



**NYS DEFERRED  
COMPENSATION  
BOARD**

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DIANA JONES RITTER

EDWARD M. CUPOLI

JOSEPH F. PENNISI

February 25, 2010

**Memorandum To:** Files

Minutes of the February 25, 2010  
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 February 25, 2010, in the following locations via video-conference: Conference Room 2C at the offices of Shearman & Sterling LLP, 599 Lexington Avenue, New York, NY 10022 and Room 432 at the New York State Capitol, Albany, NY 12247. The meeting began at approximately 9:00 a.m. and adjourned at approximately 2:40 p.m. A separate memorandum to the files, also dated February 25, 2010, 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, Joseph F. Pennisi
Staff Members (" <b>Staff</b> "):	Edward Lilly, David Fischer, Sharon DiMura, James Kiyonaga
Shearman & Sterling LLP (" <b>Counsel</b> "):	Kenneth Laverriere, Veronica Wissel, Adrienne Hart (Legal Assistant)
Nationwide Retirement Solutions (" <b>NRS</b> "):	Ric Whetro, Patrick Ray, Tom Weber, Jill O'Callaghan, Nicole Lang
Evaluation Associates LLC (" <b>EAI</b> "):	Linda Schlissel, Kathy Bajorinas
Dwight Asset Management (" <b>Dwight</b> "):	David Starr, Marie Mastro
Clifton Gunderson:	Thomas Heseltine
AllianceBernstein (" <b>Alliance</b> "):	Aaron Montano, Richard Davies, Kevin Boreen

Joseph Pennisi attended the meeting at the New York State Capitol. Thomas Heseltine attended the meeting via teleconference. Diana Jones Ritter, Edward Cupoli, and all other participants attended the meeting at the offices of Shearman & Sterling LLP.

Ms. Ritter acted as Chairperson and Adrienne Hart acted as Secretary of the meeting. Ms. Ritter was delayed due to bad weather. In her absence, Mr. Cupoli called the meeting to order and welcomed Mr. Pennisi, the newest member of the Board, to the meeting. Mr. Pennisi thanked the Board for welcoming him.

## **I. NRS PRESENTATION**

Tom Weber provided background information on corporate activities, including the appointments of Anne Arvia as Senior Vice President for Retirement Plans and Cain Hayes as Vice President Sales.

Patrick Ray provided an overview of 2009 activities on behalf of the Deferred Compensation Plan for Employees of the State of New York and Other Participating Public Jurisdictions (the "**Plan**"), including April fund mapping, the Putnam and Bear Stearns settlement distributions, 207(a) and 207(c) corrective distributions and the April and October 2009 fee assessment. Ric Whetro then gave an overview of the mutual fund reimbursement process that was implemented in 2009. It was noted that since the enactment of the new reimbursement policy, whereunder mutual fund reimbursements are allocated back to participant accounts, nearly \$4 million in mutual fund reimbursements have been deposited to participants' accounts. Mr. Whetro also discussed 2009 deferral activity, loans, and the un-cashed checks policy.

Jill O'Callaghan provided the Board with an overview of the HELPLINE and the 2009 call volume, noting that there were no year-end issues to report. Mr. Whetro advised that there was a minor 2.5 percent increase in unforeseeable emergency withdrawal requests, and a significant 25.5 percent increase in the number of loans initiated in 2009, as compared with 2008. Edward Lilly stated that pursuant to the Board's directive at the November 2009 Board meeting, the Plan's policy is that any participant who defaults on a Plan loan is not eligible for a new loan until the defaulted loan is repaid in full, in addition to any interest accrued on the loan.

Ms. Ritter joined the meeting at this time.

Mr. Ray gave an overview of NRS's initiatives with respect to participant enrollment, describing Account Executive activity and other NRS outreach programs in the last Plan quarter. It was noted that Account Executives give guidance to participants but they do not provide investment advice. Ms. Ritter suggested that NRS consider making certain workshops available online for participants who have difficulty attending live sessions. Board members also discussed ideas to promote the adoption of the Plan by public employers. Mr. Lilly advised that jurisdictions have the option of adopting the Plan or adopting their own 457 plan in compliance with the Board's Rules and Regulations (the "**Rules**"). Mr. Cupoli requested a list of all New York State public employers eligible to join the State Plan and those who actually have adopted a 457 plan.

Results of the “Missing Pieces” seminars and meetings conducted for the New York State Office of Mental Retardation and Developmental Disabilities were summarized by Mr. Ray. He also updated the Board about the Plan Web site accessibility project, and noted that Phase One of the project would likely be implemented in early March. In addition, he advised that the participant satisfaction survey will begin in March.

## **II. APPROVAL OF MINUTES**

After reviewing the minutes of the public meeting held on November 20, 2009, Ms. Ritter moved to approve the minutes, Mr. Pennisi seconded the motion, and the Board unanimously approved the minutes.

## **III. PLAN ISSUES**

### **A. Model Plan Audit Guidance**

Thomas Heseltine of Clifton Gunderson joined the meeting via teleconference. Mr. Lilly began a discussion regarding the Rules’ requirement that local plan sponsors conduct an annual audit, describing how, in response to the December 2009 mailing to local plan sponsors, some local plan sponsors had contacted Staff requesting guidance on how to comply with the Rules’ audit requirement. Mr. Lilly noted that after further investigation, he had reason to believe that many local plan sponsors may not be in compliance with the Rules’ auditing and reporting requirements.

Discussion ensued regarding how the Board should proceed with this new information regarding possible noncompliance with the Rules. It was first noted that there may be some ambiguity in the Rules regarding the audit requirement. Mr. Lilly noted that there is no federal requirement for 457 plans to create financial statements or conduct audits.

At the Board’s request, Mr. Heseltine gave an overview of the types of financial statements and the audit standards applicable to Employee Retirement Income Security Act plans, government entities, and other entities. He advised that the practices of governmental 457 plans outside of New York State vary and several large governmental 457 plans do not create financial statements or conduct audits. Ms. Ritter noted the importance of balancing the need for an accurate and verifiable record of plan assets and activities and the high cost of creating financial statements and auditing those statements. After a lengthy discussion, the Board determined that due to the complexity of the issue, in order to properly analyze the foregoing issues and to best serve the interests of participants in local plans, the Board should obtain more information regarding the costs and benefits of the various auditing and financial statement standards adhered to by other defined contribution plans and government agencies. The Board then requested that Clifton Gunderson prepare an overview of the different options with respect to financial statements, accounting standards, and auditing standards. Mr. Cupoli added that Board members should also discuss the issue with the Office of the State Comptroller. The Board decided it would discuss this additional information at a special public Board meeting in Albany before the next quarterly Board meeting.

#### **IV. BUDGET PRESENTATION**

Mr. Lilly presented the Board with an overview of Staff's proposed administrative budget for fiscal year 2010-11. Mr. Lilly noted that the proposal would transfer the payment of certain securities' registration fees from The Bank of New York Mellon's administrative invoice to the Stable Income Fund (the "*Fund*"), since those expenses are related solely to the Fund. Mr. Lilly also noted that Staff anticipated a \$680,000 positive cash flow at the end of 2009, \$600,000 of which he proposed be used to offset 2010-11 expenses. Mr. Lilly recommended maintaining the cash balance from prior years of \$2 million to buffer against any unanticipated events and lowering the annualized asset-based fee to 5.6 basis points to be levied in April and October at 2.8 basis points. The Board briefly discussed the Plan's recent adoption of the current per-participant and asset-based fee structure. The Board determined that it would review the level of the asset-based fee before the imposition of the October portion of the asset-based fee in order to make any necessary adjustments to account for changes in revenues or expenses. After a discussion of the budget and the fee structure, Ms. Ritter moved to approve the proposed administrative budget and the reduced 5.6 basis points asset-based fee, Mr. Pennisi seconded the motion, and the Board unanimously approved the 2010-2011 administrative budget.

#### **V. STABLE INCOME FUND**

##### **A. Asset Allocation**

David Starr presented the Board with an overview of the structure of the Fund and its current status. Mr. Starr discussed Dwight's efforts to increase the Fund's wrap capacity given the challenges posed by current market conditions.

Marie Mastro then gave an overview of the Fund, noting that the Fund has demonstrated strong performance over the last quarter and has sufficient liquidity and cash flow to meet participant demands. Ms. Mastro outlined Dwight's plans to transfer maturing proceeds and enter into a new three-year finite wrap contract with Bank of America to wrap those proceeds. The Board discussed the new terms and fees that Bank of America is requiring in order to enter into a new wrap agreement. Ms. Mastro also reviewed MetLife's ability to provide wrap capacity for funds maturing in June 2010. In order to wrap these funds, MetLife will require an equity wash for transfers from the Stable Income Fund to the Self Directed Investment Account. The Board authorized the use of an equity wash provision in the event that Dwight enters into a wrap contract with MetLife that requires the equity wash. It was noted that wrap capacity continues to be difficult to obtain due to market conditions, and wrap providers are requiring higher fees. The Board requested that Dwight continue to work to obtain additional wrap capacity for the Fund.

Mr. Pennisi exited the meeting at this time.

#### **VI. EAI PRESENTATION**

Linda Schlissel provided a general overview of the structure of the Plan's investment options. Ms. Schlissel discussed the structure and performance of the international equity portfolios. She reviewed the Board's 2007 decision making process regarding how to structure the international investment options and the reasons that the Board decided to use a separate account

structure rather than a mutual fund structure. Ms. Schlissel then reviewed the asset allocation in the international equity portfolio and the key characteristics and performance record of the four active portfolio managers. Discussion ensued about the future of the international equity portfolio and EAI's recommendation to maintain the international portfolio in its current structure and closely monitor the manager weightings to rebalance the funds if necessary.

Ms. Schlissel then discussed some of the domestic equity options and recommended that the Fidelity Magellan option, which was closed to new investments in December 2007, remain closed due to its continued inconsistent performance and "go anywhere" investment style. Ms. Schlissel recommended that the Janus Fund be opened to new investments due to its improved performance and stability of the portfolio management team. The Board concurred with both recommendations.

## **VII. ALLIANCE PRESENTATION**

Richard Davies and Kevin Boreen presented an overview of Alliance's international portfolio. Mr. Boreen discussed Alliance's overall investment strategy and performance history. A general discussion followed regarding the presentation.

## **VIII. EAI PERFORMANCE**

Kathy Bajorinas reviewed the performance of the Plan's investment options. Ms. Bajorinas noted that during the quarter, equity markets were generally stronger than in the previous quarter, and Plan investment option performance was generally positive.

## **IX. ADJOURN**

There being no further matters for discussion, Ms. Ritter moved to conclude the public meeting. Mr. Cupoli seconded the motion, and the Board unanimously approved the motion. The Board meeting was then adjourned at approximately 2:40 p.m.

\* \* \* \* \*

Adrienne Hart

Secretary of the Meeting