

# ST. MARY'S UNIVERSITY ENDOWMENT STATEMENT OF INVESTMENT POLICY

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# ST. MARY'S UNIVERSITY ENDOWMENT STATEMENT OF INVESTMENT POLICY

## 1. INTRODUCTION

This Statement of Investment Policy ("Policy") establishes the investment objectives, philosophy and guidelines of the St. Mary's University Endowment ("Endowment"). St. Mary's University owns the assets of the Endowment. The purpose of the Endowment is to provide financial resources to support the educational mission of St. Mary's University. The financial goal of the Endowment is to maximize total investment returns to provide sufficient funding for present and anticipated spending needs within the constraints of a prudent level of portfolio risk.

To accomplish this goal, the Policy defines the objectives, constraints and standards to be adhered to in the investment of the assets of the Endowment. These in turn have been formulated in consideration of the following:

- The anticipated financial needs of St. Mary's University;
- Maintaining the purchasing power of the Endowment corpus and spendable income;
- Consideration of risk tolerance;
- The need to document and communicate objectives, guidelines, and standards to the investment managers; and
- Compliance with all federal and state laws governing university endowments.

This Policy represents the formal document for the investment of Endowment assets and is to be communicated to the Investment Managers for their use in developing an appropriate investment program and to the Investment Committee of the Board of Trustees (Committee) for their use in exercising fiduciary responsibility in overseeing the investment of the Endowment's assets. This document will also be used as the basis for future investment performance measurement and evaluation.

### **Investment Philosophy**

The Committee believes the best long-term performance will be achieved through a balanced portfolio consisting of equities, fixed income, real estate (in the form of managed commingled funds only) private equity, hedge funds and cash. The Committee may utilize a passive or active management approach, or some combination thereof, in order to achieve the investment objectives of the Endowment.

While speculative risks should be avoided, the Committee adheres to the traditional capital market theory which maintains that, over the long-term, the risk of owning equities should be rewarded with a greater return than that available from fixed income investments. As a result, the Committee believes the total rate of return from an emphasis on public equity, private equity and hedge fund investments will adequately compensate for the increased volatility. This investment philosophy is consistent with the long-term time horizon of the Endowment.

## 2. RESPONSIBLE PARTIES AND FIDUCIARY DUTIES

**Board of Trustees** - are appointed members with the following investment-related duties:

- Appoint members of the Investment Committee (Committee);
- Approve overall objectives and set investment policy;
- Review regular reports of investment performance and other topics from the Committee.

The Board has delegated to the Investment Committee the responsibility for the Endowment assets and the Investment Committee is further authorized to delegate certain responsibilities to professional advisors in various fields. The Investment Committee has the responsibility to ensure that the assets of the Endowment are managed in a manner that is consistent with the policies and objectives of the Endowment. In so doing, the Investment Committee will comply with all applicable laws.

The Investment Committee members are required to discharge their duties solely in the interest of the Endowment and for the exclusive purpose of meeting the financial needs of the University. The Investment Committee is authorized to engage the service of Investment Consultant(s), Investment Manager(s), and Investment Custodian(s), as described in this Investment Policy who possess the necessary specialized research capabilities and skill to meet the investment objectives and guidelines established in this Investment Policy. The Investment Committee shall require the Investment Consultant(s), Investment Manager(s), and Investment Custodian(s) to adhere to the Investment Policy.

**The Investment Committee's** responsibilities include:

- Review, approve and submit for Board approval an Investment Policy for the Endowment which addresses asset allocation, spending guidelines, acceptable risk levels, and total return objectives;
- Review, approve, and submit for Board approval investment guidelines relating to eligible investments, diversification and concentration restrictions, and performance objectives for specific managers or direct investments;
- Select external Investment Consultant(s), Investment Manager(s), Investment Custodian(s) and other experts, as needed, and inform the Board;
- Monitor compliance with the Investment Policy and evaluate the performance based on achieving the stated objectives;
- Evaluate the performance of the external Investment Consultant(s) and Investment Manager(s) and make changes if needed;
- Review performance and oversee management of the investment portfolio(s), ensuring policy compliance; and
- Monitor compliance of Investment Consultants and Investment Managers with the Endowment's Social Responsibility Guidelines.

The Investment Committee shall regularly review the performance of the investment account and investment policy guidelines, and report to the Board with updates and recommendations as needed.

**Staff** - are employees of St. Mary's University with responsibility for the following duties:

- Administer the Endowment consistent with the policies, objectives, procedures and guidelines approved by the Committee and all applicable laws;
- Provide input to the Committee on Endowment related issues to facilitate their decision-making; and
- Manage the Endowment's relationships with external service providers and the community at large.

**Investment Manager(s)** - Though not governed by ERISA, Investment Managers will be considered fiduciaries to the Endowment and thus will discharge their duties solely in the interests of beneficiaries and with the care, skill, prudence and diligence under the prevailing circumstances that a prudent person acting in a like capacity and familiar with matters of the type would use in the conduct of an enterprise with a like character and like aims.

- The appointed Investment Manager(s) will have discretion and authority for determining investment strategy and implementation of security selection and timing consistent with the Policy guidelines. In the event that a manager needs to deviate from these policies or their approach to investing, the Investment Manager(s) shall notify the Committee in writing in advance of all such actions and get the approval of the Investment Committee;
- Provide written documentation of portfolio activity, portfolio valuations, performance data, and portfolio characteristics on a quarterly basis in addition to other information as requested by the Investment Committee or Investment Consultant;
- Comply with all legislation and regulations that involve the Endowment as it pertains to the manager(s)' duties, functions and responsibilities as a fiduciary; and
- Vote the proxies on the securities in the Endowment's portfolio in accordance with the manager's own guidelines and in the best interests of the Endowment unless directed by the Committee to take action on selected securities that violate the guidelines listed in Section IV, "Investment Responsibility".

All managers voting proxies on behalf of the Endowment may be asked to provide a copy of their voting policy and a record of their votes to the Committee.

**Notification of Significant Events** - The Investment Manager(s) shall advise the Committee and the Investment Consultant, in writing, promptly of any event that is likely to adversely impact, to a significant degree, the management, professionalism, integrity or financial position of the firm, including events such as:

- A significant change in investment philosophy;
- An annual report that contains a qualified opinion from the auditor;
- The appointment of a new portfolio manager(s) to the Endowment's account; or
- A change in ownership or control (whether through acquisition, disposition, spin-off, merger, consolidation, or otherwise) of the Investment Manager(s).

**Custodian** - The assets of the Endowment will be held by an institution designated as the Custodian who shall manage, control, collect and use the assets of the Endowment in accordance with the terms of a separate Custodial Agreement, as well as the terms of this Policy.

The Committee recognizes that accurate and timely completion of custodial functions is necessary for effective investment management and accurate records. Following are the basic duties of the Custodian:

- Provide complete custody and depository services for the designated accounts;
- Provide for investment of any cash, to avoid uninvested amounts;
- Implement in a timely and effective manner the investment actions as directed by the Investment Manager(s);
- Collect all income and principal realizable and properly report on the periodic statements;
- Provide accounting statements, including all transactions, based on accurate security values both for cost and market value. These reports should be provided on a time frame acceptable to the Committee;
- Report to the Committee situations where security pricing is either not possible or subject to considerable uncertainty; and
- Distribute to the Committee or its designees in a timely manner all proxy materials for voting.

**Notification of Significant Events** - The Committee shall be advised promptly of the listed events occurring within the Custodian's organization:

- The appointment of a new account manager(s) to the account;
- An annual report that contains a qualified opinion from the auditor; or
- A change in ownership or control of the organization.

**Investment Consultant** - The Committee will retain the services of a third party Investment Consultant to provide expert advice and recommendations to help the Committee discharge its fiduciary responsibilities in furtherance of the Endowment's goals and objectives. The Consultant serves the Investment Committee, which is appointed by the Board of Trustees. Such services provided by the Investment Consultant will include the following:

- Monitor long-term capital market trends and suggest broad-based asset-allocation policies to be approved by the Committee and implemented by the Investment Manager(s), as well as, general advice concerning periodic asset allocation rebalancing;
- Review periodically investment policies and objectives and suggest appropriate changes;
- Research and recommend investment management firms which are appropriate to implement the Endowment's investment policies and objectives;
- Maintain contact with and report on changes within the Investment Manager(s)' organizations;
- Measure, evaluate and report the Investment Manager(s)' performance results to the Investment Committee;
- Attend periodic meetings of the Investment Committee to present evaluation reports;
- Review contracts and fees for current and proposed Investment Managers and Custodians; and
- Notify the Investment Committee of any changes in key personnel or ownership of the Investment Consultant, as well as satisfactory explanation for such changes.

**Other Service Provider(s)** - Other parties may be appointed by the Committee to perform specialized functions required by the Endowment. Such service providers will perform their activities as directed by the Committee in the sole interest of the Endowment's beneficiaries.

### 3. SPENDING POLICY

To achieve financial equilibrium, the spending rule should meet both the current operating needs and protect the corpus as well as the future purchasing power of the Endowment. However, spending rules which provide complete assurance against the loss of purchasing power also create a high degree of spending instability. The objective is a rule which offers a reasonable defense against loss of corpus or future purchasing power and also stabilizes the amount available for current spending.

Taking these factors into consideration, the Endowment fund can distribute a percentage of up to 4.75% (net) of the three-year moving average of the total market value of the Endowment's earning assets.<sup>1</sup> In addition to spending-rule distributions, the Board of Trustees has the authority to release funds from previous Board designations to support operations of the University. Upon approval by the President, unspent allocations may be carried forward up to 2 years. Amounts carried forward will be reported to the Executive Committee of the Board of Trustees at its next regularly scheduled meeting.

Major gifts (\$5,000,000 or more) for which the donor requests a higher spending percentage and/or different market value average, may be accepted and managed in the Endowment Fund provided the use is within the Mission of the University and the donor acknowledges the potential risks of loss of future purchasing power or of corpus and thereby impacting the donor's intent of the gift.

If the market value of an endowment account falls below the original gift and spending has not yet begun, spending will not commence until the market value exceeds the original gift plus estimated spending for at least one year. If spending has begun and commitments exist, spending will be consistent with the prior year or reduced where reasonably possible. Such accounts will be monitored quarterly and plans developed for positive or negative scenarios.

### 4. INVESTMENT RESPONSIBILITY

St. Mary's University has adopted the following Statement on Investment Responsibility (March 23, 1990) that outlines the University's position on social responsibility in the investment of Endowment assets:

#### **Preamble:**

The primary fiduciary responsibility of the University Trustees in managing the University's endowment securities is to first, protect the corpus of the endowment, and second, maximize the financial return on these resources, taking into account the amount of risk appropriate for University investment policy.

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<sup>1</sup> Earning assets are defined as the sum of all securities managed by the Endowments investment manager(s).

However, when the Trustees are apprised of or adjudge that corporate policies or practices of a company in which the endowment of the University is invested cause substantial social injustice, they, as responsible and ethical investors, will consider this factor in voting proxies on corporate securities.

### **Policy Guidelines**

The Trustees will vote on any shareholder resolution involving social issues when they conclude that a company's policies or practices cause substantial social injustice and such policies and practices are the subject of a shareholder proposal which could eliminate or reduce social injustice. The Trustees will vote for the proposal, provided such action is not inconsistent with the Trustees' fiduciary obligations. In cases where the proposed remedy is deemed unreasonable, the Trustees may abstain.

When the Trustees conclude that a company's practices or policies cause substantial social injustice, and

- a. a change in the company's activities would not have a direct and material effect in alleviating such injustice,
- b. they have exhausted their practical shareholder rights in seeking to modify the company's activities to eliminate or reduce social injustice,
- c. the company has been afforded reasonable time and opportunity to alter its activities,
- d. no alleviation of the substantial social injustice by the company is likely within a reasonable time;

they will consider the alternative, when such an action is consistent with their fiduciary obligations, of selling the securities in question at the appropriate time.

If the Trustees conclude that a specific Trustee action under these guidelines is likely to impair the capacity of the University to carry out its educational mission (for example, by causing significant adverse action on the part of governmental or other external agencies or groups, or by causing deep divisions within the University community), then the Trustees need not take such action.

If the Trustees are made aware of practices being perpetrated by any company in which the endowment is invested that may cause substantial social injustice, the Trustees will request a statement from the company's CEO setting forth what action is being taken to alleviate these conditions. In the event of an unsatisfactory response, or no response, the Trustees will direct its management company to liquidate this investment, consistent with the policy guidelines.

## 5. ASSET ALLOCATION

The Endowment intends to be fully invested in public equities, fixed income securities managed real estate, private equity, hedge funds, and alternatives under normal circumstances, with cash held to 5% or less of the total portfolio. For asset allocation purposes, any cash equivalents held shall be considered invested in the asset class assigned. Investment Managers have discretion as to cash holdings but recognize that their net-of-fees performance will be benchmarked against fully-invested indices.

Recognizing that the asset allocation decision will be the single most important factor determining the long-term performance of the Endowment, the Board grants to the Committee discretion with respect to the asset allocation decision and changes thereto. Any changes to the asset allocation made by the Committee shall be reported to the Board at its next regularly scheduled meeting.

The asset allocation which follows contains guideline percentages, at market value, of the total Endowment invested in various asset classes. The “Strategic Target” allocation is just that, a target, and may not actually be attained at any one point of time since actual asset allocations will be dictated by current and anticipated market conditions, the independent actions of the Committee and/or Investment Manager(s) and required cash flows to and from the Endowment. The “Tactical Range” anticipates this fluctuation and provides flexibility for the Investment Manager(s)’ portfolios to vary around the target without the need for immediate rebalancing.

<b>Security Class</b>	<b>Strategic Target</b>	<b>Tactical Range</b>	<b>Neutral Benchmark</b>
<b>U.S. Equities</b>	<b>39.0%</b>	<b>30 - 60%</b>	<b>Russell 3000 Stock Index</b>
- Large Cap	30.0%	20 - 40%	Russell 1000
- Mid Cap	4.0%	0 - 20%	Russell Mid Cap
- Small Cap	5.0%	0 - 20%	Russell 2000
<b>Non-U.S. Equities</b>	<b>19.0%</b>	<b>5 - 30%</b>	<b>MSCI ACWI ex-USA Index</b>
- International Developed	15.0%	5 - 30%	MSCI EAFE
- Emerging Markets	4.0%	0 - 20%	MSCI Emerging Markets
<b>Fixed Income</b>	<b>15.0%</b>	<b>10 - 60%</b>	<b>Barclay's Intermediate Govt./Credit Index</b>
- Short Term Treasuries	0.0%	0 - 60%	Barclay's 1-3 Year Treasury Index
- Intermediate Term G/C	15.0%	5 - 60%	Barclay's Intermediate Govt./Credit Index
- High Yield	0.0%	0 - 5%	Barclay's US High Yield Composite
<b>Alternatives</b>	<b>27.0%</b>	<b>10 - 40%</b>	<b>HFRI Fund Weighted Composite Index</b>
<b>Real Estate</b>	<b>7.0%</b>	<b>3 - 10%</b>	<b>NCREIF ODCE Property Index</b>
<b>Private Equity</b>	<b>5.0%</b>	<b>3 - 10%</b>	<b>12.5% Annual ROR Index</b>
<b>Hedge Funds</b>	<b>15.0%</b>	<b>5 - 20%</b>	<b>HFRI: Fund Weighted Composite Index</b>
<b>Cash</b>	<b>0.0%</b>	<b>0 - 5%</b>	<b>3-Month Treasury Bill</b>
<b>Total Endowment</b>	<b>100.0%</b>		

## **Rebalancing**

In the event of movement outside of the assigned Tactical Ranges, the Investment Consultant will notify the Committee and make a recommendation on the appropriate course of action. If the Committee determines that rebalancing is required, this should be accomplished first by distributing future additions and withdrawals among the portfolios necessary to bring the allocation within the Tactical Range but not necessarily back to the Strategic Target. If the asset allocation ranges cannot be accomplished through the distribution of additions and withdrawals, shifting of assets across portfolios may be required. In general, rebalancing will not be recommended if the imbalance is expected to be short-lived or the transaction costs would outweigh the benefits.

## **Review**

The Committee shall review this asset allocation mix on a regular basis and will ascertain that the Endowment not only conforms to the desired target and ranges, but also that the target and ranges remain suitable and represent the optimal asset allocation mix for the Endowment going forward.

## **6. INVESTMENT GUIDELINES AND RESTRICTIONS**

The following investment guidelines and restrictions apply only to separate account investment managers.

Investment in mutual or commingled funds is permitted as long as their investment guidelines and restrictions substantially conform to the foregoing.

### **Equity Managers - Permissible Investments**

- A. Common or preferred shares of U.S. corporations listed and traded on nationally recognized exchanges or over-the-counter markets (including American Depository Receipts (ADRs), and equity Real Estate Investment Trusts, or REITs).
- B. International equity managers may purchase ADR's and/or ordinary stock shares in local currencies. Foreign equity securities may include an allocation to emerging market countries. Emerging market equity securities should not exceed 25% of the market value of total international equity securities. The emerging market allocation may be accomplished via the hiring of managers specializing in emerging markets investing or through an allocation within broad foreign portfolios.

### **Equity Managers - Prohibited Investments**

Securities specifically prohibited from purchase include, but are not limited to:

- A. Stock in non-public corporations, private placement or any other non-marketable issues;
- B. Letter or restricted stock;
- C. Short sales of any type;
- D. Share purchases involving the use of margin; and
- E. No options, other than covered calls, futures or forwards will be purchased or sold.

## **Equity Managers - Other Investment Guidelines**

- A. Equity managers may place a maximum of 7% of their portfolio in a company's securities.  
Managers seeking an exception to this policy must submit a written request for the exception. The Investment Committee will consider the request and provide a written response to the manager.
- B. Securities owned by the Endowment but held in custody by another party may not be lent unless approved by the Investment Committee.

## **Fixed Income Managers - Permissible Investments**

- A. Cash or cash-equivalent securities, including Rule 2a-7 money market mutual funds and equivalent commingled funds; U.S. Treasury Bills; commercial paper; certificates of deposit; bankers' acceptances and repurchase agreements collateralized at a minimum of 102% (plus accrued interest) by U.S. Treasury or Agency securities;
- B. U.S. Treasury Notes, Bonds, TIPS and STRIPs;
- C. Government Agencies & Instrumentalities (Discount Notes, Debentures, Mortgage-Backed Securities), and Taxable Municipals;
- D. Corporate Bonds, Notes, Debentures, Asset-Backed Securities, and "144A" Bonds;
- E. Yankee and Eurodollar Bonds, Notes;
- F. U.S. Non-Agency Mortgage-Backed Securities:
  - Pass-Through Certificates either issued or guaranteed by GNMA, FNMA, or FHLMC;
  - Pass-Through Certificates issued by non-agency or commercial mortgage issuers; or
  - Collateralized Mortgage Obligations;
- G. U.S. dollar denominated Sovereign or Supra-national Bonds;
- H. Foreign debt securities may include an allocation to emerging market countries. Emerging market debt securities should not exceed 20% of the market value of total foreign debt securities;
- I. Foreign debt securities denominated in the local currency; and
- J. Convertible bonds, debentures or preferred shares which are convertible into corporate stock.

## **Fixed Income Managers - Prohibited Investments**

- A. CMO residuals and support tranches;
- B. Stripped mortgage-related securities (Interest Only Strips- "IOs", Principal Only Strips- "POs") both generic and prepayment protected;
- C. Leveraged Floaters and Inverse Floaters, including Money Market obligations;
- D. Tiered-Index Bonds, Range Notes and all other forms of structured notes whose return characteristics are tied to changes in prepayments on mortgages or changes in a specified interest rate index or market rate or which contain caps or floors on the interest rate; and
- E. Derivative securities of any type.

### **Fixed Income Managers - Other Investment Guidelines**

Fixed Income managers may place a maximum of 5% at cost of the portfolio in the securities of a single issuer, with the exception of cash, cash equivalent, and U.S. Treasury or U.S. Government Agency securities.

Managers seeking an exception to this policy must submit a written request for the exception. The Investment Committee will consider the request and provide a written response to the manager.

- A. All issues (including "144As") must be rated investment-grade at the time of purchase by a majority of the Nationally Recognized Statistical Rating Organizations ("NRSROs") assigning a rating to that issue, or in the case of a single rating, that rating must be investment-grade. If two ratings, both must be investment-grade. Immediately upon occurrence, the Investment Manager must contact the Investment Consultant to discuss possible disposition of issues that subsequent to purchase experience a decline in credit quality such that a majority of their ratings fall below investment-grade.
- B. The weighted average duration of the fixed income portfolio is expected to remain within a range of 80% to 120% of the representative benchmark.
- C. Permissible CMOs will be limited to no greater than 25% of the market value of the fixed income manager's portfolio.

### **Separate Account Managers only - Prohibited Investments**

- A. Natural resource real properties such as oil, gas or timber;
- B. Partnerships or non-listed limited partnerships; and
- C. Precious metals as a physical commodity.

### **Commingled funds - Permissible Investments**

- A. Commingled funds, whether passive or actively-managed, are expected to manage according to their own internally-developed investment guidelines.
- B. Mutual funds must disclose in writing if they engage in or anticipate engaging in securities lending.
- C. Recommended mutual funds should not have a 12b-1 fee and should be institutional shares when possible.

### **Alternative Strategies - Permissible Investments**

#### **A. Hedge Funds**

Investments are intended to provide the Fund with greater diversification and managers will be given considerable leeway in the types of investments and strategies that they utilize such as, but not limited to the following:

- Engage in short selling and purchase securities on margin
- Purchase private assets or convert public securities to private securities
- Purchase assets near and in bankruptcy
- Utilize options, futures, currencies and derivatives
- Take long or short commodity positions

- Lend securities
- Purchase or sell short securities in foreign denominations

#### B. Real Estate

All Endowment real estate investments are to be solely in the form of actively-managed, commingled or pooled institutional trusts with no less than \$500 million in assets. Investments are expected to consist of:

- Equity interests in income-producing real estate assets located in the US in the following property types: office, industrial, retail, multifamily, residential, hotel and senior living; and/or
- Mortgage loans on US located income-producing commercial real estate in the aforementioned property types.

#### C. Private Equity

The Endowment may invest in Private Equity as defined by investments made in the equity or debt securities of privately owned (non-public) operating companies. It is believed that Private Equity returns have historically shown a low correlation to the returns of other asset classes over a normal market cycle. In addition, returns in excess of those normally expected from public market assets are anticipated as a means of offsetting the illiquidity and additional risk characteristic of this asset class. The Endowment will seek access to top-quality managers that may be concentrated in a particular sector, formative stage, or geographic region, but the overall private equity allocation should be well diversified. Performance of the Private Equity investments allocation will be measured over a full market cycle.

##### A. Master Limited Partnerships

Investments in Master Limited Partnerships (MLPs) are allowed so long as at least 90% of the partnerships are publicly traded.

##### B. Cash

Cash equivalents may be invested in fixed income securities maturing 2 years or less. Cash may be invested in U.S. Treasury Bills, Certificates of Deposit, Money Market Funds, or Commercial Paper at the discretion of the managers.

Rated cash and cash-equivalent securities must be rated in the highest short-term rating category by a majority of the NRSROs assigning a rating to that issue, such as "A1" (S&P) or "P1" (Moody's). In the case of two ratings, the lowest rating applies and must be in the highest short-term category. In the case of only a single rating, that rating must be in the highest short-term rating category.

## 7. PERFORMANCE STANDARDS AND GUIDELINES

**Total Fund** - The Total Fund will be measured against the results of a composite benchmark in accordance with the allocation as outlined in Section 5 “Asset Allocation, Strategic Target”.

The expectations of performance versus this composite benchmark are as follows:

Over the course of a market cycle of three to five years;

1. Achieve an annualized, time-weighted rate of total return (net of fees and expenses) which exceeds the Spending Policy plus the Consumer Price Index, as long as achievement of this standard is consistent with acceptable risk standards and dedication to styles;
2. Achieve an annualized, time-weighted rate of total return (net of fees and expenses) in excess of the representative composite benchmark;
3. Rank in the top one-third of a universe of other actively managed funds with similar objectives and risk profiles; and
4. Maintain an acceptable risk level, as measured by the standard deviation of returns that is no greater than that of the representative composite benchmark unless the additional return is commensurate with the additional risk assumed.

**Equity (Active)** - Actively-managed equity portfolios are expected over the course of a market cycle of three to five years to:

1. Achieve an annualized, time-weighted rate of total return (net of fees and expenses) which exceeds the Spending Policy plus the Consumer Price Index, as long as achievement of this standard is consistent with acceptable risk standards and dedication to style;
2. Achieve an annualized, time-weighted rate of total return (net of fees and expenses) in excess of the representative benchmark;
3. Rank in the top one-third of a universe of other actively managed equity funds with similar objectives and risk profiles; and
4. Maintain an acceptable risk level, as defined by the standard deviation of returns that is no greater than that of the representative benchmark unless the additional return is commensurate with the additional risk assumed.

**Equity (Passive)** – Passively-managed equity portfolios are expected to experience no greater than +/- 15 basis points of tracking error to the appropriate benchmark index over any 12-month period.

**Fixed Income (Active)** – Actively-managed fixed income portfolios are expected over the course of a market cycle of three to five years to:

1. Achieve an annualized time-weighted rate of total return (net of fees and expenses) to meet or exceed the benchmark;
2. Rank in the top one-third of a universe of other actively managed fixed income managers with similar objectives and risk profiles; and
3. Maintain an acceptable risk level, as defined by the standard deviation of returns that is no greater than that of the representative benchmark unless the additional return is commensurate with the additional risk assumed.

**Fixed Income (Passive)** – Passively-managed fixed income portfolios are expected to experience no greater than +/- 15 basis points of tracking error to the appropriate benchmark index over any 12-month period.

**Hedge Funds** – Hedge Fund Investments may be in the form of a fund of funds, or in an individual hedge fund. Each strategy will be evaluated on the expected risk/return profile, but each Hedge Fund investment should provide the Endowment to return opportunities that are not available in traditional, “long-only” strategies. Hedge Funds are expected over the course of a 3-5 year investment cycle to:

1. Achieve an annualized, time-weighted rate of total return (net of fees and expenses) which exceeds the Spending Policy plus the Consumer Price Index, as long as achievement of this standard is consistent with acceptable risk standards and dedication to style; and
2. Rank above the average Fund in the Fund’s investment discipline, as calculated by an industry source such as Hedge Fund Research International.

**Real Estate** – Managed real estate pooled funds are expected over the course of a market cycle of three to five years to:

1. Achieve an annualized, time-weighted rate of total return (net of fees and expenses) in excess of the representative benchmark;
2. Rank in the top one-third of a universe of other actively managed pooled real estate funds with similar objectives and risk profiles; and
3. Maintain an acceptable risk level, as defined by the standard deviation of returns that is no greater than that of the representative benchmark unless the additional return is commensurate with the additional risk assumed.

**Private Equity** – Private Equity Investments are expected to be in the form of a fund of funds, which should provide the university with diversified exposure to a variety of strategies and managers. Private Equity fund of funds are expected over the course of a ten- year investment to rank in the top one-third of a universe of other private equity fund of funds with same vintage year.

## 8. TRADING AND BROKERAGE POLICY

Trading costs represent a significant expense to the Endowment. In order to control these costs, the Committee may periodically review the level and effectiveness of the trading activity with the assistance of the Investment Consultant.

### **Best Price and Best Execution**

1. Notwithstanding anything to the contrary, all trading of securities will be placed with institutional broker-dealers with the aim of obtaining the best price and best execution, taking into account all factors influencing pricing and execution, as well as the value of all brokerage services received for the benefit of the Endowment and its beneficiaries.
2. The policy of best price and best execution is intended to mean that Investment Manager(s) shall use professional judgment in the selection of brokers and the commissions paid. Investment Manager(s) should be prepared to provide evidence that they are attempting to deliver investment results at the lowest possible level of transaction costs, including the market impact of their trades, and considering the value of all services provided to the Endowment for its commission dollars.

3. "Institutional broker-dealers," as referenced herein, is defined as "firms which customarily perform larger trades for an institutional clientele." Such broker-dealers may trade on the floor of the various national and regional stock exchanges, or may trade in the third and fourth markets, performing transactions outside of normal market trading.

### **Monitoring Trading Costs and Turnover**

1. The Committee may, with the assistance of the Investment Consultant, perform an analysis of the trading costs with respect to the various classes of trading described herein.
2. The analysis will summarize and evaluate the cost effectiveness of the various brokers selected by the Investment Manager(s) specifically reporting commissions charged per share traded, an estimate of the market impact costs incurred in these transactions, and the percentage annual portfolio turnover, per manager account.
3. The analysis will evaluate instances of higher commissions per share with respect to the many factors affecting pricing and execution and shall consider any other services or research provided directly or indirectly to the Endowment.

### **Soft Dollar Policy/Equity Managers**

Soft dollar practices involve the use of client brokerage commission by investment managers to purchase research to help managers make investment decisions.

The Investment Committee recognizes that commissions belong to the Endowment. As such, commissions paid to brokerage firms need to be managed and monitored so that excessive rates are not paid for execution. The Investment Committee requires all investment managers to seek best execution on all trades. It acknowledges that investment managers may trade for soft dollars in managing a portfolio for the Endowment. In those transactions that are soft dollar trades, the Committee requires that those commission rates be reasonable and appropriate in accordance with Section 28(e) of the Securities Exchange Act of 1934.

The Investment Committee authorizes up to 25% of the total commissions of the Endowment to be used for soft dollar transactions. In order to monitor the commissions paid by its investment managers, the University's consultant should receive a schedule of all commissions paid by each separate account equity manager on a quarterly basis (to be received no later than 10 days after the end of the quarter). This schedule will identify all brokerage firms with whom the manager has traded, total soft dollar transactions, the average cents per share paid to each broker, and the total commissions paid to each firm.

The Investment Consultant will review quarterly any issues relative to this soft dollar policy to ensure its investment managers are adhering to the policies and practices of its soft dollar policy.

## **9. EVALUATION AND REVIEW**

**Measurement By Consultant** - The Committee intends to review the performance of the Endowment and of the Investment Manager(s) relative to the objectives and guidelines described herein. The investment performance review will include comparisons with unmanaged market indices, a broad universe of investment managers and the Consumer Price Index. In addition, the Committee will also consider:

- The Endowment's asset allocation relative to its Policy and the capital market outlook;
- The extent to which each Investment Manager has managed its portfolio consistent with that

manager's stated investment philosophy and style;

- Each Investment Manager's adherence to the guidelines and investment policies contained in this Policy; and
- The total fund return and each Investment Manager's returns to determine whether the Endowment's objectives are being met.

**Review and Modification of Policy** - The Committee shall review this Policy annually in the 1st quarter following the end of the fiscal year (or start of the fiscal year) to determine if modifications are necessary or desirable. If modifications are made, they shall be promptly communicated to the Investment Manager(s) and other interested persons.

**Replacement of Investment Manager(s)** - The Committee retains the right to change or replace Investment Manager(s) at any time it is deemed appropriate.

**APPENDIX 1  
PROPERTY CODE**

**CHAPTER 163. MANAGEMENT, INVESTMENT, AND EXPENDITURE OF INSTITUTIONAL FUNDS**

Sec. 163.001.

**SHORT TITLE.** This chapter may be cited as the Uniform Prudent Management of Institutional Funds Act.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by: Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

Sec. 163.002. **LEGISLATIVE FINDINGS AND PURPOSE.**

(a) The legislature finds that:

(1) institutions organized and operated exclusively for a charitable purpose perform essential and needed services in the state;

(2) uncertainty exists regarding the prudence standards for the management and investment of charitable funds and for endowment spending by institutions described by Subdivision (1); and

(3) the institutions, their officers, directors, and trustees, and the citizens of this state will benefit from removal of the uncertainty regarding applicable prudence standards and by permitting endowment funds to be invested for the long-term goals of achieving growth and maintaining purchasing power without adversely affecting the availability of funds for current expenditure.

(b) The purpose of this chapter is to provide guidance and authority through modern articulations of prudence standards for the management and investment of charitable funds and for endowment spending by institutions organized and operated exclusively for a charitable purpose in order to provide uniformity and remove uncertainty regarding those standards.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 1993, 73rd Leg., ch. 240, Sec. 1, eff. May 22, 1993.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

Sec. 163.003. **DEFINITIONS.** In this chapter:

(1) "Charitable purpose" means the promotion of a scientific, educational, philanthropic, or environmental purpose, social welfare, the arts and humanities, or another civic or public purpose described by Section 501(c)(3) of the Internal Revenue Code of 1986.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets that an institution designates as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

(A) a person, other than an individual, organized and operated exclusively for charitable purposes;

(B) a government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; and

(C) a trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

(A) program-related assets;

(B) a fund held for an institution by a trustee that is not an institution; or

(C) a fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

(7) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

(8) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 1993, 73rd Leg., ch. 240, Sec. 2, eff. May 22, 1993.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

#### Sec. 163.004. STANDARD OF CONDUCT IN MANAGING AND INVESTING INSTITUTIONAL FUND.

(a) Subject to the intent of a donor expressed in a gift instrument, an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund.

(b) In addition to complying with the duty of loyalty imposed by law other than this chapter, each person responsible for managing and investing an institutional fund shall manage and invest the fund in good faith and with the care an ordinarily prudent person in a like position would exercise under similar circumstances.

(c) In managing and investing an institutional fund, an institution:

(1) may incur only costs that are appropriate and reasonable in relation to the assets, the purposes of the institution, and the skills available to the institution; and

(2) shall make a reasonable effort to verify facts relevant to the management and investment of the fund.

(d) An institution may pool two or more institutional funds for purposes of management and investment.

(e) Except as otherwise provided by a gift instrument, the following rules apply:

(1) In managing and investing an institutional fund, the following factors, if relevant, must be considered:

(A) general economic conditions;

(B) the possible effect of inflation or deflation;

(C) the expected tax consequences, if any, of investment decisions or strategies;

(D) the role that each investment or course of action plays within the overall investment portfolio of the fund;

(E) the expected total return from income and the appreciation of investments;

(F) other resources of the institution;

(G) the needs of the institution and the fund to make distributions and to preserve capital; and

(H) an asset's special relationship or special value, if any, to the charitable purposes of the institution.

(2) Management and investment decisions about an individual asset must be made not in isolation but rather in the context of the institutional fund's portfolio of investments as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the fund and to the institution.

(3) Except as otherwise provided by law other than this chapter, an institution may invest in any kind of property or type of investment consistent with this section.

(4) An institution shall diversify the investments of an institutional fund unless the institution reasonably determines that, because of special circumstances, the purposes of the fund are better served without diversification.

(5) Within a reasonable time after receiving property, an institution shall make and carry out decisions concerning the retention or disposition of the property or to rebalance a portfolio, in order to bring the institutional fund into compliance with the purposes, terms, and distribution requirements of the institution as necessary to meet other circumstances of the institution and the requirements of this chapter.

(6) A person that has special skills or expertise, or is selected in reliance upon the person's representation that the person has special skills or expertise, has a duty to use those skills or that expertise in managing and investing institutional funds.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 1993, 73rd Leg., ch. 240, Sec. 3, eff. May 22, 1993; Acts 2001, 77th Leg., ch. 1158, Sec. 88, 89, eff. June 15, 2001.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

Sec. 163.005. APPROPRIATION FOR EXPENDITURE OR ACCUMULATION OF ENDOWMENT FUND; RULES OF CONSTRUCTION.

(a) Subject to the intent of a donor expressed in the gift instrument and to Subsections (d) and (e), an institution may appropriate for expenditure or accumulate so much of an endowment fund as the institution determines is prudent for the uses, benefits, purposes, and duration for which the endowment fund is established. Unless stated otherwise in the gift instrument, the assets in an endowment fund are donor-restricted assets until appropriated for expenditure by the institution. In making a determination to appropriate or accumulate, the institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, and shall consider, if relevant, the following factors:

- (1) the duration and preservation of the endowment fund;
- (2) the purposes of the institution and the endowment fund;
- (3) general economic conditions;
- (4) the possible effect of inflation or deflation;
- (5) the expected total return from income and the appreciation of investments;
- (6) other resources of the institution; and
- (7) the investment policy of the institution.

(b) To limit the authority to appropriate for expenditure or accumulate under Subsection (a), a gift instrument must specifically state the limitation.

(c) Terms in a gift instrument designating a gift as an endowment, or a direction or authorization in the gift instrument to use only "income," "interest," "dividends," or "rents, issues, or profits," or "to preserve the principal intact," or words of similar import:

- (1) create an endowment fund of permanent duration unless other language in the gift instrument limits the duration or purpose of the fund; and
- (2) do not otherwise limit the authority to appropriate for expenditure or accumulate under Subsection (a).

(d) Except as provided in Subsection (f), appropriation for expenditure in any year of an amount greater than seven percent of the fair market value of an endowment fund with an aggregate value of \$1 million or more, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence. For an endowment fund in

existence for fewer than three years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not:

- (1) apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument; or
  - (2) create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to seven percent of the fair market value of the endowment fund.
- (e) For an institution with an endowment fund with an aggregate value of less than \$1 million, a rebuttable presumption of imprudence is created if more than five percent of the fair market value of the endowment fund is appropriated for expenditure in any year, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made. For an endowment fund in existence for fewer than three years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not:
- (1) apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument; or
  - (2) create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to five percent of the fair market value of the endowment fund.
- (f) This subsection applies only to a university system, as defined by Section 61.003(10), Education Code. The appropriation for expenditure in any year of any amount greater than nine percent of the fair market value of an endowment fund with an aggregate value of \$450 million or more, calculated on the basis of market values determined at least quarterly and averaged over a period of not less than three years immediately preceding the year in which the appropriation for expenditure was made, creates a rebuttable presumption of imprudence. For an endowment fund in existence for fewer than three years, the fair market value of the endowment fund must be calculated for the period the endowment fund has been in existence. This subsection does not:
- (1) apply to an appropriation for expenditure permitted under law other than this chapter or by the gift instrument; or
  - (2) create a presumption of prudence for an appropriation for expenditure of an amount less than or equal to nine percent of the fair market value of the endowment fund.
- (g) If an institution pools the assets of individual endowment funds for collective investment, this section applies to the pooled fund and does not apply to individual endowment funds, including individual endowment funds for which the nature of the underlying asset or donor restrictions preclude inclusion in a pool but which are managed by the institution in accordance with a collective investment policy.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

#### Sec. 163.006. DELEGATION OF MANAGEMENT AND INVESTMENT FUNCTIONS.

- (a) Subject to any specific limitation set forth in a gift instrument or in law other than this chapter, an institution may delegate to an external agent the management and investment of an institutional fund to the extent that an institution could prudently delegate under the circumstances. An institution shall act in good faith, with the care that an ordinarily prudent person in a like position would exercise under similar circumstances, in:
- (1) selecting an agent;
  - (2) establishing the scope and terms of the delegation, consistent with the purposes of the institution and the institutional fund; and
  - (3) periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the scope and terms of the delegation.

- (b) In performing a delegated function, an agent owes a duty to the institution to exercise reasonable care to comply with the scope and terms of the delegation.
- (c) An institution that complies with Subsection (a) is not liable for the decisions or actions of an agent to which the function was delegated.
- (d) By accepting delegation of a management or investment function from an institution that is subject to the laws of this state, an agent submits to the jurisdiction of the courts of this state in all proceedings arising from or related to the delegation or the performance of the delegated function.
- (e) An institution may delegate management and investment functions to its committees, officers, or employees as authorized by law of this state other than this chapter.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

#### Sec. 163.007. RELEASE OR MODIFICATION OF RESTRICTIONS ON MANAGEMENT, INVESTMENT, OR PURPOSE.

- (a) If the donor consents in a record, an institution may release or modify, in whole or in part, a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund. A release or modification may not allow a fund to be used for a purpose other than a charitable purpose of the institution.
- (b) The court, upon application of an institution, may modify a restriction contained in a gift instrument regarding the management or investment of an institutional fund if the restriction has become impracticable or wasteful, if it impairs the management or investment of the fund, or if, because of circumstances not anticipated by the donor, a modification of a restriction will further the purposes of the fund. Chapter 123 applies to a proceeding under this subsection. To the extent practicable, any modification must be made in donor's probable intention.
- (c) If a particular accordance with the charitable purpose or a restriction contained in a gift instrument on the use of an institutional fund becomes unlawful, impracticable, impossible to achieve, or wasteful, the court, upon application of an institution, may modify the purpose of the fund or the restriction on the use of the fund in a manner consistent with the charitable purposes expressed in the gift instrument. Chapter 123 applies to a proceeding under this subsection.
- (d) If an institution determines that a restriction contained in a gift instrument on the management, investment, or purpose of an institutional fund is unlawful, impracticable, impossible to achieve, or wasteful, the institution, 60 days after receipt of notice by the attorney general, may release or modify the restriction, in whole or part, if:
  - (1) the institutional fund subject to the restriction has a total value of less than \$25,000;
  - (2) more than 20 years have elapsed since the fund was established; and
  - (3) the institution uses the property in a manner consistent with the charitable purposes expressed in the gift instrument.
- (e) The notification to the attorney general under Subsection (d) must be accompanied by a copy of the gift instrument and a statement of facts sufficient to evidence compliance with Subsections (d)(1), (2), and (3).

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

#### Sec. 163.008. REVIEWING COMPLIANCE.

Compliance with this chapter is determined in light of the facts and circumstances existing at the time a decision is made or action is taken, and not by hindsight.

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

Sec. 163.009. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.  
This chapter modifies, limits, and supersedes the provisions of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. Section 7001 et seq.) but does not modify, limit, or supersede Section 101 of that Act (15 U.S.C. Section 7001(a)) or authorize electronic delivery of any of the notices described in Section 103 of that Act (15 U.S.C. Section 7003(b)).

Added by Acts 1989, 71st Leg., ch. 213, Sec. 1, eff. May 26, 1989.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

Sec. 163.010. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law substantially similar to this chapter.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.

Sec. 163.011. APPLICABILITY OF OTHER PARTS OF CODE.

Subtitle B, Title 9 (the Texas Trust Code), does not apply to any institutional fund subject to this chapter.

Amended by Acts 2007, 80th Leg., R.S., Ch. 834, Sec. 1, eff. September 1, 2007.