develop board education plan, and new board member orientation.
 - B. August: Present education plan and continue new board member orientation.
 - C. September: Annual Review of Governance Manual.
 - D. October: Chief Investment Officer review of investment results. Annual meeting for evaluation of RIO vs. *Ends* policies and annual board evaluation.
 - E. November: Chief Investment Officer report on investment work plan.
 - F. January: During second year of the biennium, begin to develop *Ends* policies for the coming biennium for budget purposes.
 - G. February: Chief Investment Officer present the investment work plan. Evaluation of Executive Director.
 - H. March: Chief Investment Officer review of investment results and report on investment work plan. During first year of biennium, set budget guidelines for budget development.

POLICY TYPE: GOVERNANCE PROCESS

I. June: Chief Investment Officer review of investment results and report on investment work plan

4. The sequence derived from this process for the board planning year ending June 30 is as follows:
- A. July: Election of officers, appoints audit committee, plan annual agenda, begin to develop board education plan, and new board member orientation.
 - B. August: Investment Director review of investment results, establish investment work plan, add investment education to education plan, and continue new board member orientation.
 - C. September: Annual Review of Governance Manual.
 - D. October: Annual meeting for evaluation of RIO vs. *Ends* policies and annual board evaluation.
 - E. November: Investment Director report on investment work plan.
 - F. January: During second year of the biennium, begin to develop *Ends* policies for the coming biennium for budget purposes.
 - G. February: Investment Director report on investment work plan.
Evaluation of Executive Director.
 - H. March: During first year of biennium, set budget guidelines for budget development.
 - I. May: Investment Director report on investment work plan.

Policy Implemented: June 23, 1995; November 19, 1999.

Amended: September 26, 2014, February 27, 2015.

POLICY TYPE: INVESTMENTS

POLICY TITLE: FIDUCIARY DUTIES

By virtue of the responsibilities assigned to the SIB by North Dakota Century Code Chapter 21-10, the members of the SIB are fiduciaries for eleven statutory funds. Through contractual obligations, fiduciary responsibility extends to ~~twelve~~ contracted additional funds.

A fiduciary is a person who has discretionary authority or management responsibility for assets held in trust to which another has beneficial title or interest. The fiduciary is responsible for knowing the "prudent requirements" for the investment of trust assets. Remedial actions may be assessed against fiduciaries for violations of fiduciary duty.

North Dakota state law provides broad fiduciary guidelines for the SIB members. NDCC 21-10-07 specifies that "the state investment board shall apply the prudent investor rule in investing for funds under its supervision except that Section 21-10-07.1 requires the SIB to give preference to qualified investment firms and financial institutions with a presence in the state for legacy fund investment purposes. The "prudent investor rule" means that in making investments, the fiduciaries shall exercise the judgment and care, under the circumstances then prevailing, that an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it, not ~~in regard to~~ regarding speculation but ~~in regard to~~ regarding the permanent disposition of funds, considering probable safety of capital as well as probable income."

Procedural prudence is a term that has evolved to describe the appropriate activities of a person (or persons) who act in a fiduciary role. Court decisions to date indicate that procedural prudence is more important in assessing fiduciary activities than actual portfolio performance. A fiduciary cannot be faulted for making the "wrong" decision provided that proper due diligence was performed.

The key to successfully discharging the SIB's fiduciary duties is the establishment of and adherence to proper due diligence procedures. While not bound by ERISA (Employee Retirement and Income Security Act of 1974), the SIB will use the procedural prudence outlined by ERISA as guidance in developing its procedures:

1. An investment policy must be established for each fund and must be in writing.
2. Plan assets must be diversified, unless under the circumstances it would be prudent not to do so.
3. Investment decisions must be made with the skill and care of a prudent expert.
4. Investment performance must be monitored.
5. Investment expenses must be controlled.
6. Prohibited transactions must be avoided.

Policy Implemented: September 20, 1995.

Amended: May 30, 1997, January 22, 1999, February 27, 2009, October 26, 2018.

POLICY TYPE: INVESTMENTS

POLICY TITLE: *INVESTMENT PROCESS*

The SIB believes that an investment program must be built and managed like any good business, with a clear statement of mission, overall objectives, roles and responsibilities, and policies and guidelines. Major issues to be faced by the SIB will revolve around:

- Setting asset allocation targets
- Setting appropriate benchmarks
- Finding the right managers
- Funds implementation and ongoing execution
- Monitoring the program
- Searching for appropriate new opportunities

Asset allocation targets:

- ~~Setting appropriate benchmarks.~~
- ~~Finding the right managers.~~
- ~~Monitoring the program.~~
- ~~Searching for appropriate new opportunities.~~

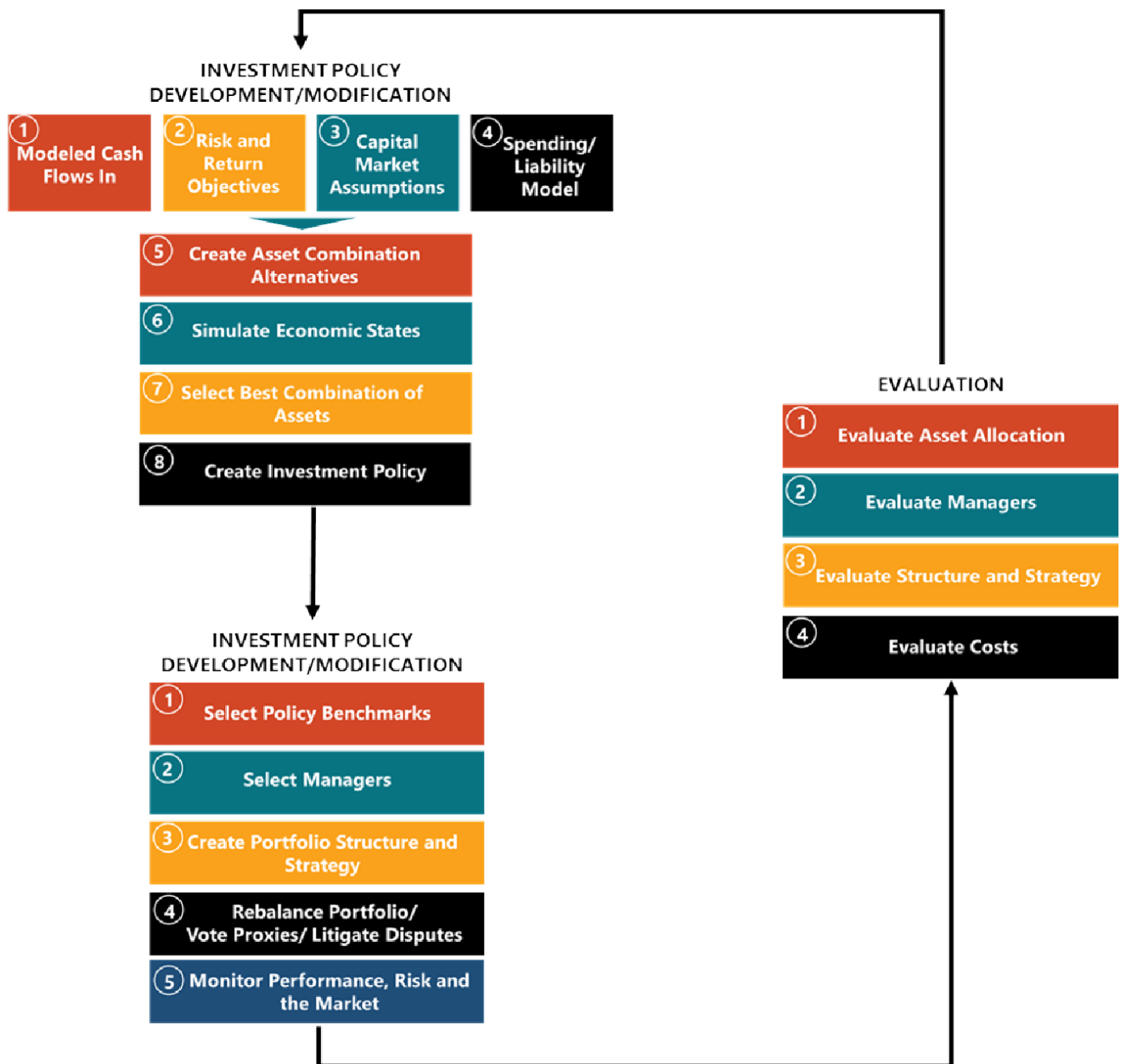
To ensure rigorous attention to all aspects of the investment program, the SIB follows an established investment process. This process, described by the diagram on the following page, involves three phases:

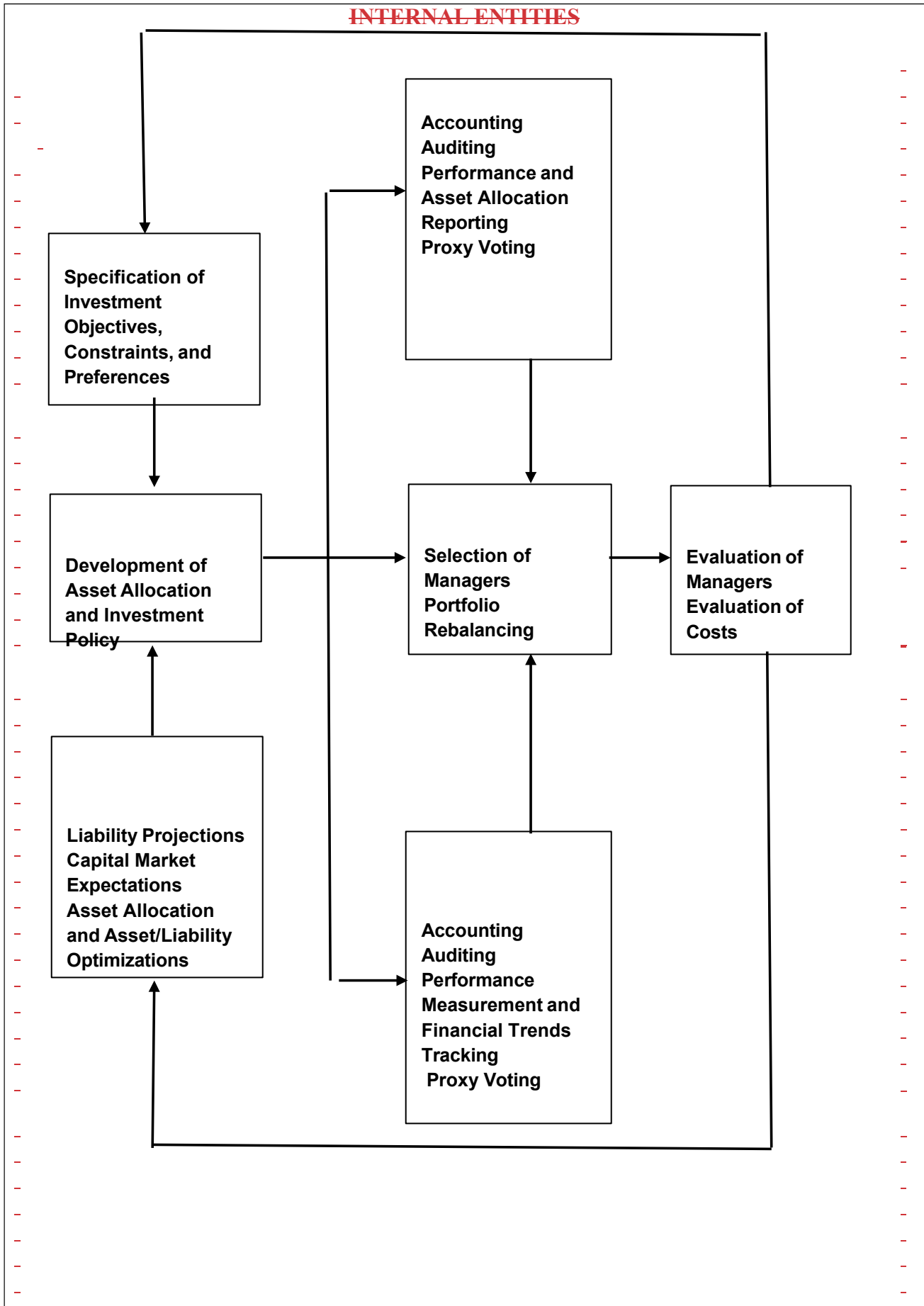
- Investment policy development/modification.
- Implementation/monitoring.
- Evaluation.

The first column of boxes describes the policy development phase, the middle column implementation/monitoring, and the last box on right evaluation. Activities associated with internal entities are shown along the top. Those associated with external entities are shown along the bottom. The middle shows activities that internal and external entities work on together.

Policy Implemented: September 20, 1995.

E-2





E-2.1

POLICY TYPE: INVESTMENTS

POLICY TITLE: INVESTMENT PROCESS

The key responsibilities of the entities involved in the investment program are:

Fund Governing Bodies

1. Establish policy on investment goals and objectives.
2. Establish asset allocation or approve a pool allocation.
3. Hire actuary when required.

SIB

1. Invest funds entrusted by statute and contracted entities, delegating investment authority when deemed appropriate.
2. Set policies for appropriate investments and investment practices of entrusted funds.
3. Approve asset allocation and investment policies of participating trust funds or establish pool asset allocation previously approved by the Investment Committee.
4. Monitor the progress of the implementation of the investment strategy.
5. Monitor the performance and risk of the investment program provided by an independent third-party performance appraisal.
6. The Board will receive program updates, training regarding investment topics, market updates, investment performance/risk, investment procedures, program costs and updates on investment execution of investment strategies from Investment Committee representatives.
7. Approve benchmark recommendations from an independent third-party benchmark consultant previously approved by the Investment Committee.
8. Review summaries of Investment Committee proceedings.
9. Review updates regarding specific investment strategies, manager selection, termination, guideline changes and changes to instrument usage.
10. The Board may choose to have decision authority over specific Investment Committee decisions when deemed appropriate including new investment programs, strategies, techniques, instruments, and initiatives.

Investment Committee

1. The Committee will suggest and recommend changes to the SIB Investment Policy, as necessary including any delegation of authority to RIO investment staff.
2. The Committee will review periodically and approve changes and additions to the IC Guidelines and will report any revisions to the SIB.
3. The Committee may examine internally (if approved) and externally managed portfolios, individual

POLICY TYPE: INVESTMENTS

POLICY TITLE: *INVESTMENT PROCESS*

investments, correlation among portfolios, and such other matters as the Committee deems appropriate for the purpose of understanding, measuring, controlling, monitoring, and reporting SIB investment exposure.

4. The Committee will review and approve the use of new investment instruments prior to their implementation in internal (if approved) and external SIB portfolios.
5. The Committee will oversee the review and implementation of any other new investment programs or initiatives in all SIB portfolios and will coordinate any necessary related SIB approvals.
6. For purposes of fulfilling its risk management and oversight responsibilities, the Committee will act as liaison between the RIO investment Staff and the SIB on issues concerning investment risk management.
7. The Committee will review subset of asset class strategies at least quarterly to assess established risk limits and evaluate strategy and will approve such strategies annually. The relevant Investment Staff shall be responsible for the specific investment decisions and implementations including internally (if approved) and externally managed mandates that are used to execute the approved strategies.
8. The Committee will review all compliance-related issues including compliance with statutes, administrative rules, internal and external manager investment guidelines or as otherwise requested.
9. The Committee will review asset allocation plans and strategies and will review and approve any proposed changes to SIB's strategic asset allocations and fund-level active risk objectives before they are presented to the Board for approval. The Committee will provide consultation and assistance to the SIB, ED and staff concerning total fund allocation changes or rebalance decisions, as needed.
10. The Committee will review and act on all requests from investment managers, both internal (if approved) and external for waivers to provisions in their investment guidelines. On an emergency basis when it is impractical to timely convene a meeting of the Investment Committee, either the Chair or Vice Chair of the committee with the concurrence of the Chief Investment Officer of the Committee or the Executive Director, may approve a waiver. That waiver will be brought to the Committee for ratification at its next regularly scheduled meeting.
11. The Committee may review and analyze other compliance-, risk- or derivative-related (if approved) matters that are directed to the attention of the Committee by the SIB, external auditors, the Internal Audit group, and RIO investment and accounting staff.
12. The Committee will receive quarterly reports regarding transitions (if any) and shall review with the applicable Investment Staff the costs and impacts associated with the transitions. It will also from time-to-time review reports on the trading effectiveness of investment execution of internal investment strategies (if approved).
13. The Committee will review annual benchmark recommendations from a Board-appointed benchmark consultant and will provide its evaluation and recommendation to the Board.
14. The Committee will review and revise portfolio guidelines as necessary.
15. The Committee will establish procedures for the methodology and frequency of review of (i) fund, asset class and portfolio performance, (ii) performance attribution, (iii) allocation within asset classes and (iv) risk levels. Procedures will be shared with the Board.
16. The Committee will conduct periodic round table discussions of the economic and investment environment.

4. Report the investment performance of the funds to each fund's governing authority.

POLICY TYPE: INVESTMENTS

POLICY TITLE: *INVESTMENT PROCESS*

5. Hire and terminate money managers, custodians, and consultants.

Chief Investment Officer and RIO Staff

1. Participate on the Investment Committee and report to the Board as required.
2. Implement investment policies approved by the Investment Committee and the Board.
3. Provide research and administrative for SIB client funds and client projects.
4. Recommend investment policies and procedures appropriate for governing the investment of entrusted funds.
5. Lead the development of asset allocations, investment strategies, manager mandates, manager guidelines, investment implementations and investment policies to be approved by the Investment Committee and Board.
6. Hire and terminate money managers, custodians, and consultants as delegated by the Investment Committee and Board.
- 7.6. Negotiate manager contract terms and conditions as delegated by the Investment Committee and Board.
- 8.7. Evaluate money manager adherence to investment objectives, mandate requirements and guidelines.
- 9.8. Provide performance reports to the Investment Committee, the Board and Boards of participating funds as a representative of the Investment Committee and the SIB.
- 10.9. Recommend hiring or terminating money managers, custodians, consultants, and other outside services needed to effectively manage the investment funds.
- 11.10. Develop and maintain appropriate accounting policies and investment systems for the funds entrusted to the SIB.

POLICY TYPE: INVESTMENTS

POLICY TITLE: *KEY PROGRAM ENTITIES AND RESPONSIBILITIES*

Investment Consultant

1. Measure money manager performance and monitor adherence to investment goals, objectives, and policies.
2. Assist in the annual evaluation of program policies, results, and the development of annual work plan.
3. Work with Staff to develop the asset allocation or asset/liability studies.
4. Provide information for requested money manager searches.
5. Assist in development of investment policies and manager structure and rebalancing guidelines.
6. Extension of staff for special projects.

Actuary

1. Assist fund governing bodies in developing benefit and funding policies.
2. Measure actuarial soundness of plan.
3. Perform experience studies as requested by plan sponsor.
4. Provide liability projections as needed.
5. Conduct annual evaluation of program policies, results, and assist in developmental of annual work plan.
6. Assist in implementation of annual work plan.

Auditor

1. Measure, validate, and offer an opinion on agency financial statements and management.
2. Assist in developing appropriate accounting policies and procedures.
3. Bring technical competence, sound business judgment, integrity, and objectivity to the financial reporting process.

POLICY TYPE: INVESTMENTS

POLICY TITLE: *KEY PROGRAM ENTITIES AND RESPONSIBILITIES*

Master Custodian

1. Provide safekeeping of all securities purchased by managers on behalf of the SIB.
2. Provide global custody services.
3. Collect interest, dividend, and principal payments in a timely manner.
4. Provide for timely settlement of securities.
5. Price all securities and post transactions daily.
6. Maintain short-term investment vehicles for investment of cash not invested by SIB managers. Sweep all manager accounts daily to ensure all available cash is invested.
7. Provide monthly, quarterly, and annual accounting reports for posting to RIO's general ledger.
8. May manage a securities lending program to enhance income.
9. Provide electronic access to accounting reports.
10. Provide other services that assist with the monitoring of managers and investments.

Portfolio Managers

1. Manage portfolios as assigned by the SIB.
2. Provide liquidity, as required, in a timely and cost-efficient manner.
3. Vote proxies.
4. Provide educational assistance to board.

Policy Implemented: September 20, 1995.

Amended: February 27, 2009

SIB

~~1. Invest funds entrusted by
statute and contracted entities.~~

~~2. Set policies on appropriate
investments and investment
practices for entrusted funds.~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: KEY PROGRAM ENTITIES AND RESPONSIBILITIES

~~3.—Approve asset allocation and investment policies of participating trust funds.~~

~~4.—Report the investment performance of the funds to each fund’s governing authority.~~

~~5.—Hire and terminate money managers, custodians, and consultants.~~ Investment Officer and RIO Staff

~~1.—Implement investment policies approved by the SIB.~~

~~2.—Provide research and administrative support for SIB projects.~~

~~3.—Recommend investment regulations appropriate for governing the investment of entrusted funds.~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: KEY PROGRAM ENTITIES AND RESPONSIBILITIES

~~4.— Assist fund governing
bodies in developing asset
allocation and investment policies.~~

~~5.— Evaluate money manager
adherence to investment objectives.~~

~~6.— Provide performance
reports to the SIB and boards of
participating funds.~~

~~7.— Recommend hiring or
terminating money managers,
custodians, consultants, and other
outside services needed to
effectively manage the investment
funds.~~

~~8.— Develop and maintain
appropriate accounting policies and
systems for the funds entrusted to
the SIB.~~

Investment Consultant

~~1.— Measure money manager performance and monitor adherence to investment goals, objectives, and policies.~~

~~2.— Conduct annual evaluation of program policies and results, and assist in development of annual work plan.~~

~~3.— Assist in implementation of annual work plan.~~

~~4.— Conduct asset allocation or asset/liability studies.~~

~~5.— Conduct requested money manager searches.~~

~~6.— Assist in development of investment policies and manager~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: KEY PROGRAM ENTITIES AND RESPONSIBILITIES

~~structure and rebalancing~~

~~guidelines.~~

~~7.—Extension of staff for special projects. Actuary~~

~~1.—Assist fund governing bodies in developing benefit and funding policies.~~

~~2.—Measure actuarial soundness of plan.~~

~~3.—Perform experience studies as requested by plan sponsor.~~

~~4.—Provide liability projections as needed.~~

~~5.—Conduct annual evaluation of program policies and results, and assist in developmental of annual work plan.~~

~~6.—Assist in implementation of annual work plan. Auditor~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: KEY PROGRAM ENTITIES AND RESPONSIBILITIES

~~1. Measure, validate, and offer
an opinion on agency financial
statements and management.~~

~~2. Assist in developing
appropriate accounting policies and
procedures.~~

~~3. Bring technical competence,
sound business judgment, integrity,
and objectivity to the financial
reporting process.~~

Master Custodian

~~1. Provide safekeeping of all securities purchased by managers on behalf of the SIB.~~

~~2. Provide global custody services.~~

~~3. Collect interest, dividend, and principal payments in a timely manner.~~

~~4. Provide for timely settlement of securities.~~

~~5. Price all securities and post transactions daily.~~

~~6. Maintain short-term investment vehicles for investment of cash not invested by SIB managers. Sweep all manager~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: KEY PROGRAM ENTITIES AND RESPONSIBILITIES

~~accounts daily to ensure all
available cash is invested.~~

~~7. Provide monthly, quarterly,
and annual accounting reports for
posting to RIO's general ledger.~~

~~8. May manage a securities
lending program to enhance
income.~~

~~9. Provide electronic access to
accounting reports.~~

~~10. Provide other services that
assist with the monitoring of
managers and investments.~~

Portfolio Managers

~~1. Manage portfolios as
assigned by the SIB.~~

~~2. Provide liquidity, as
required, in a timely and cost-
efficient manner.~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: KEY PROGRAM ENTITIES AND RESPONSIBILITIES

~~3. Vote proxies.~~

~~4. Provide educational-
assistance to board.~~

Policy Implemented:

~~September 20, 1995.~~

~~**Amended:** February 27, 2009~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: INVESTMENT POLICY DEVELOPMENT – TRUST FUNDS

In accordance with NDCC 21-10-02.1, RIO staff works with each fund's governing authority, and consultants as needed, to develop an investment policy, which includes an appropriate asset allocation, for each of the statutory funds. Contracted entities are responsible for their own policy development. **Pooling of funds is allowed by statute. A pooled allocation will have an investment policy that can be approved by each fund's governing authority.**

Each policy, as a minimum, will include the following information:

1. Fund characteristics and constraints.
 - a. An explanation as to the purpose of the portfolio and its legal structure.
 - b. Size of portfolio and the likelihood and amount of future contributions and disbursements
 - c. Participant demographics when applicable.
 - d. Fiscal health of fund.
 - e. Constraints.
 - f. Unique circumstances.
2. Responsibilities of SIB.
3. Investment objectives.
4. Standards of investment performance.
5. Asset allocation policy and guidelines.
6. Evaluation and review.

Policy Implemented: September 20, 1995.

Amended: February 27, 2009

POLICY TYPE: INVESTMENTS

POLICY TITLE: INVESTMENT POLICY DEVELOPMENT – INVESTMENT POOLS

Asset Class Implementation

The SIB may internally manage investment of funds as approved by the Investment Committee and if there is a policy approval for internal investment management by the Board. Within each asset class there are numerous manager strategies, internal and external that may be employed by the SIB to affect exposure to the various asset classes as well as achieve an excess return to the policy benchmark.

Investment Pools

Investment pools may be defined for asset allocations as well as individual asset classes, sub-asset classes, manager portfolios or transactions and unitized for allocation to client funds.

SIB investment pool policy statements will define the following:

~~The SIB does no in-house investment of funds. All investment activity is delegated to outside money managers. Within each asset class there are numerous manager styles (i.e. market sector specializations) that may be employed by the SIB to affect exposure to the various asset classes.~~

~~SIB investment pool policy statements will define the following for each asset class:~~

1. Strategic objectives.
2. Performance objectives.
 - a. Appropriate capital market benchmarks.
 - b. Excess return targets, after payment of investment management fees.
 - c. Peer-group ranking.
 - d. Risk characteristics.
 - e. Termination factors.
3. Portfolio constraints.
 - a. Quality of securities/portfolio (security – BAA/portfolio – AA).
 - b. Quality held (maximum in company/industry/economic sector).
 - c. Other specific restrictions if applicable (ADRs, 144A securities, prohibited transactions, etc.).
4. Investment structure.
 - a. Percent of assets per manager cycle.
 - b. Ranges for rebalancing.

POLICY TYPE: INVESTMENTS

5. Control Procedures

- a. Duties and responsibilities of the SIB
- b. Duties and responsibilities of money managers.
- c. Reporting requirements.

Policy Implemented: September 20, 1995.

Amended: February 27, 2009

STATEMENT OF POLICY

It shall be the policy of the State Investment Board (SIB) to vote all proxies appurtenant to shares held in the various plans administered by the Board, and to vote said shares in a manner that best serves the system's interests. Specifically, all shares are to be voted with the interest of preserving or enhancing share value. The Board endorses the Department of Labor opinion that proxies have economic power which shareholders are obligated to exercise to improve corporate performance. The Board further recognized that proxy issues are frequently complex, requiring expert guidance; accordingly, it has adopted procedures that employ such experts.

The objectives of these policies are as follows:

1. Exercise the value empowered in proxies.
2. Maintain or improve share value for the exclusive benefit of the participants.
3. ~~Achieve changes for the common good whenever these do not conflict with the exclusive benefit objective.~~

PROCEDURES

DISTINCTION OF RESPONSIBILITIES

Master Custodian

The system's master custodian shall be responsible for timely receipt and distribution of proxy ballots to the appropriate investment management institutions.

Managers

The managers shall be responsible for promptly voting all proxies pursuant to the Board's policies, and in keeping with the managers' best judgments.

Staff

Staff, in concert with the master custodian and the managers, shall be responsible for monitoring the receipt and voting of all proxies.

Board

The Board shall administer and enforce its policies. This administration and enforcement requires reporting from responsible persons, as discussed in the following.

REPORTING

Master Custodian

The master custodian shall report quarterly in writing on all pertinent proxy issues, including (1) receipt of proxy material; (2) nature of issues; (3) due date; (4) names of managers and dates forwarded; and (5) deficiency reports covering proxies that should have been received but were not.

Managers

Managers shall report quarterly in writing on how proxies have been voted, with explanations given whenever the Board's guidelines have not been followed.

Staff

Internal compliance staff shall report annually on the efficiency of the process, the portion of total proxies that have actually been voted, and compliance with Board directives.

GUIDELINES

~~The Board believes that good corporate investment decisions require good corporate governance, and that social responsibilities cannot be ignored in these decision processes. Accordingly, the practice of faithfully voting with management will *not* be tolerated, nor will the "Wall Street Rule" which advocates the sale of shares if there is disagreement with management.~~

~~In keeping with the Board's philosophy, the managers are encouraged to vote *for* proposals that *increase* or enhance the following, and against those that decrease or diminish the same:~~

- ~~• Health of the population~~
- ~~• Environmental conditions~~
- ~~• Management and Board accountability~~
- ~~• Abolition of management entrenchment~~
- ~~• Control of executive compensation~~
- ~~• Shareholder rights and ownership~~
- ~~• Fair labor practices~~

~~Guidelines may be altered periodically by the Board as situations warrant.~~

Policy Implemented: September 20, 1995.

Amended: February 27, 2009, October 26, 2018.

POLICY TYPE: INVESTMENTS

POLICY TITLE: IMPLEMENTATION – INVESTMENT MANAGER SELECTION

The SIB hires investment managers with the intention of maintaining long-standing relationships. Care is taken to select managers for defined roles based on their strengths in designated areas. The hiring process is done in accordance with all applicable state and federal laws.

~~Some manager selections are conducted by the consultant while others may be directed by the staff in coordination with the SIB. Ultimately, the selection process is often a team effort involving the investment consultants, SIB members, and RIO staff. A consultant may be invaluable in this activity due to the large volume of data that needs to be collected, verified, and summarized. Also, their ongoing dialogue with money management firms provides useful qualitative input.~~

The investment management business has rapidly evolved since the 1990's. It is recognized that many viable firms have been formed as the result of spin-offs or start-ups and may not have a traditional long-term investment performance history in accordance with the following guidelines. There has also been a tremendous increase in the types of strategies available to institutional investors resulting in the need for flexibility in the establishment of investment criteria. Subject to the case-by-case acceptance of deviation by the SIB members, money managers must meet the following minimum selection criteria for inclusion in a manager search:

- Must be a registered investment adviser, bank, insurance company, or investment company (mutual fund). Should provide ADV Part II (registered investment adviser) prospectus (investment company) or comparable information (bank or insurance company).
- Provide at least five years of actual quarterly performance data that is time weighted a representative composite of ~~accounts, and~~ accounts and meets Global Investment Performance Standards (GIPS).
- Provide information that illustrates the key investment personnel have been together for at least five years and the capabilities of the firm can handle the current level of investment activity.
- Able to articulate the firm's investment strategies and philosophy in a manner understandable by the Board, and provide a statement that the strategy has been followed for at least five years.
- Disclose any pending or past litigation or censure.
- Be willing to acknowledge their fiduciary status in writing (mutual funds are exempted from this requirement).

The following steps will be followed in the selection process, subject to modification relative to investment strategy and manager search circumstances:

- Develop a profile of the type of manager needed. This is based on the investment goals and asset allocations. Included in the profile are such things as:
 1. Quantitative characteristics, such as GIPS-compliant composite return data, risk-adjusted rates of return and relevant portfolio characteristics.
 2. Qualitative characteristics, such as key personnel, investment philosophy, investment strategy, research orientation, decision making process, and risk controls.
 3. Organizational factors such as type and size of firm, ownership structure, client servicing capabilities, ability to obtain and retain clients, and fees.

POLICY TYPE: INVESTMENTS

POLICY TITLE: IMPLEMENTATION – INVESTMENT MANAGER SELECTION

~~The following steps will be followed in the selection process, subject to modification relative to investment strategy and manager search circumstances:~~

- ~~• —Develop a profile of the type of manager needed. This is based on the investment goals and asset allocations. Included in the profile are such things as:~~

~~Quantitative characteristics, such as GIPS-compliant composite return data, risk-adjusted rates of return and relevant portfolio characteristics.~~

POLICY TYPE: INVESTMENTS

POLICY TITLE: IMPLEMENTATION – INVESTMENT MANAGER SELECTION

~~Qualitative characteristics, such as key personnel, investment philosophy, investment strategy, research orientation, decision making process, and risk controls.~~

~~Organizational factors, such as type and size of firm, ownership structure, client servicing capabilities, ability to obtain and retain clients, and fees.~~

- ~~Staff will provide a written report to the Investment Committee as required on the due diligence process conducted during the selection process. This report will include selection steps followed and process steps excluded. The Investment Officer will give a written report to the SIB on the due diligence process conducted by the Investment Officer, RIO staff, and the SIB in the manager selection process. This report will include selection steps followed and process steps excluded.~~
- Consultant and/or staff use the profile to screen their data base for managers that meet SIB criteria.
- Consultant and/or staff reduce the group to the top candidates and prepare a summary report. The report will contain pertinent data on each of the candidates.
- When appropriate, on-site visits may be made by staff and board members to the candidates' home offices. Visits by board members to potential manager sites must have board approval.
- When appropriate the Investment Officer will conduct fact-finding pre-interviews. SIB trustees and RIO staff will receive notice of these pre-interviews.

Interviews are conducted with each of the finalists in Bismarck. All are required to bring the potential portfolio manager to the interview. Particular attention is paid to gaining an understanding of the investment process and determining the manager's compatibility with the SIB's guidelines-requirements and objectives.

The Investment Officer will schedule manager interviews with the SIB. Following these interviews, the Investment Officer, with the advice of RIO staff and consultants, will make recommendations to the SIB on manager selection.

- The SIB will select the investment manager by majority vote.
- Manager(s) selected by the SIB are notified immediately by RIO staff. Unsuccessful candidates are notified by consultant.
- Investment management contracts are reviewed and finalized, sent to the Attorney General for approvalreview, and executed.
- Accounts are set up at the master custodian and on the internal general ledger.
- Consultant is notified when to begin the measurement of the investment performance of the manager(s).

Policy Implemented: September 20, 1995

Amended: February 27, 2009

POLICY TYPE: INVESTMENTS

POLICY TITLE: IMPLEMENTATION – PORTFOLIO REBALANCING

Portfolio Rebalancing

The need to rebalance the portfolio can arise ~~due to~~from a new asset allocation or because market activity has driven the actual distribution of assets away from the desired mix. To minimize transaction costs ~~due to~~from rebalancing, RIO ~~works with the investment consultants to determine~~develops appropriate ranges around the target mix (which are specified in the policy statement). Rigidly adhered to, such a policy is a valuable risk control tool. By maintaining asset mix within reasonably tight ranges, the SIB avoids making unintentional "bets" in the asset mix and avoids market-timing decisions.

All ~~of the~~ funds the SIB oversees have an asset allocation with minimum and maximum limits assigned. RIO's rebalancing policy requires the asset mix to be determined at the end of each month and that appropriate rebalancing takes place.

~~RIO's rebalancing policy requires the asset mix to be determined at the end of each month. At the end of each quarter, all portfolios deviating from the target beyond the acceptable limits are rebalanced to target.~~

Policy Implemented: September 20, 1995.

The Board and the Investment Committee The SIB will follow an annual evaluation cycle for the investment program to ensure systematic review of investment policies and performance results and the development and implementation of corrective action plans. Evaluation of the program seeks to answer such questions as:

- Are all investment goals being met?
- What has worked and what has not?
- Have changes occurred in the capital markets, plan design, or board philosophy to warrant changes in investment policy?
- Are money managers meeting our expectations?
- Is continued confidence in the money managers warranted?
- Are accounting practices sound and fair to participating funds?
- Is service delivered in the most cost-effective manner?

The SIB's consultants play a key role in helping to answer some of these questions. The external auditor's report provides insight on accounting practices and cost effectiveness.

Evaluation of Money Managers

Achievement of the SIB's performance goals hinges on the success of the investment strategies and money managers it employs. Evaluation of each money manager must consider the following:

- Has the manager achieved the SIB's performance objectives?
- Has the firm adhered to the investment philosophy for which it was hired?
- Have there been any organizational or personnel changes that may negatively affect future performance?
- Are areas of concern being adequately addressed?
- Can the manager perform well in the future, regardless of whether extraordinary events, long-term performance, and/or short-term performance argue for termination?

These criteria are assessed by quantitative and qualitative means:

- Analyses provided by the investment consultant.
- Annual meetings with each manager in Bismarck, onsite at the managers' offices or virtually to discuss performance, investment philosophy, organizational changes, economic outlook, and areas of concern.

POLICY TYPE: INVESTMENTS

POLICY TITLE: *EVALUATION*

Longer periods of time are better than shorter time periods when assessing a manager's performance. Ideally, performance should be assessed over a market cycle. Market cycles have varying lengths but have historically averaged 5-7 years. The SIB will use a minimum five-year period to evaluate manager performance against long-term performance standards. Long-term performance standards will be a market index that the manager has previously agreed to be measured against.

Shorter-term performance standards will also be established for each money manager. These standards will incorporate a minimum three-year measurement period and measure the manager against a previously agreed-upon peer group or style market index.

Long-term performance standards, short-term performance standards, extraordinary events, and termination factors will be incorporated in the written asset class investment policies.

Evaluation of Program Costs

Costs will be broken out by internal administration, investment consultants, master custodian, and external manager fees. Reports will detail this information by investment pool, managers, and by fund.

These costs will be compared to other funds on an annual basis and generally include a fee study conducted by an experienced investment consultant every two years. Staff is encouraged to identify other cost-comparison sources which may include the engagement of specialized fee consultants to conduct in-depth fee reviews on a periodic basis, subject to board review and approval.

Policy Implemented: September 20, 1995.

Amended: October 26, 2018, July 22, 2022.

MEMORANDUM

TO: SIB
FROM: Scott Anderson, Chief Investment Officer
DATE: October 12, 2022
RE: Legacy Fund and Budget Stabilization Fund Advisory Board Update

The Legacy and Budget Stabilization Fund Advisory Board (hereinafter “Advisory Board”) met Wednesday October 12, 2022. The link to the meeting and presentation materials is attached for your reference.

<https://ndlegis.gov/events/2022/10/12/legacy-and-budget-stabilization-fund-advisory-board>

During this meeting representatives from RVK provided a committee discussion regarding the asset allocation study of the Legacy Fund as well as the development of policies and guidelines for an in-state equity investment program under the Legacy Fund. A draft investment policy for the Legacy Fund was approved with an expected amendment to be discussed for approval at the next Board meeting.

Scott Anderson provided a fiscal year end and thru August Legacy Fund and Budget Stabilization Fund performance update as well as a discussion regarding the opportunity to manage some of the RIO client funds internally.

BOARD ACTION REQUESTED: Information Only.

MEMORANDUM

TO: SIB
FROM: Jan Murtha, Executive Director
DATE: October 21, 2022
RE: Securities Litigation Committee Update

The Securities Litigation Committee convened on September 27, 2022. Elections were held, and the committee received updates on securities monitoring and securities litigation cases. The agenda and a link to the materials are attached for your reference.

<https://www.rio.nd.gov/sites/www/files/documents/PDFs/SIB%20Securities/Materials/sibsecuritiesmat20220927.pdf>

NO BOARD ACTION REQUESTED: Information only.

SECURITIES LITIGATION COMMITTEE MEETING
TUESDAY, SEPTEMBER 27, 2022, 3:00 P.M. RIO
Conference Room (VIRTUAL)
1600 E Century Ave, Ste. 3, Bismarck, ND
[Click here to join the meeting](#)

AGENDA

- I. **CALL TO ORDER AND ACCEPTANCE OF AGENDA**
- II. **ELECTION OF CHAIR & VICE CHAIR**
- III. **MINUTES – NOVEMBER 4, 2021**
- IV. **EDUCATION** (15 Minutes)
 - A. Securities Litigation Committee Governance & Policy Overview – Ms. Murtha
- V. **SECURITIES LITIGATION CASE UPDATES** (75 minutes) *Informational*
 - A. K&L Gates (Tribune) – Mr. Ryan Tosi * *Possible Executive Session for confidential and privileged attorney client consultation pursuant to NDCC 44-04-17.1(4), NDCC 44-04-19.1 and NDCC 44-04-19.2*
 - B. Robbins Geller Rudman & Dowd (Daimler) - Ms. Roxana Pierce * *Possible Executive Session for confidential and privileged attorney client consultation pursuant to NDCC 44-04-17.1(4), NDCC 44-04-19.1 and NDCC 44-04-19.2*
 - C. Kessler Topaz Meltzer & Check (Nissan) - Mr. Darren Check * *Possible Executive Session for confidential and privileged attorney client consultation pursuant to NDCC 44-04-17.1(4), NDCC 44-04-19.1 and NDCC 44-04-19.2*
 - D. Grant & Eisenhofer (Volkswagen and Danske Bank) - Mr. Marc Weinberg * *Possible Executive Session for confidential and privileged attorney client consultation pursuant to NDCC 44-04-17.1(4), NDCC 44-04-19.1 and NDCC 44-04-19.2*
- VI. **GOVERNANCE** (30 minutes)
 - A. Annual Review of Securities Litigation Committee Charter – Ms. Murtha
 - B. Annual Review of Securities Litigation Report & Monitoring Process – Mr. Skor
 - C. Securities Litigation Monitoring Presentation – Craig D'Alessio, FRT
- VII. **OTHER**
 - A. Committee Work Plan Discussion – Ms. Murtha
 - B. Securities Litigation Committee meeting schedule – Ms. Murtha
- VIII. **ADJOURNMENT**

MEMORANDUM

TO: State Investment Board

FROM: Sara Sauter, Supervisor of Internal Audit

DATE: October 28, 2022

SUBJECT: SIB Client Satisfaction Survey

On an annual basis, a Client Satisfaction Survey of the SIB clients is done to fulfill the *Governance Manual Policy Ends D-1 Mission* that states:

- *SIB clients and TFFR benefit recipients receive satisfactory services from the boards and staff of the office.*

The survey is issued to ensure that the SIB clients are satisfied with the services and give clients a chance to bring areas of improvement or concerns to the Board. After the fiscal year closes, the survey is issued, and the SIB receives the results.

BOARD ACTION REQUESTED: Board Acceptance.

**CUSTOMER SATISFACTION SURVEY
NORTH DAKOTA STATE INVESTMENT BOARD
2022**

Evaluation Forms Sent: 18
Evaluation Forms Returned: 11

1. Availability/Responsiveness to Requests (via calls and/or emails)

| Excellent | Above Average | Average | Poor | N/A |
|-----------|---------------|---------|------|-----|
| 7 | 3 | 1 | 0 | 0 |

2. Clarity and Effectiveness of Communications, Reports, and Presentations

| Excellent | Above Average | Average | Poor | N/A |
|-----------|---------------|---------|------|-----|
| 5 | 5 | 1 | 0 | 0 |

3. Frequency of Communications/Reporting

| Excellent | Above Average | Average | Poor | N/A |
|-----------|---------------|---------|------|-----|
| 5 | 5 | 1 | 0 | 0 |

4. Knowledge of Investments

| Excellent | Above Average | Average | Poor | N/A |
|-----------|---------------|---------|------|-----|
| 7 | 3 | 1 | 0 | 0 |

5. Overall value of services provided

| Excellent | Above Average | Average | Poor | N/A |
|-----------|---------------|---------|------|-----|
| 7 | 3 | 1 | 0 | 0 |

2022 Summary of SIB Client Satisfaction Survey Ratings:

| | Excellent | Above Average | Average | Poor | N/A |
|----------------|-------------|---------------|---------|------|-----|
| Totals | 31 | 19 | 5 | 0 | 0 |
| Weight | 4 | 3 | 2 | 1 | 0 |
| Percent | 56% | 35% | 9% | 0% | 0% |
| Average | 3.47 | | | | |

2021 Summary of SIB Client Satisfaction Survey Ratings:

| | Excellent | Above Average | Average | Poor | N/A |
|----------------|-------------|---------------|---------|------|-----|
| Totals | 41 | 12 | 5 | 0 | 2 |
| Weight | 4 | 3 | 2 | 1 | 0 |
| Percent | 68% | 20% | 8% | 0% | 3% |
| Average | 3.63 | | | | |

2020 Summary of SIB Client Satisfaction Survey Ratings:

| | Excellent | Above Average | Average | Poor | N/A |
|----------------|-------------|---------------|---------|------|-----|
| Totals | 40 | 9 | 15 | 0 | 1 |
| Weight | 4 | 3 | 2 | 1 | 0 |
| Percent | 62% | 14% | 23% | 0% | 1% |
| Average | 3.39 | | | | |

Overall Customer Satisfaction Survey Comments and Impressions:

- We have no issues or concerns. We have been impressed by the knowledge, availability, and professionalism of the RIO staff.

- RIO staff does a great job communicating and presenting information! One area that might be a nice opportunity would be to invite board members to attend/sit in on larger outreach events that might be done by staff with beneficiaries so that we can see the boots on the ground perspective.
Continue with existing initiatives and strategies, specifically board education that builds capacity of client boards. Despite the staffing challenges throughout the year, staff was able to exceed expectations in these areas, which shows an effective organizational climate and culture and professional commitment. This did not go unnoticed and this professional commitment is greatly appreciated. Any work that can be done to recognize this outstanding work to ensure this culture and climate continues (and even improves) should be prioritized, to the degree possible.
The staff of RIO have always been punctual and responsive to inquiries and are able to provide further documentation or information.

- I think the leadership transition has gone well. I'm excited for Scott's vision for the future of RIO and the SIB.



ND State Investment Board
Annual Budget and Expense Report
Fiscal Year Ended June 30, 2022

October 28, 2022

Ryan K. Skor, CFO/COO
ND Retirement & Investment Office

**RETIREMENT AND INVESTMENT OFFICE
EXPENDITURE SUMMARY REPORT
FISCAL YEAR ENDED JUNE 30, 2022**

| | TFFR | | SIB | | Total RIO | |
|----------------------------------|------------------------|-------------------|------------------------|-------------------|------------------------|-------------------|
| | <u>Actual Expenses</u> | <u>% of Total</u> | <u>Actual Expenses</u> | <u>% of Total</u> | <u>Actual Expenses</u> | <u>% of Total</u> |
| <u>CONTINUING APPROPRIATIONS</u> | | | | | | |
| INVESTMENT EXPENDITURES | \$ 22,928,396 | 8.2% | \$ 82,483,449 | 97.7% | \$ 105,411,845 | 29.1% |
| MEMBER CLAIMS | | | | | | |
| ANNUITY PAYMENTS | 244,705,096 | | - | | 244,705,096 | |
| REFUND PAYMENTS | 7,142,359 | | - | | 7,142,359 | |
| TOTAL MEMBER CLAIMS | 251,847,455 | 90.6% | - | 0.0% | 251,847,455 | 69.5% |
| OTHER CONTINUING APPROPRIATIONS | 386,508 | 0.1% | 640,694 | 0.8% | 1,027,201 | 0.3% |
| TOTAL CONTINUING APPROPRIATIONS | 275,162,359 | 99.0% | 83,124,143 | 98.4% | 358,286,501 | 98.8% |
| <u>APPROPRIATED EXPENDITURES</u> | | | | | | |
| SALARIES AND BENEFITS | 975,127 | 0.4% | 1,341,181 | 1.6% | 2,316,307 | 0.6% |
| OPERATING EXPENSES | 1,633,346 • | 0.6% | 279,509 | 0.3% | 1,912,855 | 0.5% |
| SIB EXPENSES ALLOCATED TO TFFR | 278,358 | | (278,358) | | - | |
| TOTAL APPROPRIATED EXPENDITURES | 2,886,831 | 1.0% | 1,342,332 | 1.6% | 4,229,163 | 1.2% |
| TOTAL EXPENDITURES | \$ 278,049,190 | | \$ 84,466,474 | | \$ 362,515,664 | |

- Includes capital asset amounts paid through June 30, 2022 for the TFFR Pension Administration System Project that will be capitalized.

**RETIREMENT AND INVESTMENT OFFICE
2021-2023 BIENNIUM APPROPRIATION STATUS REPORT
AS OF JUNE 30, 2022**

| | 2021-2023 BUDGET | ADJUSTED APPROPRIATION | BIENNIUM TO DATE ACTUAL | EXPENDITURES | | |
|------------------------|-------------------------|---------------------------|----------------------------|----------------------|-----------------------|----------------------------|
| | | | | BUDGET AVAILABLE | % BUDGET AVAILABLE | % OF BIENNIUM REMAINING |
| SALARIES AND BENEFITS | \$ 5,103,977.00 * | 6,835,839.00 ** | 2,316,307.79 | \$ 4,519,531.21 | 66.12% | 50.00% |
| OPERATING EXPENDITURES | 3,567,403.00 * | 3,642,403.00 ** | 897,297.84 | 2,745,105.16 | 75.37% | 50.00% |
| CAPITAL ASSETS | 6,300,000.00 | 6,300,000.00 | 934,912.50 | 5,365,087.50 | 85.16% | 50.00% |
| CONTINGENCY | 100,000.00 | 100,000.00 | 80,644.81 | 19,355.19 | 19.36% | 50.00% |
| TOTAL | \$ 15,071,380.00 | \$ 16,878,242.00 | \$ 4,229,162.94 | 12,649,079.06 | 74.94% | 50.00% |

* In addition to the Capital Assets line, the salaries and benefit line includes \$50,000 and the operating expenditure budget includes \$2,318,875 for the TFFR Pension Administration System Project.

** The adjusted appropriation includes additional amounts appropriated during the Special Legislative Session in November 2021.

PAS MODERNIZATION PROJECT
Budget vs Actual as of June 30, 2022

| | Budget | Actual Paid | Budget Status |
|----------------------|---------------------|---------------------|---------------------|
| Salaries | \$ 50,000 | \$ - | \$ 50,000 |
| Operating | 2,650,000 | 665,921 | 1,984,079 |
| Capital Assets | 6,300,000 | 934,913 | 5,365,088 |
| Total Project Budget | <u>\$ 9,000,000</u> | <u>\$ 1,600,834</u> | <u>\$ 7,399,166</u> |

**RETIREMENT AND INVESTMENT OFFICE
SCHEDULE OF CONSULTING EXPENSES
FOR THE YEARS ENDED JUNE 30, 2022 and 2021**

| | Pension Trust | | Investment Trust | |
|-------------------------------------|-------------------|-------------------|------------------|------------------|
| | 2022 | 2021 | 2022 | 2021 |
| Actuary fees: | | | | |
| Segal Consulting | \$ 122,505 | \$ 93,241 | \$ - | \$ - |
| Auditing/Accounting fees: | | | | |
| CliftonLarsonAllen LLP | 84,999 | 77,659 | 22,460 | 13,855 |
| Project management fees: | | | | |
| Segal Consulting | 185,909 | 292,258 | - | - |
| Disability consulting fees: | | | | |
| Sanford Health | 150 | - | - | - |
| Legal fees: | | | | |
| Office of Administrative Hearings | - | - | - | - |
| K&L Gates LLP | 10,649 | 13,246 | 13,936 | 18,013 |
| Kasowitz, Benson, Torres & Friedman | - | - | - | - |
| Jackson Walker LLP | 9,204 | 7,099 | 15,487 | 37,641 |
| ND Attorney General | 20,494 | 16,689 | 12,819 | 16,703 |
| Total legal fees: | <u>40,347</u> | <u>37,034</u> | <u>42,242</u> | <u>72,357</u> |
| Total consultant expenses | <u>\$ 433,910</u> | <u>\$ 500,192</u> | <u>\$ 64,702</u> | <u>\$ 86,212</u> |

**ND State Investment Board
Schedule of Investment Expenses**

| | FY 2022 | | | | FY 2021 | | | |
|---|-----------------------|--------------------|-------------------------|----------------------------|-----------------------|--------------------|-------------------------|----------------------------|
| | Average Market Value | Fees in \$ | Fees as % of Average MV | Contribution to Total Fees | Average Market Value | Fees in \$ | Fees as % of Average MV | Contribution to Total Fees |
| Investment managers' fees: | | | | | | | | |
| Global equity managers | 778,055,038 | 2,565,320 | 0.33% | 0.01% | 903,889,805 | 3,383,918 | 0.37% | 0.02% |
| Domestic large cap equity managers | 3,508,296,807 | 3,880,337 | 0.11% | 0.02% | 3,480,469,655 | 10,269,281 | 0.30% | 0.06% |
| Domestic small cap equity managers | 1,066,504,540 | 6,919,320 | 0.65% | 0.04% | 1,105,339,702 | 6,792,748 | 0.61% | 0.04% |
| Developed international equity managers | 2,615,506,915 | 9,620,944 | 0.37% | 0.05% | 2,717,215,402 | 9,347,629 | 0.34% | 0.05% |
| Emerging markets equity managers | 243,976,660 | 1,295,609 | 0.53% | 0.01% | 262,317,481 | 2,337,066 | 0.89% | 0.01% |
| Investment grade domestic fixed income managers | 5,462,267,919 | 13,330,897 | 0.24% | 0.07% | 5,197,870,346 | 16,779,361 | 0.32% | 0.09% |
| Below investment grade fixed income managers | 744,017,535 | 11,176,827 | 1.50% | 0.06% | 667,750,173 | 12,610,063 | 1.89% | 0.07% |
| Real estate managers | 1,328,183,734 | 10,055,390 | 0.76% | 0.05% | 1,128,492,024 | 11,889,614 | 1.05% | 0.06% |
| TIPS managers | 684,813,857 | 759,536 | 0.11% | 0.00% | 656,989,146 | 714,401 | 0.11% | 0.00% |
| Timber managers | 142,726,721 | 936,658 | 0.66% | 0.00% | 173,201,278 | 1,169,122 | 0.68% | 0.01% |
| Infrastructure managers | 796,049,219 | 28,966,983 | 3.64% | 0.15% | 662,492,628 | 25,944,149 | 3.92% | 0.14% |
| Private equity managers | 666,645,838 | 11,411,863 | 1.71% | 0.06% | 399,678,493 | 16,069,801 | 4.02% | 0.09% |
| Short term bond managers | 765,934,121 | 867,223 | 0.11% | 0.00% | 775,345,671 | 880,375 | 0.11% | 0.00% |
| Balanced fund managers | 264,062,038 | 1,173,541 | 0.44% | 0.01% | 263,117,675 | 1,129,687 | 0.43% | 0.01% |
| Cash & equivalents managers | 132,831,403 | 201,849 | 0.15% | 0.00% | 197,971,523 | 202,177 | 0.10% | 0.00% |
| Total investment management fees | 19,199,872,344 | 103,162,297 | 0.54% | | 18,592,141,002 | 119,519,392 | 0.64% | |
| Custodian fees | | 1,597,784 | 0.01% | 0.01% | | 1,669,049 | 0.01% | 0.01% |
| Investment consultant fees | | 569,956 | 0.00% | 0.00% | | 895,609 | 0.00% | 0.00% |
| SIB Administrative fees | | 2,264,039 | 0.01% | 0.01% | | 2,543,965 | 0.01% | 0.01% |
| Total investment expenses | | 107,594,076 | 0.56% | | | 124,628,015 | 0.67% | |
| Performance/Incentive Fees (included in totals above) | | | | | | | | |
| Domestic large cap equity managers | | (1,626,614) | -0.05% | -0.01% | | 4,758,123 | 0.14% | 0.03% |
| Domestic small cap equity managers | | - | 0.00% | 0.00% | | 1,201,276 | 0.11% | 0.01% |
| Developed international equity managers | | 186,251 | 0.01% | 0.00% | | - | 0.00% | 0.00% |
| Emerging markets equity managers | | - | 0.00% | 0.00% | | 948,464 | 0.36% | 0.01% |
| Investment grade domestic fixed income managers | | 1,521,483 | 0.03% | 0.01% | | 3,737,218 | 0.07% | 0.02% |
| Below investment grade fixed income managers | | 5,938,304 | 0.80% | 0.03% | | 9,301,952 | 1.39% | 0.05% |
| Real estate managers | | 2,215,907 | 0.17% | 0.01% | | 5,340,282 | 0.47% | 0.03% |
| Infrastructure managers | | 16,628,448 | 2.09% | 0.09% | | 18,614,096 | 2.81% | 0.10% |
| Total Performance Fees Paid (excluding private equity) | | 24,863,779 | 0.13% | | | 43,901,412 | 0.24% | |
| Breakdown of Total Fees by Pool | | | | | | | | |
| Pension | 7,467,975,530 | 54,060,784 | 0.72% | | 6,942,637,107 | 67,970,508 | 0.98% | |
| Insurance | 3,101,308,221 | 7,959,546 | 0.26% | | 3,137,072,860 | 9,566,500 | 0.30% | |
| Legacy | 8,359,201,542 | 43,567,947 | 0.52% | | 8,244,918,536 | 45,937,264 | 0.56% | |

Quarterly Report on Ends

Quarter ending September 30, 2022

Investment Program

Quarter Highlights

During the quarter, staff continued a portfolio review to determine the ideal structure of the SIB portfolios moving forward. In the prior quarter, the board approved proposed changes to the public equities structure with the goal to create a single equity implementation across all funds. The transition plan began in September and is currently being executed throughout October. A similar proposal focused on fixed income was presented and approved by the board at the September meeting. The transition for fixed income will occur in the near future.

The investment committee was formed and the inaugural meeting took place on October 7th.

Finally, interviews for the four investment positions were completed. Offers have been made to the finalist candidates.

Portfolio Additions:

Northern Trust: (All pools)
Russell 1000 index
Russell 2000 index

State Street: (All pools)
MSCI ACWI ex-US IMI Index
MSCI World ex-US Small Cap Index
MSCI Emerging Markets Index

Wellington: (Legacy & Insurance)
International Small Cap
Opportunities

Axiom: (Legacy & Insurance)
Emerging Markets

Portfolio Terminations:

LSV: (All pools)
Global Value Equity
US Large Cap Value
International Large Cap Value

Epoch: (Pension)
Global Choice

Vanguard: (Legacy & Insurance)
International Explorer Fund

Other

- Staff continues to conduct preliminary due diligence on prospect managers/products for future consideration.
- Staff continues to monitor each client's asset allocation monthly and makes rebalancing decisions based on rebalancing policy and cash flow requirements.
- Staff attended meetings with many SIB client boards, sub-committees and/or legislative committees or representatives including TFFR, PERS, and WSI.
- There are currently no managers on the watch list following the terminations of LSV and Epoch.

NDRIO Investment Due Diligence Quarterly Monitoring Report

Jul-01-2022 to Sep-30-2022

| Date | Firm | Reason For Call | Location | RIO Attendees |
|-------------|-------------|------------------------------|-----------------|-------------------------------------|
| 7/6/2022 | Cerberus | Market update | Call | Eric Chin,Matt Posch,Scott Anderson |
| 7/7/2022 | Bloomberg | Trading solutions | Call | Eric Chin,Matt Posch,Scott Anderson |
| 7/7/2022 | LA Capital | Portfolio Review | Call | Eric Chin,Matt Posch,Scott Anderson |
| 7/8/2022 | PGIM | Annual review meeting | Bismarck | Eric Chin,Matt Posch,Scott Anderson |
| 7/19/2022 | Riverbridge | Annual review meeting | Bismarck | Eric Chin,Matt Posch,Scott Anderson |
| 7/19/2022 | Ares | Annual review meeting | Bismarck | Eric Chin,Matt Posch,Scott Anderson |
| 7/22/2022 | TimberLink | Timber project | Call | Eric Chin,Matt Posch |
| 7/25/2022 | Sycamore | Annual review meeting | Bismarck | Eric Chin,Matt Posch,Scott Anderson |
| 7/26/2022 | Capitaline | Introduction | Call | Matt Posch |
| 7/28/2022 | RBC | Update with Aidan Forde | Call | Matt Posch |
| 7/29/2022 | Epoch | Update | Call | Scott Anderson |
| 8/1/2022 | TimberLink | Timber project | Call | Eric Chin,Matt Posch |
| 8/4/2022 | Bloomberg | Portfolio risk tool overview | Call | Eric Chin,Matt Posch,Scott Anderson |
| 8/4/2022 | Clearwater | Introduction | Call | Eric Chin,Matt Posch,Scott Anderson |
| 8/4/2022 | SSGA | Index | Call | Eric Chin |
| 8/5/2022 | Vontobel | Firm updates | Call | Matt Posch |

| | | | | |
|-----------|---------------------------------|-----------------------------|---------------|-------------------------------------|
| 8/8/2022 | HFRRF | Timber discussion | Call | Eric Chin,Matt Posch |
| 8/10/2022 | Redbird | Prospect | Think Cofffee | Eric Chin |
| 8/10/2022 | Amundi | Introductions | Call | Eric Chin,Matt Posch,Scott Anderson |
| 8/11/2022 | SEIC | IPS Review | Call | Scott Anderson |
| 8/18/2022 | LA Capital | Portfolio analytics | Call | Matt Posch |
| 8/19/2022 | Northern Trust | Transition Discussion | Call | Eric Chin,Matt Posch |
| 8/23/2022 | Parametric | Annual review meeting | Bismarck | Matt Posch,Scott Anderson |
| 8/24/2022 | Northern Trust Asset Management | Annual review meeting | Bismarck | Matt Posch,Scott Anderson |
| 8/24/2022 | Vanguard | Equity transition | Call | Matt Posch |
| 8/25/2022 | DFA | Annual review meeting | Bismarck | Matt Posch,Scott Anderson |
| 9/1/2022 | Northern Trust | Transition kickoff | Call | Eric Chin,Matt Posch |
| 9/12/2022 | Bell Bank | Index | Call | Eric Chin |
| 9/15/2022 | Bell Bank | Index discussion | Call | Eric Chin |
| 9/15/2022 | Allspring | Manager Call | Call | Eric Chin |
| 9/15/2022 | Wellington | Annual review meeting | Bismarck | Eric Chin,Matt Posch,Scott Anderson |
| 9/21/2022 | Axiom | Annual review meeting | Bismarck | Matt Posch,Scott Anderson,Eric Chin |
| 9/22/2022 | Atlanta Capital | Manager Meeting | Coffee | Eric Chin |
| 9/27/2022 | Bell Bank | Index/Multi-Asset Portfolio | Call | Eric Chin |

MEMORANDUM

TO: SIB
FROM: Jan Murtha, Executive Director
DATE: October 18, 2022
RE: Executive Limitations/Staff Relations

Ms. Murtha will provide a verbal update at the meeting on agency efforts to address current and future organizational risk through strategic planning. Including updates on the following topics:

1. Retirements/Resignations/FTE's/Temporary Assistance:

| Employee Title | Status |
|----------------------------------|-------------------------------------|
| Chief Risk Officer | Interviews scheduled. |
| Senior Investment Officer | Offer Accepted. |
| Senior Investment Officer | Offer Accepted. |
| Risk Officer | Offer Accepted. |
| Investment Officer | Offer extended, pending acceptance. |
| Communications/Outreach Director | Offer Accepted. |
| Accounting Intern | Interviews scheduled. |

2. Current Project Activities/Initiatives:

- **Legacy Fund Asset Allocation Study** – RVK continues its work on the Legacy Fund Asset Allocation Study and provided recommendations for changes to the Legacy Fund Investment Policy Statement (IPS) and recommendations regarding future program considerations at the October meeting. The Advisory Board adopted the proposed changes to the IPS with a request for some additional amendments to be reviewed and approved at a future meeting. RVK also received guidance from the Advisory Board regarding future deliverables for program development.
- **TFFR PAS Project** (hereinafter TFFR “Pioneer Project”)– The TFFR Pioneer Project continues with implementation consistent with the project plan. Currently the project is in an elaboration phase involving review of system components. The amount of time spent on the project by various staff members currently varies from 5 to 25 hours or more per week.
- **Northern Trust Initiative** – The Investment and Fiscal teams are leading an initiative to coordinate with Northern Trust for additional functionality/capabilities. More information will be provided on successful implementations thus far at the Board meeting.
- **In-State Financial Institution Coordination:** RIO staff has been meeting with members of the industry to coordinate information gathering for a new initiative. More information to be presented at the Board meeting.
- **Audit Consultant RFP:** In September staff issued an RFP for Audit consultant services to assist with the development of additional internal audit business practices to support program evolution consistent with the agencies strategic plan. RFP evaluations are pending.

3. RIO Board & Committee Presentations – October 1 through October 31, 2022

Staff provided or is scheduled to provide the following presentations to Boards and Committees during the above referenced time period.

- **SIB Investment Committee – 10/7/22**
- **Legacy & Budget Stabilization Fund Advisory Board – 10/12/22**
- **NDCEL – TFFR Presentation – October 22**
- **SIB GPR Committee – 10/24/22**
- **PERS Board – 10/25/22**
- **Employee Benefits Programs Committee – 10/26/22**
- **SIB meeting 10/28/22**
- **NDSBA – TFFR Presentation – October 22**

BOARD ACTION REQUESTED: Board Acceptance.

BOARD LEADERSHIP

September–October 2022 • No. 183

INNOVATIVE APPROACHES TO GOVERNANCE

EDITOR: NICHOLAS KING

Corporate Oversight Claims Gain Traction for ‘Mission Critical’ Business Operations

BY STEPHANIE RESNICK, ESQ. AND JOHN C. FULLER, ESQ.

Stephanie Resnick and John Fuller are co-chairs of the Directors’ & Officers’ Liability & Corporate Governance Practice Group at Fox Rothschild LLP. In this article, they discuss research on a trend of cases showing that liability for the failure of the board to oversee operations is becoming more prominent.

In its 1996 opinion in *In re Caremark International Inc. Derivative Litigation*, 698 A.2d 959 (Del. Ch. 1996), the Delaware Court of Chancery announced a then-new theory of liability for directors and officers who failed to properly oversee management of the company. “Caremark” claims, as they would come to be known, for lack of corporate oversight were born. For more than 20 years, these claims were rarely successful because even rudimentary reporting systems and heeding of red flags were found to satisfy the board’s oversight obligations. In recent years, however, an increasing number of Caremark claims have survived dismissal. What has changed?

Caremark Claims and the “Difficult Theory” of Corporate Oversight

In *Caremark*, the plaintiff shareholders sought to hold the board of directors liable for their failures to oversee employees who were able to perpetrate criminal activity that subjected the corporation to over \$250 million in fines and civil penalties. The Court opined that, in order to act in good faith, a board must be reasonably informed—and to be reasonably informed, the board must ensure that its “information and reporting system is in concept and design adequate to assure the board that appropriate information will come to its attention in a timely manner as a matter of ordinary operations” (*Caremark*, 698 A.2d at 970). However, the Court held that “only a sustained or systematic failure of the board to exercise oversight such as an utter failure to attempt to assure a reasonable information and reporting system exists will establish the lack of good faith that is a necessary condition to liability” (Id. at 971). The Court further cautioned that a claim for failure to monitor corporate operations was “possibly the most difficult theory in corporation law upon which a plaintiff might hope to win a judgment” (Id. at 967).

The Delaware Supreme Court adopted *Caremark* in its 2006 decision in *Stone v. Ritter*, 911 A.2d 362 (Del. 2006). The Delaware Supreme Court articulated two predicates for liability: “(a) the directors utterly failed to implement any reporting or information system or controls; or (b) having implemented such a system or controls, consciously failed to monitor or oversee its operations thus disabling themselves

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Creating a Sustainable Corporation for the Long Term: A Guide to Effectively Implementing ESG Initiatives for Boards

By JANE K. STORERO AND YELENA BARYCHEV

Jane K. Storer is the senior corporate governance counsel at LTSE Services Inc., and Yelena Barychev is a corporate governance and capital markets partner at Blank Rome LLP. In this article, they discuss strategies for incorporating environmental-, social-, and governance-related considerations in the boardroom.

There is a growing recognition that factors that impact shareholder value and returns are not captured only by financial metrics. Sustainability metrics, which are commonly referred to as environmental, social, and governance (ESG) factors, seek to focus companies on actions that have a deep impact on the company's performance but are not always reflected in short-term financial results. These factors range from climate change initiatives to diversity, equity, and inclusion programs and human capital management. Whether one is of the view that ESG initiatives are a fad or a forward-thinking development that continues to pick up speed, there is no denying that ESG factors have become increasingly important to key players in the public company ecosystem,

including regulators, investors, and other key stakeholders.

An increasing number of investors believe that understanding the company's ESG factors is crucial to understanding the company's risk profile. Jenny Johnson, president and CEO of Franklin Templeton, stated, "Understanding the economic impact from material ESG considerations helps us to make informed investment decisions."¹

The rise in climate change issues, shareholder proposals related to ESG matters, and the lingering effects of the COVID-19 pandemic and related economic downturn, as well as social justice protests, have only increased the focus on ESG risks. Further, the Securities and Exchange Commission (SEC) has formed a Climate and ESG Task Force in its

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Board Leadership aims to fulfill this mission by engaging its readers in a lively and illuminating inquiry into how board governance can be made more effective. This inquiry is based on three key assumptions:

- Boards exist to lead organizations, not merely monitor them.
- Effective board governance is not about either systems, structures, processes, theories, practices, culture, or behaviors—it is about all of them.
- Significant improvements are likely to come only through challenging the status quo and trying out new ideas in theory and in practice.

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Division of Enforcement and proposed several epic rules related to climate change disclosures,² which clearly signals that additional disclosure requirements and future enforcement actions are inevitable. Certain SEC proposals also include substantial implications for boards and their oversight of these risk management activities.³ This situation creates an incentive for companies and their boards to focus on ESG risks and opportunities, as part of their long-term strategies.

Considering the long-term strategy requires boards to reevaluate their approach to the oversight over ESG management and incorporation of ESG initiatives and metrics into the company's culture and operations in order to create sustainable opportunities for their companies.

Integrating ESG initiatives into a company's culture and operations involves a multistep process. To be effective, the company needs to engage in the process of identifying its ESG risks and opportunities; integrating ESG initiatives into its long-term strategic plan, culture, and enterprise risk management efforts; and clearly communicating the company's ESG strategy and metrics to investors and other key stakeholders. Finally, and most important, the success of sustainability initiatives requires that the board or a board committee exercise oversight over management's implementation of the ESG strategy across the corporation and its integration into the company's culture.

Identify the ESG-Related Risks and Opportunities

Although the ESG risks and opportunities are different for each company, the identification of those risks and the related opportunities that impact the company's ability to create long-term value is a critical exercise for every company. Many companies effectively identify the risks associated with ESG issues, but their strategy falls short because they fail to take the further step of turning some of those risks into opportunities for the company. Once the risks and opportunities are identified, the company can evaluate how to address or mitigate risks and incorporate opportunities into the strategic plan.

Integrate ESG Initiatives Into the Company's Long-Term Strategic Plan, Culture, and Enterprise Risk Management Efforts

ESG risks need to be included in the company's enterprise risk management system to be effectively managed and progress tracked and reported to the board or board committee with oversight responsibility for these initiatives. The integration of ESG initiatives in the long-term plan requires careful thought and planning as the company has to consider the effects of these initiatives over the long term on performance and operations.

A critical part of this process is the identification of how the company is going to measure and monitor its progress against ESG goals set as part of the long-term strategy. In

order for period-to-period comparisons to be effective, the reported ESG metrics must be consistent, accurate, and reliable. This requires the development of a methodology and controls by management to support the creation of these metrics over the long term. There is a myriad of tools and software to assist companies in creating consistent key metrics. Given the recent SEC-proposed rule regarding climate change disclosures, companies will need to carefully consider these requirements in determining next steps.

A successful ESG strategy must be part of the company's long-term strategy and aligned with the company's mission and cultural values. Initiatives around these issues take time to effectively integrate into the organizational culture and require a commitment from senior management and the board. If management and the board agree to set the "tone at the top" with respect to these initiatives, impacting culture and getting buy-in from employees are easier to achieve. Since employees are typically a key stakeholder of a company, their buy-in and involvement in these initiatives are critically important.

Communicate the ESG Strategy Clearly and Consistently to Investors and Other Stakeholders

Many companies have the best ESG initiatives and great metrics as well, but they often fail to clearly communicate these initiatives and metrics to investors and other stakeholders. The starting point for all ESG communications is to determine what initiatives and metrics the company's stakeholders, in particular investors, are interested in learning more about. Next, the company needs to determine the best way to utilize the company's existing communications framework to articulate the desired ESG initiatives and metrics.

For years, companies have used an annual sustainability report to communicate with shareholders and other stakeholders about the company's ESG initiatives and successes. While an annual sustainability report is helpful, given the increased focus on ESG efforts, companies need to find new and creative ways to communicate ESG efforts to employees, customers, shareholders, and the communities where the company operates. An ESG page on the IR website, a regular discussion at the company town halls, or community outreach efforts related to ESG are good places to start and are quickly becoming the baseline for ESG disclosure.

Exercise Oversight Over Management's Implementation of ESG Strategy

The SEC proposed sweeping new disclosure requirements in March 2022 that would require both foreign and domestic public companies to provide significant new disclosures about climate-related risks and enhanced governance of this area. The almost-500-page release also has substantial implications

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Internal investigations for nonprofits: A means of identifying and addressing misconduct before the regulators come calling

BY CYNTHIA R. ROWLAND AND AVIVA J. GILBERT

Cynthia R. Rowland is chair of Farella Braun + Martel's Exempt Organizations group and Aviva J. Gilbert is co-chair of the firm's White Collar Criminal Defense & Internal Corporate Investigations practice. In this article, they discuss strategies for handling internal misconduct allegations at nonprofit organizations.

The worst nightmare for most nonprofit board members is a complaint that sparks an investigation of misconduct at the organization. The ember may have been burning for some time before the board becomes aware or may be a sudden wind-driven catastrophe that started with one person's bad or inept act. No matter the source, how can the board best surround the organization with a defensible space? And, once battling the heat of the disaster, what to do? This article discusses best practices in board policies that help to identify issues early, respond early and minimize the toll of an investigation.

Complaints and allegations can arise through whistleblower hotlines or web portals, or by direct communication to someone within an organization, including the board of directors or trustees. In most states, regulators maintain their own complaint website or hotline that is open 24/7. Developing a robust internal auditing or investigating track record will aid in receiving complaints in-house, rather than via a call to the regulator. Cultivating employee confidence that the organization takes allegations seriously is an important part of good corporate governance, and can help avoid regulator entanglement, and consequent resource drain. Some nonprofits maintain undeveloped governance and accounting practices even as they grow larger. Investing in developing those practices, in part by conducting an internal investigation to pressure-test them, can be a helpful means of resource conservation down the line.

Misconduct affecting nonprofits and requiring investigation overlaps with more traditional for-profit corporate malfeasance. Financial misconduct can take various forms and can necessitate specialized forensic accounting if the scheme is complex or deeply embedded in the organization's books. Embezzlement and direct theft can occur from a corporate account, though theft can also be of other valuable items or diversion of incoming donations or resources. Embezzlement or diversion is not limited to those with access to organizational bank or other accounts; individuals receiving gifts or even those with access to the physical premises have been involved in suspected misconduct. Billing fraud, vendor relationship improprieties and kickback arrangements are additional forms of financial misconduct. Employees might structure vendor agreements with an off-book component, or run such

agreements through other entities owned by family or friends. Expense reimbursement fraud is also within the broad bounds of reportable embezzlement. While these activities can be criminally prosecuted, the organization cannot rely on criminal authorities to identify and protect against this type of misconduct. In some states, California among them, the Attorney General's office requires nonprofits to identify, and investigate, theft or embezzlement in connection with annual tax filings. Ignoring or simply filing an insurance claim for theft or loss is generally insufficient for charitable organizations.

Executive behavior is a less traditional but equally important category of misconduct. News stories and negative publicity about executive misconduct is not limited to the conduct itself; how an organization reacts, investigates and addresses the concerns or allegations is very much a part of the story. The reports are, of course, individual entity and leader-specific but include inappropriate comments or conduct in the workplace, or behavior outside of the workplace that has an effect on an executive's leadership within the organization. While sexual harassment or misconduct is an unfortunately common subcategory, complaints regarding executive conduct in connection with political activity, discriminatory commentary or behavior, and retaliation against whistleblowers are on the rise.

When a nonprofit corporation learns of alleged misconduct, the first question is what to do and whom to call. An important first step, which can even precede calling in experts, is to preserve all possible evidentiary sources. This can mean suspending automatic deletion practices or regular document recycling or destruction cycles. A two-year deletion cycle may be reasonable in the normal course. But if an allegation arises that needs to be investigated, the regulator is less likely to view that deletion practice as defensible given that misconduct can persist for years undetected. If misconduct results in a regulatory action or civil litigation, document destruction can have severe consequences as well; it is criminalized under Sarbanes-Oxley and can lead to various adverse inferences in the civil context. The digital component of the preservation exercise extends beyond email to other forms of communication (Slack, iMessage, WhatsApp, etc.) used by organizational employees. External service providers are subject to their own retention

schedules, so making sure that bank statements are not being deleted is another important step. Generally, an individual within the legal department, or if no such department exists then an operations or administrative leader, would quarterback this early effort. Every organization is different and has a different landscape of potentially relevant materials; whomever is running the document preservation task must be supported by employees who “know where everything lives.”

As the record preservation effort gets underway, the organization should consider engaging outside expertise in the form of legal counsel and other professionals as soon as possible, both to avoid missteps and also to take appropriate steps to maintain confidentiality of the investigation to the extent possible. If the allegations relate to disclosures or charitable organization tax audits, that requires one set of eyes and experience. If the allegations concern management integrity, internal controls or financial fraud, counsel with internal investigation expertise and forensic accounting relationships may be required. If the allegations pertain to hostile workplace or behavior issues, then employment counsel is a good bet.

Engaging counsel early on is critical because it is in the nonprofit's best interest to conduct any investigation in an attorney-client privileged manner. Legal counsel typically, though not always, reports to a special committee of the board, and maintains a productive relationship with an employee contact. That specially constituted committee is responsible for overseeing any investigation into the allegations, and it may in turn report to the board as a whole. The board, as client, controls the attorney-client privilege regarding the investigation and conclusions. It can then make informed decisions regarding the allegations, findings and associated risks to the organization with the benefit of confidential legal advice.

After the organization has constituted the board committee and engaged counsel, that counsel will undertake a scoping exercise to identify the questions to be answered by the investigation, followed by a documentary collection and review process, followed by interviews. The specific contours of which documents to review and whom to interview is naturally investigation-specific, but the special committee members should expect to be consulted regarding the investigation scope and breadth, as well as other issues such as whether to interview former employees with relevant knowledge, or whether to “kick the tires” on areas of concern to the board separate from a specific allegation under investigation. The investigation findings will typically be accompanied by remedial recommendations as well as advice on any regulatory disclosure obligations.

Not every nonprofit will experience an issue that requires investigating and remediating, but every organization should be nimble enough to move quickly and appropriately should an issue arise. Larger organizations may consider undertaking a prophylactic investigation every few years to identify any

weaknesses in how money or assets are handled or to assess employees' views of organizational executives and leadership. Cultural investigations, which are not tied to a specific allegation and are instead designed to assess organizational functioning and suggest recommendations for improving the workplace, are also a means of strengthening the organization and reducing the risk of future liability or complaints. Understanding what types of issues counsel is seeing, how allegations arise, whom to call and what to expect in an internal investigation is the first step in being ready to identify and address misconduct.

Finally, best management practices include having in place an appropriate insurance program to protect against these risks. And once an issue appears, it's a good idea to check the insurance coverage to see if investigation costs are covered by the policies. ■

Cynthia R. Rowland and Aviva J. Gilbert are both partners at Farella Braun + Martel, a law firm based in San Francisco. For more information, visit <https://www.fbm.com>.

Calendar Of Events

Nov. 17–19

ARNOVA 2022 Annual Conference

Raleigh Convention Center, 500 S Salisbury Street, Raleigh, NC 27601, USA

The Association for Research on Nonprofit Organizations and Voluntary Action will hold its 2022 Annual Conference during Nov. 17–19 in Raleigh, North Carolina.

According to organizers, this conference aims to create a public conversation on, as well as opportunities for presenting research on, pressing issues and vital opportunities facing the voluntary or nonprofit sector. This three-day event includes 2 plenary sessions, over 180 panel and/or paper presentation sessions, a poster session, and numerous opportunities for networking with peers.

The theme for this year's conference is “Imagining ARNOVA'S Next 50 Years: Scholarship, Practice, Community.”

Conference tracks will include the following:

- Accountability, effectiveness, evaluation, and program outcomes.
- Boards and governance.
- Civil society, community, and grassroots associations.
- Collaboration: in, between, and among sectors.
- Diversity, equity, and inclusion in organizations.
- Management, leadership, and strategy.
- Public policy, law, regulation, and advocacy.

For more information, visit <https://bit.ly/3wtLSVO>. ■

Study shows nonprofits' DEI efforts impact donor decisions

New research from the Better Business Bureau's Give.org shows that a charity's efforts with regards to diversity, equity and inclusion can lead donors to turn away, highlighting the potential financial impact that DEI and organizational culture can have.

Per the BBB's recently released report, Give.org Special Donor Trust Report: Diversity, Equity and Inclusion (DEI), about 41% of donors would stop contributing to a charity they had supported in the past if they found out that the charity's culture tolerates discrimination against the people it serves. Nearly as many donors—34%—would not donate to charities that they learned had been using culturally insensitive images and language, and 17% would not donate upon learning the charity's board is not diverse.

Some additional findings from the report include:

- 54% of U.S. respondents assume that having a diverse, equitable and inclusive board and staff has a positive effect on how trustworthy the charity is.
- Almost 20% of participants say that representation of race and ethnicity, disability status, gender identity, sexual orientation and religious identity in the community served by a charity is “highly important” (9 or 10 on a 10-point scale) in their giving decision. On the other hand, between 25%

and 30% of survey respondents rated this as low importance.

- About one-third of respondents consider demographic information reported by the charity about people served to be “very useful” in their process of determining who to donate to.
- Younger respondents, people of color and LGBTQ+ participants are more likely to report hearing about a specific charity having a lack of DEI; report positive associations related to a charity having a diverse, equitable and inclusive board and staff; place high importance on representation on a charity's board and staff; and say that demographic information reported by the charity would be “very useful.”

The findings all point to the importance of bolstering DEI within the nonprofit sector, according to H. Art Taylor, president and CEO of Give.org.

“Our survey shows that most people assume a diverse, equitable, and inclusive charity is more trustworthy, better able to serve its constituents, and incorporates broader perspectives,” Taylor said in a statement announcing the report. “While each charity's DEI journey is complex and unique, the pursuit of a diverse, equitable, and inclusive charity is part of an organization's strategy to be ethical, effective, and trustworthy.”

To access the report in full, visit <https://bit.ly/3n6TCbg>. ■

ESG

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for boards related to their oversight of climate-related risks and related activities.⁴

Proposed SEC climate change rules identify several areas requiring additional disclosure related to board governance, which include the following:

- Whether any member of the board of directors has expertise in climate-related risks, with disclosure in such detail as necessary to fully describe the nature of the expertise.
- The processes by which the board of directors or board committee discusses climate-related risks, including how the board is informed about climate-related risks, and the frequency of such discussion.
- Whether and how the board of directors or board committee considers climate-related risks as part of its business strategy, risk management, and financial oversight.
- Whether and how the board of directors sets climate-related targets or goals, and how it oversees progress against those targets or goals, including the establishment of any interim targets or goals.

In light of these new requirements, boards must decide whether the full board or a particular board committee is responsible for the oversight of these risks. Historically, the oversight of climate-related risks at many companies has fallen within the audit committee's purview. For companies with significant climate-related issues, there may be several board committees responsible for oversight in this area. Some companies may decide to set up a separate sustainability committee to focus on these issues, given the complexity of requirements of the proposed rules.

Identify the Groups Responsible for Implementation and Oversight of the ESG Strategy

With the importance placed on ESG-related metrics by investors, regulators, and other stakeholders, the board needs to increase oversight of ESG risks and initiatives or delegate such responsibilities to a committee or committees of the board.

The effective use of the committee structure includes adding specific requirements in the committee charter and frequent reporting to the board of directors on these important

matters. The board also needs to make a determination of whether a committee specifically dedicated to ESG matters is necessary or the monitoring task can be allocated to existing board committees. For instance, the compensation committee can address various social matters, including diversity, equity, and inclusion aspects. The nominating and corporate governance committee could be responsible for the oversight of governance matters, and the audit committee could oversee environmental matters. Some experts feel that if a company wants to signal it is serious about its ESG initiatives, then a separate committee is needed, which may not be true for every company. As long as the board or existing committees effectively oversee the implementation of ESG initiatives as part of the company's long-term strategic plan, the creation of a stand-alone ESG committee may be unnecessary.

Given the increase in oversight of ESG and the proposed SEC disclosure requirements in this area, boards should determine whether the board has sufficient expertise in key ESG areas or whether the board needs a briefing on key ESG issues, like climate change or diversity, equity, and inclusion, or whether the company needs to add an additional board member with a particular expertise if climate change, for example, is a significant issue for the company.

The board should also discuss with management whether a chief sustainability or ESG officer needs to be designated to oversee ESG initiatives. An effective method of maintaining focus on ESG matters is to include ESG metrics as part of the compensation metrics, which is a growing practice in public companies.⁵

Ending Thoughts and Imperatives

Given the pressure exerted by shareholders, regulators, and other stakeholders on public companies, a shift in board focus to closer oversight of the ESG area is critical to the successful implementation of ESG strategies. Creating a strategy that is not only long term but company focused is key to success. Shareholders, employees, and other stakeholders have come to expect that companies will address the impact of their operations on the environment, create and nurture a diverse and inclusive workplace, and implement governance best practices. The implementation of these initiatives into a company's long-term thinking requires the company's board to effectively oversee management's efforts to implement these practices. Companies engaged in long-term thinking and the integration of ESG initiatives into their culture and strategy will ultimately realize long-term benefits. These benefits include reducing ESG-related risks, attracting new investors, and increasing the company's equity value. These initiatives also benefit the company's other stakeholders, which include employees and communities. Now is the time for the board to move the needle with ESG initiatives and reporting metrics. ■

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- ³ See governance discussion in the Climate Change Release at 87 FR 21432 (April 11, 2022).
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OVERSIGHT

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from being informed of risks or problems requiring their attention" (Id. at 370). The Delaware Supreme Court further held that to establish a failure of oversight claims, there must be a showing that the directors and officers "knew that they were not discharging their fiduciary obligations" (Id., emphasis supplied).

The Resurgence of Caremark Claims Since 2019

In light of the requirement that a plaintiff demonstrate a knowing failure to adopt or monitor reporting systems, Caremark claims rarely, if ever, survived the motion to dismiss stage. Starting in 2019, however, a new line of cases may be an indication that plaintiffs can plead past the high burden of a Caremark claim, particularly when claims of oversight failures relate to the company's core business and plaintiffs are armed with corporate books and records.

In *Marchand v. Barnhill*, 212 A.3d.805 (Del. 2019), the Delaware Supreme Court reversed the Court of Chancery's dismissal of plaintiffs' Caremark claims, finding that the complaint contained sufficient particularized facts to support a reasonable inference that the board had failed to establish necessary reporting structures. In *Marchand*, the plaintiff shareholders of an ice cream manufacturer brought claims following a listeria outbreak that resulted in three deaths, the recall of all of the company's products, the cessation of its production, and mass layoffs of employees. Relying on board

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minutes and other corporate documents, the plaintiffs alleged that there had been no discussion whatsoever regarding food safety at the board level. The Court found that, if true, such conduct could constitute an utter failure to establish and monitor reporting regarding food safety that was “mission critical” to the company’s operations (Id. at 824).

Also in 2019, the Delaware Court of Chancery denied a motion to dismiss Caremark claims where the board had robust reporting structures but failed to monitor them. In *In re Clovis Oncology, Inc. Derivative Litigation*, 2019 WL 4850188 *1 (Del. Ch. Oct. 1, 2019), the plaintiff shareholders alleged that the board had failed to oversee clinical trials of a developmental drug that the FDA declined to approve. While there were reporting structures regarding the clinical trials in place, plaintiffs alleged that the board failed to heed red flags documented in corporate books and records and that management was improperly reporting less reliable, unconfirmed clinical responses instead of confirmed clinical responses, which are more likely indicative of potential FDA approval. Citing *Marchand*, the Court held that when a company’s “mission critical” operations are in a highly regulated industry, “the board’s oversight function must be more rigorously exercised” (Id. at *13).

As recently as September 2021, the Delaware Court of Chancery allowed Caremark claims to proceed against Boeing, finding sufficient allegations that Boeing’s board had failed both to implement and monitor reporting of “mission critical” safety issues. See *In re Boeing Co. Derivative Litig.*, 2021 WL 4059934 *1 (Del. Ch. Sept. 7, 2021). In *Boeing*, shareholders alleged that the “frenetic” pace at which Boeing developed and sold its 737 Max aircraft led to safety issues that resulted in two plane crashes, hundreds of deaths, and over \$20 billion in corporate losses. The Court found that the complaint adequately alleged a lack of reporting systems because, among other things, the corporate books and records showed that the board did not have a safety subcommittee, did not discuss airplane safety on a regular basis, did not have protocols requiring updates from management on safety issues, never actually received yellow or red flag notices from management regarding safety, and had made statements acknowledging that they should have had such processes in place. The Court also found sufficient allegations that the board had failed to monitor any existing reporting structures when it ignored the red flags of the first 737 Max crash and the safety concerns raised in the aftermath. Several months after the Court’s denial of Boeing’s motion to dismiss, the parties settled the matter in an agreement that included a settlement payment of more than \$230 million.

However, just as it looked like Caremark claims were on the rise and may inundate the Courts, the recent dismissal of Caremark claims indicate that these claims still have a high threshold. In October 2021, shareholders of Marriott International brought claims against the board of directors

following a data breach that exposed the personal information of as many as 500 million guests. See *Firemen’s Retirement System of St. Louis v. Sorenson (Marriott)*, 2021 WL 4593777 (Del. Ch. Oct. 5, 2021). The shareholders relied on investigation reports that showed the perpetrators of the data breach gained entry to Marriott’s systems through legacy reservation software from Starwood Hotels, which Marriott acquired in 2016. The shareholders alleged Caremark claims based on the purported “conscious and bad faith” decision not to remedy Starwood’s deficient information protection systems. The Delaware Court of Chancery dismissed the claims finding that, among other things, the board and audit committee routinely received reporting regarding cybersecurity and mitigation. Moreover, the Court highlighted the “high threshold” for Caremark claims and that only “a sustained or systemic failure” to exercise oversight will establish necessary bad faith.

What Do These Trends Mean for Directors and Officers?

Although the “high threshold” for Caremark claims remains, courts are clearly examining reporting around “mission critical” operations more closely. After identifying failures relating to “mission critical” safety and regulatory issues in *Marchand*, *Clovis*, and *Boeing*, it is notable that the alleged oversight failures in Marriott—where the Caremark claims were dismissed—related to data security, not a safety or other core hotel function. Directors and officers should evaluate industry-specific risks and how they are addressed at the board level. Regular reporting and, potentially, the designation of board member(s) or creation of subcommittees to receive reporting and manage oversight obligations may be appropriate.

Another trend to note is the uptick in books and records actions filed under Section 220 of the Delaware General Corporation Law, which has paralleled the increase in successfully pled Caremark claims. Indeed, in *Marchand*, *Clovis*, and *Boeing*, the plaintiff shareholders had previously obtained documents through books and records actions. The plaintiffs were able to use board minutes and other corporate documents to demonstrate the absence of specific committees, policies, or discussion relating to “mission critical” issues. This increased ability to demonstrate the “sustained or systematic failure” of oversight called for in Caremark has proven critical to shareholders’ recent successes. Directors and officers should ensure not only that reporting on “mission critical” issues is happening, but that it is also appropriately recorded in meeting minutes and corporate documents for all interest holders to see. ■

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