



**NYS DEFERRED  
COMPENSATION  
BOARD**  
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DIANA JONES RITTER  
EDWARD M. CUPOLI  
ROBERT F. MUJICA

May 24, 2012

**Memorandum To:** Files

Minutes of the May 24, 2012  
Public Meeting of the  
New York State Deferred Compensation Board

A public meeting of the New York State Deferred Compensation Board (the “**Board**”) was held on May 24, 2012, in Room 2 J/K of the offices of Shearman & Sterling, LLP in New York, New York. The meeting began at approximately 9:00 a.m. and adjourned at approximately 1:30 p.m. A separate memorandum to the files, also dated May 24, 2012, lists the materials prepared for and referred to during the meeting.

**In attendance:**

Board Members:	Edward M. Cupoli, Diana Jones Ritter
Staff Members (“ <b>Staff</b> ”):	Edward Lilly, Sharon DiMura, Peter Drao
Shearman & Sterling LLP (“ <b>Counsel</b> ”):	Kenneth Laverriere <sup>1</sup> , Veronica Wissel, Jennifer Stadler
The Bank of New York Mellon (“ <b>BNYM</b> ”):	Greg Wilcox, Bill Claxton, David Blakeley
Dwight Asset Management Company LLC (“ <b>Dwight</b> ”):	David Starr, Marie Mastro, David Westbrook
Callan Associates Inc. (“ <b>Callan</b> ”):	Mark Kline, Karen McKechnie
Nationwide Retirement Solutions (“ <b>NRS</b> ”):	Keri Metres, Kelly Nguyen, Jill O’Callaghan, Patrick Ray, Ric Whetro
BlackRock Financial Management, Inc. (“ <b>BlackRock</b> ”):	Paul Francis
The Vanguard Group, Inc. (“ <b>Vanguard</b> ”):	Gerald Giardinelli, Jeffrey Johnson, Scott Conking
JP Morgan Asset Management:	Kimberly Howells, Rich Gray

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<sup>1</sup> Mr. Laverriere from Shearman & Sterling LLP attended via teleconference.

Diana Jones Ritter acted as Chairperson and Jennifer Stadler acted as Secretary of the meeting. Ms. Ritter called the meeting to order.

## **I. APPROVAL OF MINUTES**

The Board reviewed the minutes of the public meeting held on April 3, 2012. Edward Cupoli moved to approve the minutes. Ms. Ritter seconded the motion, and the Board unanimously approved the minutes.

## **II. GENERAL PLAN ISSUES**

### **A. Review of 2011-2012 Plan Expenses**

Edward Lilly began the meeting by providing a general overview of current and upcoming issues affecting the Deferred Compensation Plan for Employees of the State of New York and Other Participating Public Jurisdictions (the "*Plan*"). Mr. Lilly discussed the 2011-2012 administrative budget of the Plan, the expenses for general administration, the Stable Income Fund, the International Equity Portfolio and mutual funds, including expense reimbursements credited back to participants. Mr. Lilly noted that total Plan expenses for fiscal year 2011-2012 were \$63,479,414, approximately 0.49% of total Plan assets.

### **B. Adoption of 2011-2012 MWBE Report**

Mr. Lilly then discussed the Minority and Women-Owned Business Enterprise Policy ("*MWBE Policy*"), adopted by the Board on February 24, 2012. Section IV of the MWBE Policy requires the Plan to provide a report to the Governor, the Legislature and the Chief Diversity Officer of New York within 90 days following the end of each fiscal year. Mr. Lilly presented a draft of the report (the "*MWBE Report*") to the Board for approval.

Mr. Lilly provided an overview of the Board's efforts to include Minority and Women-Owned Business Enterprises ("*MWBEs*") in the procurement process. Mr. Lilly discussed the two requests for proposals ("*RFPs*") conducted during the last fiscal year and efforts to include MWBEs in each process. Mr. Lilly noted that the RFP for the Stable Value Structure Manager did not result in any responses from MWBEs since stable value structure managers are very specialized, and neither Staff nor the Board's independent consultant were able to identify any MWBEs that provided the services sought under the RFP. Mr. Lilly also described the RFP conducted for international investment managers for the Plan's International Equity Fund. Three MWBEs were identified as candidates and were provided with an RFP, and each of the three candidates responded. One of these MWBEs, EARNEST Partners, was invited to interview at the request of Staff. Callan Associates ("*Callan*") and Board Staff concurred that the investment strategy of EARNEST Partners was not a proper fit for the International Equity Portfolio, as EARNEST Partners' strategy involved a focus on emerging markets investments at a percentage higher than the limitation imposed by the Board for the International Equity Fund and its managers. Discussion ensued regarding the actions taken to include MWBEs in the procurement process and the MWBE Report. Ms. Ritter and Mr. Cupoli both noted that Staff should continue its efforts to identify and include MWBEs in the RFP process.

After further discussion, Ms. Ritter moved to approve the MWBE Report, Mr. Cupoli seconded the motion, and the Board approved the MWBE Report.

### **C. Janus Fund Review**

Mr. Lilly gave an overview of issues relating to the Janus Fund. Mr. Lilly described the relative underperformance of the Janus Fund and turnover of certain of the fund's management. Mark Kline from Callan

then described Callan's review and analysis conducted at the Board's request. Mr. Kline presented Callan's recommendation that the Janus Fund be closed to new contributions at the earliest practicable date.

Mr. Lilly noted that the Janus Fund was previously closed to new investments from April 1, 2009 to March 31, 2010. Because of the recurring underperformance of the Janus Fund, Callan recommended that the Board again close the fund to new investments, after giving participants the opportunity to select a different fund to which to direct their contributions. Mr. Kline noted that the Board would need to name another fund to replace Janus as a default fund for contributions that were previously directed to be invested in the Janus Fund, in the event that a participant did not elect a different fund. Mr. Kline noted that Callan recommends that the Principal Large Cap Growth Fund be designated as the default fund.

Mr. Kline and Mr. Lilly noted that Callan and Staff believe that the closing of the Janus Fund to new contributions should become effective as soon as reasonably practicable, while permitting enough time to communicate the decision to affected participants. Mr. Kline further noted that Callan's recommendation is not to transfer existing Janus Fund assets to a different fund at this time, but rather to communicate the freezing of the Janus Fund and closing the fund to new investments and giving participants the opportunity to make a different investment choice. Mr. Kline noted that Callan and Staff would propose to undertake a review of the domestic investment option lineup as a whole and prepare a recommendation for the Board regarding what actions to take, if any, with respect to investment options that have been frozen to new investments, including the Janus Fund.

Extended discussion ensued regarding Callan's recommendation. Ms. Ritter and Mr. Cupoli reiterated the importance of communication with participants about the developments with the Janus Fund, including the fact that the fund is being frozen to new investments and the reasons for freezing the fund. After further discussion, Ms. Ritter made a motion to approve the recommendation to close the Janus Fund to new investments on a date to be determined, but not earlier than the beginning of August. Mr. Cupoli seconded the motion and the motion was approved.

#### **D. Update on International Transition**

Mr. Lilly introduced Paul Francis from BlackRock Financial Management, Inc. ("**BlackRock**"), the Plan's transition manager. Mr. Lilly noted that BlackRock has been working on the transition of investments from the legacy international investment managers (the "**Legacy Managers**") to the newly selected international investment managers. Mr. Francis gave an overview of the transition process. He noted that the Legacy Managers had stopped trading and that the funds had been moved into a transition account effective May 23, 2012. The portfolio is now under BlackRock's control, acting in its capacity as a temporary investment manager (and fiduciary in respect of the transition assets) during the transition. Mr. Francis explained that the four new managers will receive control over the investment of the assets of their respective accounts at the end of the transition period and their active management of their accounts will begin on June 11, 2012.

Mr. Lilly noted that a new New York State Law, the Iran Divestment Act of 2012 (the "**Divestment Act**"), prohibits state and local governments from conducting business with certain specified companies that invest in Iran's energy sector, which could have implications for the international managers. Mr. Francis explained that only two of the new international managers, Wellington Management Company, LLP and Dimensional Fund Advisors LP, currently invest in any of the entities named in the Divestment Act and each has been informed of the possibility of the need for divestment of the entities in question.

### **III. MODEL PLAN ISSUES – FEE REPORTING**

The Board then discussed the appropriate level of fee disclosure for Model Plan sponsors in light of the Board's Rules and Regulations regarding fee disclosure, the new disclosure rules for plans subject to the

Employee Retirement Income Security Act of 1974, as amended (“*ERISA*”), and the Board’s general interest in increasing transparency to participants in 457(b) plans in New York. Mr. Lilly explained that the U.S. Department of Labor has promulgated new rules requiring fee disclosure by private employer pension plans that are subject to ERISA. While governmental plans, such as the Model Plans, are not subject to ERISA, Mr. Lilly noted that fee disclosure has become a prominent issue and the Board endeavors to encourage Model Plan sponsors to provide the same level of disclosure and transparency as required for plans subject to ERISA. Some Model Plan sponsors had made inquiries with Staff as to how they could meet the requirements under the Board’s Rules and Regulations to provide fee disclosure. Mr. Lilly explained Staff’s recommendation that the Board issue a guidance letter to Model Plan sponsors highlighting the applicable Rules and Regulations on fee disclosure and providing guidelines explaining how to comply with the requirements. Discussion ensued regarding Staff’s recommendation. Ms. Ritter then moved to approve Staff’s recommendation, Mr. Cupoli seconded the motion and the motion was approved.

#### **IV. STABLE INCOME FUND**

##### **A. Selection of Stable Income Fund Separate Account Providers and Fund Restructuring**

Mr. Lilly then asked David Starr, Marie Mastro and David Westbrook from Dwight Asset Management Company LLC (“*Dwight*”), to give an overview of Dwight’s recommendations regarding the reallocation of the assets of the Plan’s Stable Income Fund (the “*Fund*”) and the selection of new insurance separate account providers for the Fund.

Mr. Westbrook gave an overview of the RFP that was issued for insurance companies to issue separate account contracts. Mr. Westbrook noted that Dwight, Callan and Staff interviewed four finalists—ING (managed by ING Investment Management), New York Life (managed by MacKay Shields), MassMutual (managed by Babson Capital) and Principal (managed by Morley Financial). After reviewing and analyzing the RFP responses and interviews, Dwight is recommending the selection of ING, New York Life and Mass Mutual as providers of separate account insurance contracts. Mr. Westbrook reviewed the strengths and track records of each finalist that was interviewed, and noted that the three issuers and underlying managers that are being recommended by Dwight presented the best solution for the replacement of expiring wrap capacity and adding capacity for future growth of the Fund. Mr. Westbrook also noted that one of the Fund’s current wrap providers, Prudential, has agreed to provide \$800 million of additional capacity to wrap the EARNEST Partners LLC (“*EARNEST Partners*”) short portfolio and the Goldman Sachs Asset Management L.P. (“*GSAM*”) intermediate portfolio. It was noted that Prudential was not willing to wrap the other existing intermediate strategy portfolio manager, Western Asset Management Company, and the only existing manager that Prudential was willing to wrap other than EARNEST Partners was GSAM. Callan and Staff noted that they agree with Dwight’s recommendations.

Ms. Mastro then gave an overview of Dwight’s recommendation regarding the reallocation of Fund assets in order to transition the Fund from its existing structure to the new structure with the three new separate account insurance contract providers. In connection with the reallocation, Dwight recommended that the Board extend the investment management agreements with GSAM (for its intermediate duration portfolio) and BlackRock (for its short duration portfolio) for one year, pursuant to Section 9003.5(b) of the Rules and Regulations, in order to ensure that these portfolios will continue to be wrapped by the existing wrap providers who have approved them.

Discussion ensued regarding Dwight’s recommendations. Board members asked Dwight whether the net returns on the Fund continue to justify the use of a stable income fund structure rather than a money market fund. Peter Drao, a Staff member representing Robert Mujica, noted that Mr. Mujica is concerned about increasing wrap fees and wanted to further review Dwight’s analysis and recommendations. David Starr from Dwight confirmed that the net returns to the Fund are still higher than the returns from money market funds, and the increased cost of obtaining wrap capacity for the Fund continues to be outweighed by the performance of the Fund as compared with alternatives to a stable income fund.

After further discussion, Ms. Ritter moved to adopt a resolution approving Dwight's recommendation to select three new issuers and investment managers of separate account insurance contracts, as follows: ING (managed by ING Investment Management), New York Life (managed by MacKay Shields) and MassMutual (managed by Babson Capital). Mr. Cupoli seconded the motion, and the resolution was approved. Ms. Ritter then moved to approve Dwight's recommendation to extend for one year the investment management agreements with GSAM (for its intermediate duration portfolio) and BlackRock (for its short duration portfolio). Mr. Cupoli seconded the motion, and the motion was approved. The Board noted that the extension of these two contracts was in the best interests of Plan participants because of the:

- Continuing challenges of obtaining independent benefit responsive wrap contract coverage outside of insurance company separate accounts.
- Ability to obtain benefit responsive wrap contract coverage for these managers from State Street Bank (for BlackRock) and Prudential (for Goldman Sachs).
- Ability to maintain an appropriate asset allocation among investment managers of differing investment mandates.
- Positive performance of each manager.
- The extension of these two contracts will lessen the disruption to the Fund and the transition costs that would otherwise be incurred during the transition of assets managed by these two managers.
- The extension is part of an overall restructuring of the Fund.

#### **B. Stable Income Fund Review**

Ms. Mastro then discussed the performance of the Fund's portfolio during the fiscal year ending March 31, 2012 and during the last quarter. Ms. Mastro noted that the Fund's rate of return was approximately 2.5% for fiscal year 2012. A general discussion then ensued regarding the content of Dwight's presentation.

#### **V. ADMINISTRATIVE SERVICE AGENCY PRESENTATION**

Mr. Lilly then asked Patrick Ray, Ric Whetro, Jill O'Callaghan, Keri Metres and Kelly Nguyen from Nationwide Retirement Solutions ("*NRS*") to provide an overview of the Plan's administrative activities during the last quarter. Mr. Ray gave an overview of the update of the Plan website and the results of the participant satisfaction survey. In addition, Ms. Nguyen described the new and improved "Tell-A-Friend" initiative, designed to encourage participants to inform other employees about retirement savings and specifically about the Plan. The initiative features a logo of an owl and a blue bird, the official state bird of New York. Mr. Ray also reviewed statistics on new enrollments, Plan adoptions and Model Plan conversions.

#### **VI. INVESTMENT CONSULTANT PRESENTATION**

Mr. Kline and Karen McKechnie from Callan then provided an overview of the Plan's investment performance. Ms. McKechnie focused on funds that were performing below their benchmarks. Aside from the actions recommended in respect of the Janus Fund, Ms. McKechnie expressed the overall view that though the

underperforming funds were currently volatile or performing below benchmarks, there were no significant issues to warrant replacement or other action at this time.<sup>2</sup>

## VII. PORTFOLIO MANAGER REVIEW

Mr. Lilly introduced Gerald Giardinelli, Jeffrey Johnson and Scott Conking from The Vanguard Group, Inc. ("*Vanguard*") to provide an overview of the investment options of Vanguard that are offered in the Plan. Mr. Johnson also discussed the management structure and investment strategies of the Plan's Vanguard funds and fund performance over the last year. Discussion ensued regarding Vanguard's presentation.

The Vanguard presentation concluded at 2:30 p.m. and the working session was adjourned.

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Jennifer Stadler  
Secretary of the Meeting

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<sup>2</sup>At this time, Mr. Cupoli left the meeting, so the Public Meeting was adjourned and the meeting continued in working session.