



NYS DEFERRED COMPENSATION BOARD

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DIANA JONES RITTER
MICHAEL A. AVELLA
EDWARD M. CUPOLI

December 5, 2008

Memorandum To: Files

Minutes of the December 5, 2008
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 December 5, 2008, in Conference Room 2A at the offices of Shearman & Sterling LLP, at 599 Lexington Avenue, New York, NY 10022. The meeting began at approximately 9:00 a.m. and adjourned at approximately 3:00 p.m. A separate memorandum to the files, also dated December 5, 2008, lists the materials prepared for and referred to during the meeting, a copy of which is included as an attachment hereto.

In attendance:

Board Members: Diana Jones Ritter, Edward M. Cupoli

Staff Members: Edward Lilly, David Fischer, Sharon DiMura, David Natoli, Craig Dickinson

Shearman & Sterling LLP: Kenneth Laverriere, Elizabeth Roseman, Veronica Wissel, Lee Lowenthal (Legal Assistant)

Nationwide Retirement Solutions: Tom Weber, Ric Whetro, Brenda Anderson, Patrick Ray, Jill O'Callaghan, Bill Jackson

Evaluation Associates LLC: Linda Schlissel, Kathy Bajorinas

The Bank of New York Mellon: Mary Dunleavy, John Fox, Katherine Dinella

Dwight Asset Management: David Starr, David Westbrook

Clifton Gunderson: Thomas Heseltine

There were no members of the public in attendance.

Diana Jones Ritter served as Acting Chair and Lee Lowenthal acted as Secretary of the meeting. Ms. Ritter called the meeting to order, thanked Fred Jacobs for his service on the Board, and welcomed the new incoming Board member, Edward Cupoli. Ed Lilly presented a brief overview of the agenda and noted the agenda items requiring a Board vote.

I. Overview of Plan Developments

Mr. Lilly presented an initial overview of developments in the New York State Deferred Compensation Plan (the "*Plan*") since the September 5, 2008 Board meeting. The Board discussed the effect of recent market conditions on the Plan, including the Plan's investment performance, new enrollments, and participant utilization of the HELPLINE.

II. Transition Preparation

The Board discussed upcoming changes to the Plan in the 2009 Plan year, including the new investment options and fee structure. Mr. Lilly and Nationwide Retirement Solutions ("*NRS*") presented the Board with draft participant communications that explain these changes to the Plan. The Board reviewed the Plan newsletter, the supplemental newsletter, the new quarterly statement, the administrative fee and reimbursement policy, the asset transfer confirmation to be sent to participants whose assets are to be mapped from an eliminated fund and additional Plan materials that will be sent to participants and posted to the Plan website. The Board discussed the mechanics of the payment of reimbursements to participants. Mr. Cupoli and Ms. Ritter noted the importance of transparency and equity in the fees charged to participants. The Board also discussed giving participants the option of receiving newsletters and statements electronically.

III. 2008-2009 Budget Update

Mr. Lilly reviewed the 2008-09 budget and explained that because of the decrease in the overall value of the Plan, administrative reimbursements from mutual fund companies will be approximately \$1.1 million less than that anticipated in the budget and that interest income on the Plan's trust accounts will be approximately \$400,000 less than that anticipated in the budget. This will result in a cash balance at the end of the fiscal year of \$1.8 million, rather than the anticipated balance of \$3.3 million. The Plan will have sufficient revenues to pay all administrative expenses.

IV. 2009-2010 Budget Update

Mr. Lilly then presented the Board with an overview of the Plan's 2009-10 budget. Mr. Lilly estimated \$9.6 million in administrative expenses, which is approximately \$475,000 less than the 2008-09 Plan year.

V. Fee Schedule

Next, the Board discussed the administrative fee structure that was approved at the September 5, 2008 Board meeting. Mr. Lilly presented the Board with Staff's recommendation to limit the assets subject to the asset-based portion of the fee to \$200,000 per participant in order to prevent participants with high account balances from paying a disproportionate amount of the Plan's administrative expenses. A discussion ensued regarding

the appropriateness of this limit. Mr. Cupoli also noted the need for a detailed explanation of the fee structure in the newsletter and on the website.

Mr. Lilly then presented the Board with Staff's recommendation to initiate the new fee schedule structure beginning on April 1, 2009, instead of in July 2009 as was originally planned. Mr. Lilly noted that current market conditions have decreased the Plan's cash flow for administrative expenses and implementing the new fee structure at the beginning of the Plan year would ensure that the Board would cover all of its administrative expenses as they become due. Following a discussion, the Board concurred to initiate the new fee structure in April 2009.

Ms. Ritter moved to limit the asset-based portion of the fee to \$200,000 per participant and implement the new fee structure on April 1, 2009. Mr. Cupoli seconded the motion, contingent upon his review of Plan data and Staff's analysis and his right to revoke approval within two weeks of the Board meeting (December 19, 2008). The Board approved the motion, contingent upon Mr. Cupoli's review of the data and analysis on or before December 19, 2008.

VI. IRS Inquiry

Mr. Lilly provided an update to the Board on the recent inquiry initiated by the Internal Revenue Service (the "**IRS**") about an apparent discrepancy in the Plan's income tax withholdings in 2004. Mr. Lilly informed the Board that The Bank of New York Mellon and JPMorgan Chase are cooperating with the IRS to resolve the discrepancy.

VII. Approval of SRI and Mid-Cap Growth Funds

Linda Schlissel presented the Board with Evaluation Associates LLC's ("**EAI**") recommendation to select the Vanguard Capital Opportunity Fund as a core investment option. Ms. Ritter moved to adopt a resolution to select the Vanguard Capital Opportunity Fund as a core investment option, Mr. Cupoli seconded the motion, and the Board approved the selection of the fund.

Ms. Schlissel then presented the Board with EAI's recommendation to select the Pax World Balanced Institutional Fund as the socially responsible investment option based on EAI and Staff's review of responses to the Request for Proposals and interviews of qualified candidates. Ms. Ritter moved to adopt a resolution to select the Pax World Balanced Institutional Fund as a core investment option, Mr. Cupoli seconded the motion, and the Board approved the motion.

VIII. Securities Lending

Mary Dunleavy, John Fox and Katherine Dinella from The Bank of New York Mellon presented the Board with an overview of the status of the Plan's securities lending program, which was suspended by the Board on September 22, 2008. A discussion ensued regarding the appropriateness of securities lending in the current market, the status of cash collateral investments and the time frame in which The Bank of New York Mellon can call back collateral investments. The Board determined to continue the suspension of new securities lending.

IX. Putnam Settlement

David Fischer gave the Board an overview of the Putnam Fair Funds Settlement and informed the Board that approximately \$280,000 will be credited back to the Plan, payable no sooner than February 2009. By the next meeting, Mr. Fischer stated that he will have a proposal for how to distribute these funds to participants.

X. Executive Session

Ms. Ritter moved that the Board enter into executive session to discuss the Performance Audit of NRS and Mr. Cupoli seconded the motion. The Board then conducted its business in executive session, whereupon Ms. Ritter moved to adjourn the executive session, which was seconded by Mr. Cupoli, and the Board returned to public session.

XI. NRS Audit Penalty

The Board reviewed the deficiencies found by Clifton Gunderson in the Performance Audit of NRS. Based upon the determinations of Clifton Gunderson and the recommendations of Staff, Ms. Ritter moved to impose penalties totaling \$147,500 for the Plan Year 2007-08. Mr. Cupoli seconded the motion. The Board adopted the motion.

XII. Dwight Presentation

David Starr and David Westbrook from Dwight Asset Management (“*Dwight*”) discussed the allocation of the five finite guaranteed investment contracts (“*GICs*”) that will be maturing prior to October 1, 2009, and the one synthetic GIC that will expire on March 31, 2009. Mr. Starr also presented the Board with a recommendation to add an additional intermediate and/or short-term bond portfolio manager to the Stable Value Fund (the “*Fund*”). The Board discussed Dwight’s recommendations and Ms. Ritter moved to approve the recommendation to initiate a search for additional bond managers. Mr. Cupoli seconded the motion and the Board approved Dwight’s recommendation to initiate the search.

Mr. Westbrook then reviewed the performance and current structure of the Fund. Mr. Westbrook indicated that the Fund was performing solidly, though market conditions have affected its overall value and performance.

A discussion then ensued regarding the wrap providers. Dwight recommended that the remaining finite synthetic GIC contracts be incorporated under the global wrap structure because this would provide greater flexibility as those contracts reach termination. The Board concurred and directed Dwight to proceed with this recommendation. Dwight also opened a discussion of whether it was desirable to add one or more global wrap providers in the first quarter of the 2009-10 Plan Year due to the size of the Fund. The discussion pertained to the availability of wrap providers in the marketplace, their security, and fees. The Board directed Dwight to provide further details at the February meeting.

XIII. Nationwide Presentation

Patrick Ray began the Nationwide presentation with an overview of recent activities of NRS, including the recent catch-up contribution mailing and the continuing efforts

related to the un-cashed check policy. Mr. Ray noted that the continuing efforts related to the un-cashed check policy resulted in a substantial reduction in the number of outstanding un-cashed checks on participant accounts. Mr. Ray also discussed recent deferral activity, incoming rollovers, and enrollment activity. Jill O'Callaghan next discussed the HELPLINE activity and service levels. Mr. Lilly noted that despite the high call volume due to market volatility in October 2008, the HELPLINE met their performance criteria for the month. He commended the HELPLINE for their outstanding performance during this time. Mr. Ray also requested comments on the upcoming quarterly newsletter included in the meeting materials.

XIV. Performance Review

Kathy Bajorinas presented an overview of the quarterly performance of the Plan's investment options. Ms. Bajorinas highlighted the performance of at least one fund within each investment category and discussed the performance of the international portfolios.

XV. Designation of New Chair of the Board

The Board discussed the departure of Fred Jacobs from the Board and the need to elect a new Chair of the Board. Mr. Cupoli moved to appoint Ms. Ritter as Chair of the Board. Ms. Ritter seconded the motion, and the Board appointed Ms. Ritter as Chair of the Board.

XVI. Adjournment

There being no further matters for discussion, Ms. Ritter moved to conclude the public meeting. Mr. Cupoli seconded the motion, and the Board approved the motion. The Board meeting was then adjourned.

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Lee Lowenthal
Secretary of the Meeting