



**MINUTES FROM THE AUDIT AND GOVERNANCE COMMITTEE
OF THE PLANS MANAGEMENT BOARD
AUGUST 14, 2018**

A meeting of the Audit and Governance Committee (the “Committee”) of the Plans Management Board (the “Board”) was held on August 14, 2018, 10:00 a.m., at the Carvel State Building in the Office of the State Treasurer (“OST”), located at 820 N. French Street, Wilmington, Delaware.

Committee Members Represented or in Attendance:

Mr. Gerard Gallagher, Board Member At-Large
Mr. Peter Kennedy, Committee Member
Mr. John Macedo, Committee Member
Mr. Timothy J. Snyder, Committee Member
Ms. Valerie Watson, Committee Member
Ms. Nohora Gonzalez, Deputy State Treasurer, OST (on behalf of The Honorable Kenneth Simpler, State Treasurer)

Committee Members Not Represented or in Attendance:

Mr. Ralph Cetrulo, Committee Chair

Others in Attendance:

Mr. Jason Staib, Deputy Attorney General, Delaware Department of Justice
Mr. John Meyer, Director of Contributions and Plans Management, OST
Mr. Daniel Kimmel, Promotion and Outreach Program Manager, OST
Mr. Mike Green, Investments and Operations Program Manager, OST
Mr. Allen Earle, Partner, Cammack Retirement Group (“Cammack”)
Ms. Marie Villeneuve, Consultant, Cammack
Ms. Maria Hurd, Director and Shareholder, Belfint, Lyons, and Shuman

CALLED TO ORDER

The meeting was called to order at 10:01 a.m. Mr. Meyer announced at the request Mr. Cetrulo that he would facilitate the meeting in his absence.

Ms. Gonzalez informed the Committee that Mr. Campbell-King has stepped down, and the Board has approved Mr. Cetrulo as the new Chair.

APPROVAL OF MINUTES

A MOTION was made by Mr. Kennedy and seconded by Mr. Macedo to approve minutes from the Committee meeting on May 15, 2018.

MOTION ADOPTED UNANIMOUSLY

PRESTENTATIONS

Audit Presentation – 2016 and 2017 401(a) Plan

Ms. Hurd provided the Committee with the audit findings for 2016 and 2017 for the 401(a) plan. To date, the 401(a) plan remains frozen for any new enrollees, and no material inconsistencies were reported within the financial statements. Ms. Hurd stated that the year-end plan assets were approximately \$20 million and \$22 million for 2016 and 2017, respectively. Between 2016 and 2017, the 401(a) plan saw a decline in accounts from 10,516 to 10,102. However, the average account balance increased from \$1,900 to \$2,200 between the end of 2016 and the end of 2017. Ms. Hurd reported that there are 71 accounts with balances exceeding \$10,000, 552 accounts with balances between \$5,000 and \$10,000, and 9,500 accounts with balances less than \$5,000. Of the accounts with balances of less than \$5,000, 3,105 accounts are held by terminated participants. Ms. Hurd reiterated that if the Board decided, the 3,105 accounts could be rolled out of the 401(a) plan.

Ms. Hurd attributed the growth in assets largely to the movement to Voya and the Plan being moved into two American Target Date Funds. Ms. Hurd noted that these two funds are the best target date funds in the market, and have been for a long time. Furthermore, the range of the returns for these funds were between 10.49 and 22.49 percent. Total number of distributions from the plan decreased from 900 in 2016 to 686 distributions in 2017. Of the 686 distributions, 214 represent participants taking minimum distributions between \$1 and \$250 per year. Ms. Hurd noted that there are 46 terminated participants turning 70 1/2 in 2018, all of whom will begin to receive minimum distributions, adding to the 214 from 2017.

Mr. Macedo asked Ms. Hurd about the rollover amounts reflected in the audit and the origination of these amounts. Ms. Hurd stated that all three of the State's deferred compensation plans allow for participants to roll funds from any qualified plan. Although the plan is frozen from adding funds or new participants, the 401(a) allows for current participants to rollover funds into their existing accounts.

Ms. Hurd concluded her presentation by stating that there was no comment letter or recommendations to be made at this time.

Audit Presentation – 2015 403(b) Plan

Ms. Hurd prefaced her presentation of the audit findings for the 403(b) plan with vendor history and structure. Prior to the switch to Voya, Ms. Hurd commented that the variety of individual contracts offered by vendors was problematic in assessing the assets and activity of participant accounts for the audit year 2015.

Ms. Hurd informed the Committee that the 403(b) plan does not permit participant loans; however, new loans were issued in 2015. She recommended to the Committee that these loans be added to the Voluntary Compliance Program ("VCP") that was created in 2014 to address the loans from 2013. Ms. Hurd stated that the addition is recommended for completion after the finalization of the 2017 audit process, as there are event procedures that will need to be completed. As part of this process, there will be a request for plan reporting through the date of filing, which will allow the Committee to capture any potential loans created in 2018 for inclusion in the VCP. To date, Ms. Hurd commented that it appeared no new loans were created in 2017.

Mr. Macedo inquired about the payment of fees through the plans for VCP-related expenses as a result of vendors issuing loans that are not approved under the State's plan. Ms. Hurd confirmed that this is

the case, with the cost being approximately \$3,000 in the last year. She stated that a considerable effort was made in 2014 to ensure no new loans were made; however, vendors continued issuance in 2015 despite the reminders of the plan policy in 2014 from the State. Mr. Meyer reported that as a result of a recommendation last year, Ice Miller and the Board had grandfathered the 2015 loans for the 403(b) plan. Ms. Hurd informed the Committee that the initial 2016 audit research identified at least five loans, all of which were originated by New York Life Insurance Company.

As of December 31, 2015, Ms. Hurd stated the 403(b) plan had \$339 million of assets, with 9,853 vendor accounts. Of this total, 5,584 were actively receiving contributions, with an average annual deferral of \$3,800. By end of 2015, the average account balance was approximately \$34,000. Ms. Hurd commented that nearly 18 percent of the total eligible wages are contributing, and the deferred amount was approximately 6 percent of wages.

Audit Presentation – 2016 and 2017 457(b) Plan

Ms. Hurd reported that the 457(b) plan assets increased from year end 2016 to year end 2017 by approximately \$93 million, in large part as a result of contributions and gains on investments exceeding total disbursements from the plan. The average account balance increased by \$5,993 to \$39,593 during 2017. Net investment income from 2016 to 2017 increased by \$54.9 million. Ms. Hurd stated this was largely attributable to the change in fund offerings by the Plan and to market fluctuations.

Ms. Hurd reviewed the comment letter associated with the audit of the 457(b) plan, and addressed the “special catch-up” option for participants. Although 90 percent of participants’ contributions were correct for those participating in the special catch-up option, at least four individuals are incorrectly making use of the option. Ms. Hurd stated that a significant issue was self-certification of retirement age for those participants. She stated that either they declared the wrong year for retirement, or declared the right year but contributed for years. Ms. Hurd stated that the State’s system will not track this, nor will the vendor, and therefore it is incumbent upon OST to track these special catch-up participants. To do this, Ms. Hurd recommended that OST develop a process that guides participants through the determination of their age for retirement, and understand what they will need to contribute to reach their goal for retirement.

Mr. Kennedy asked if the identified errors were a result of the test sample. Ms. Hurd reported that the audit reviewed all special catch-up contributions for compliance with the applicable rules, and therefore the error was not a result of sampling.

A MOTION was made by Mr. Snyder and seconded by Mr. Kennedy to approve the audit reports. MOTION ADOPTED UNANIMOUSLY.

Governance Manual

Mr. Meyer and Mr. Staib presented the Committee with the table of contents for the Governance Manual and requested they review for accuracy with reference to previous discussions.

Mr. Staib indicated that the table of contents was prepared using the pension board’s manual as the template, and was supplemented by use of other resources to identify topics that should be covered. He felt that the manual, as proposed, would contain appropriate background information and serve as a compendium for board policies. Most of the information was either statutory mandate, governing provisions, or historical information that may be referred to periodically. Mr. Staib stated that the value

of the document was in the included policies, some that are still in draft form and others that are needing to be completed and will be the priority of the Committee into the next few years. Mr. Macedo said he reviewed the table of contents and believed it covered the necessary policies for the Board.

Mr. Snyder requested that the manual include procedures for Board members seeking indemnification.

**A MOTION was made by Mr. Snyder and seconded by Mr. Macedo to recommend the “Table of Contents” to the Board, as revised to address the indemnification procedures.
MOTION ADOPTED UNANIMOUSLY**

DISCUSSION AND ACTION ITEMS

Allocation and Payment of Plan Expenses Policy

Mr. Meyer introduced the plan expense policy to the Committee for review. Mr. Staib stated that the expense policy was a collaborative effort between OST, Ice Miller, the Committee, and himself to set forth the overarching rules for payment of plan expenses. The policy directs OST to ensure prior to disbursement of fees, expenditures are: i) borne by the appropriate plan; ii) permitted by the plans and applicable by law; iii) reasonable; and iv) within budget limitations. The policy also requires documentation of decisions related to the payment of plan expenses.

Upon discussion, the Committee recommended adding modifying language about clarity and the use of outside counsel regarding the payment of plan expenses. The Committee requested review of direct and indirect fee payments with respect to the Auditor of Accounts (“AOA”) office for audit of the plans to determine if these fees would be covered.

Mr. Staib indicated that he would make the revisions and work with OST to address the fee questions regarding AOA and the plans.

**A MOTION was made by Mr. Snyder and seconded by Mr. Macedo to recommend to the Board the plan expense policy, with changes requested by the Committee.
MOTION ADOPTED UNANIMOUSLY**

529 Administrative Fee Balances

Mr. Meyer stated the administrative fund balance for the college investment trust is approximately \$1.6 million. At the May meeting, the Committee inquired if current plan expenses exceeded plan administrative fee revenues or would the administrative fund balance continue to grow. Mr. Meyer reported that current annual plan expenses exceed current administrative fee revenues. The Committee considered methods for expediting the drawdown of the administrative fund balance. The Committee discussed the feasibility of waiving the state administration fee and Mr. Meyer updated the Committee on Fidelity’s consistent fee structure among its four state plans. Mr. Meyer stated that other potential options to expedite the drawdown consisted of: i) using the fees for a local marketing campaign for the 529; ii) using the fees to fund a scholarship program for Delaware residents; or, iii) establishing a 529 contribution matching program for account owners. The Committee discussed the option of hiring a marketing firm to help promote the 529 Plan.

Mr. Macedo questioned the reasonableness of using administrative fees for marketing expenses. Mr. Staib stated that Ice Miller gave a written opinion that administrative fees could be used to pay marketing

expenses for the 529 Plan. Furthermore, the purpose use of the administrative fees was consistent with industry practices.

A MOTION was made by Mr. Snyder and seconded by Mr. Kennedy to recommend to the Board that the 529 Plan budget be increased by no more than \$150,000 for plan promotion.

MOTION ADOPTED WITH THREE FAVORABLE AND ONE OPPOSED (Mr. Macedo)

457(b) Plan Administrative Fee Carve-Out

In June 2018, the Board approved the use of legacy fees to offset future plan expenses and voted to suspend state administrative fees through June 2019, subject to a carve-out (amount to be determined later) for former participants. Mr. Meyer reported that, based on OST analysis, the carve-out should be set at approximately \$50,000.

The Committee discussed the analysis and debated how feasible it would be to locate and refund fees to former participants. The Committee stated that the amount seemed reasonable based on the analysis and requested that OST prepare a plan detailing how distribution will be completed.

A MOTION was made by Mr. Kennedy and seconded by Mr. Macedo to: a) recommend to the Board that \$50,000 be held in reserve for participants who left the 457 Plan between September 2016 and June 2018, and b) direct OST to develop a distribution plan for presentation to the Committee at a future meeting.

MOTION ADOPTED UNANIMOUSLY

Auditor's Office Fee

Mr. Meyer reported to the Committee that Ice Miller had confirmed the fees for AOA could be paid using Plan funds. The Committee discussed reasonable limits for the fee, and a feasible range that could be proposed by OST. Mr. Staib reported to the Committee that a motion was unnecessary for OST to begin negotiations to determine the AOA fee for oversight of plan audits.

Fiduciary Training Slides

Mr. Meyer stated that there was no motion or follow up needed regarding the Fiduciary training at this time. He provided the slides from Ice Miller to the Committee and made them available on Simbli for review.

PUBLIC COMMENTS

No members of the public present for comment.

NEXT MEETING

The next meeting of the Board is scheduled for September 5, 2018.

The next meeting of the Committee is scheduled for November 13, 2018.

ADJOURNMENT

A MOTION was made by Mr. Kennedy and seconded by Mr. Snyder to adjourn the meeting of the Committee at 12:34 p.m.

MOTION ADOPTED UNANIMOUSLY

Respectfully submitted,

Ralph Cetrulo
Chair for the Audit and Governance Committee