

**MINUTES OF THE
OREGON 529 COLLEGE SAVINGS BOARD
TELEPHONE MEETING OF
November 19, 2009**

Members Present: Ben Westlund, Chair
Lyn Hennion
Paul Kelly
Scott Sandbo
Carl Vance

Network Staff: Michael Parker, Executive Director
Stephanie Swetland, College Savings Specialist
Lynn Nagasako, Legal Counsel

Treasury Staff: Ben Mahon, Office of the Treasurer
James Sinks, Office of the Treasurer

Others Present: Kerry Alexander, TIAA-CREF
Luisa Beltran, IGNITES
Doug Chittenden, TIAA-CREF
Joe DelGrande, TIAA-CREF
Keith Dubanevich, Department of Justice
Sean Ealy, RVKuhns & Associates
Becky Gratsinger, RVKuhns & Associates
Keith Ketterling, Stoll Berne
Jane Kim, Wall Street Journal
John Kroger, Attorney General
Steve McDonald, TIAA-CREF
Corrie Oliva, RVKuhns & Associates
Suzanne Pardington, The Oregonian
Colleen Rooney, MFS Investment Management
Scott Shorr, Stoll Berne
Tim Tank, private party
Ben Taylor, RVKuhns & Associates

Chair Ben Westlund convened the meeting at 1:08 p.m.

Board Member Carl Vance moved to approve the October 29, 2009 Board meeting minutes, as amended, seconded by Board Member Paul Kelly. All approved.

Oregon 529 College Savings Network Director Michael Parker explained that TIAA-CREF (TIAA) rolls participants through the age-based portfolio bands differently than OppenheimerFunds (OFI). Currently, participants are rolled once per year in August, after the requisite birthday has occurred. TIAA rolls participants once per quarter, after the requisite birthday has occurred. Staff believes that moving participants four times per year is a better process than moving them once. TIAA's rolling process needs to be adopted by the Board, as it is different from OFI's process.

Chair Westlund moved approval of the rolling dates for assets in age-based portfolios in the Oregon College Savings Plan as follows:

WHEREAS, upon the conversion of the Oregon College Savings Plan from the management of OppenheimerFunds, Inc. and its affiliates (collectively "OFI") to TIAA-CREF Tuition Financing, Inc. ("TIAA-CREF"), assets in the

Oregon College Savings Plan will be put into investment options that are managed by TIAA-CREF, one of which will be the age-based investment option (“Aged-Based Portfolio”).

WHEREAS, the assets of an account that are invested in the Aged Based Portfolio will move from one age grouping (“age band”) within the Aged-Based Portfolio to the next age band on the first Rolling Date to occur after the 4th, 8th, 12th, 15th and 18th birthdays of the designated beneficiary of that account;

WHEREAS, the Board wishes to set the dates (“Rolling Dates”) on which the assets in the Aged-Based Portfolio will roll from one age band to the next age band.

THEREFORE, BE IT RESOLVED THAT the Board hereby approves the following Rolling Dates for the Aged-Based Portfolio in the Oregon College Savings Plan: March 30, June 20, September 20, or December 20 (or the first business day thereafter).

Board Member Lyn Hennion seconded the motion.

Paul Kelly inquired why all rolling dates were on the 20th of the month except March, which is listed as the 30th. Doug Chittenden of TIAA stated that it should be March 20, not March 30.

Therefore, Chair Westlund withdrew his original motion and moved that the approval of the rolling dates for assets in the age-based portfolios of the Oregon College Savings Plan be changed, and therefore amended, to show March 20 (or the first business day thereafter) as one of the rolling dates for assets in age-based portfolios in the Oregon College Savings Plan. Lyn Hennion seconded the motion, and all approved.

Mr. Parker explained that when the Board approved the underlying funds for the Oregon College Savings Plan at the October 29, 2009 Board meeting, two of the underlying fund names were incorrectly listed. The funds that were approved have not changed, but their legal name needs to be stated correctly.

Chair Westlund moved that the Board use the accurate legal names of the funds it has approved, as described in the resolution below:

WHEREAS, when the Board approved the portfolios for the Oregon College Savings Plan under the management of TIAA-CREF at its October 29th meeting, the names of two underlying funds for the Diversified U.S. Equity Portfolio were incorrectly stated, and the Board now wishes to correct the names of those funds.

THEREFORE, BE IT RESOLVED THAT the Board hereby corrects the names of two underlying funds in the Diversified U.S. Equity Portfolio, LSV Large Cap Value Fund and Dreyfus / The Boston Company Sm/Md Cap Value, to LSV Value Equity Fund (LSVEX) and Dreyfus Small Cap Equity Fund (DSERX), respectively.

Paul Kelly seconded the motion. All approved.

Lynn Nagasako stated that when the Board authorized the liquidation and transfer of the assets of the OppenheimerFunds 529 Plan to MFS at its July 23 Board meeting, it did not authorize MFS to be the successor program manager of the OppenheimerFunds 529 Plan, nor did it authorize the merger of the two plans. Therefore, in the interest of clarification, the Board should direct the termination of the OppenheimerFunds 529 Plan after the transfer of the assets from that plan to MFS.

Chair Westlund moved the termination of the OppenheimerFunds 529 Plan upon completion of the transfer as follows:

WHEREAS, the Board, at its meeting on July 23, 2009, approved and authorized the liquidation of the assets of the OppenheimerFunds 529 Plan and the transfer of the proceeds of such liquidation to the MFS 529 Savings Plan ("Transfer").

THEREFORE, BE IT RESOLVED THAT the Board hereby directs termination of the OppenheimerFunds 529 Plan upon completion of the Transfer.

Lyn Hennion seconded the motion. All approved.

Mr. Parker stated that after the October 29 Board meeting, the Board desired to have a broader discussion about the Board's philosophy around passive and active management. Mr. Parker asked the Treasurer's investment staff and the Board's consultants at RVKuhns (RVK) to compile a document that would help facilitate the discussion. It is a part of the Network's records for this Board meeting.

Corrie Oliva of RVK explained the definitions and characteristics of active and passive management, how the different investment styles generally perform, and the investment categories in which active management typically adds value. She also provided some general plan specific and industry observations for the Board to keep in mind when determining whether or not to incorporate active management into the age-based portfolios.

Becky Gratsinger of RVK stated that another factor that they consider is the purpose of a fund from an educational point of view as well as a transparency point of view. In many cases using an age-based type of structure, managers will mix portfolios that are entirely passive or as passive as possible to bring overall fees down and to clarify for investors that they are not taking the chance of active management and are purely buying a mixture of indexes. Future performance will show a mix of how those markets did without any explanation of what managers provided, which adds a level of transparency without having an issue with tracking error. Doing so also provides clarity from an investment education point of view.

Ms. Oliva noted that the key decision for the Board is determining its tolerance for potential tracking error in the age-based portfolios, which would then determine the investment objectives for those portfolios.

There was discussion of current trends for age-based portfolios in other 529 plans. States are moving to an all-index approach in their direct sold plans. The emerging markets fund choices were also discussed, as well as other types of funds that had been considered by Treasury investment staff, RVK and TIAA when the underlying fund choices were made.

Mr. Kelly asked if the information TIAA will be providing to new investors will inform them conceptually of how actively managed funds can deviate more on both the up side and the down side than passively managed funds. This would allow investors to make more informed investment choices. Doug Chittenden of TIAA commented that one way TIAA has accomplished this is through the use of a questionnaire which assesses the investor's risk tolerance. Based on their answers, investors are then informed which investment strategy they may prefer. After the transition to TIAA, Mr. Kelly requested that this type of information be made available to investors.

Attorney General John Kroger stated that negotiations with OppenheimerFunds have concluded, and the Department of Justice (DOJ) has a recommendation for the Board. Keith Dubanevich is Mr. Kroger's Chief of Staff and supervised the litigation for the DOJ. Mr. Dubanevich summarized the history of the lawsuit against OFI regarding the Core Bond Fund and its losses during 2008.

The suit was filed in April of 2008. Ongoing settlement negotiations have resulted in what the DOJ feels to be a good and prompt settlement for plan participants. The key terms of the settlement are:

- 1) OFI will make a payment to the trust of \$20,070,995.
- 2) The cost of calculating and making the payments into accounts will be done at OFI's expense.
- 3) The trust, Board and State of Oregon will release OFI of all claims that they are aware of as of the date of the settlement.
- 4) In the settlement documents, the DOJ will be obligated to represent that the trust and the Board are the proper legal parties to sue and settle on behalf of plan participants.

The DOJ recommends that the Board authorize bringing the settlement to a conclusion. Mr. Dubanevich explained why the DOJ believes that the settlement is in the best interests of both the plan and its participants. The goals at the onset of the litigation were that the amount of return for participants be maximized and the litigation resolved as quickly as possible, which the DOJ believes the proposed settlement does. When the DOJ analyzed the losses in the Core Bond Fund in 2008, they were somewhere in the range of \$36,000,000. The DOJ believes that approximately \$5,000,000 of the losses were generally attributable to poor market conditions. Therefore, the proposed settlement will be returning 57% to plan participants of the total losses, or approximately 65% of the losses that the DOJ believes are attributable to OFI's conduct.

The DOJ's research has found that the average return of a class action securities case is 3% of the claimed losses, so the proposed settlement is an extremely good result. Mr. Dubanevich stated that while the settlement amount is quite substantial, the Core Bond Fund only represents approximately one-third of the Conservative Portfolio, which lost money in funds other than the Core Bond Fund. This settlement will not recoup losses in funds other than the Core Bond Fund. Since most class action or securities-type cases take many, many years to resolve, so a settlement this large in such a short period of time is a very good result.

Attorney General Kroger stated that there are three arguments for accepting the settlement, which are the basis of the DOJ's recommendation to the Board. First is speed, because taking the case to trial would involve multiple years. Second is the size of the settlement, as 65% of the amount likely attributable to OFI's actions is very substantial. Third is risk mitigation, as one can never predict what will happen when taking a case in front of a jury, both in terms of the ultimate result and verdict and the amount of damages that will be received.

Chair Westlund moved as follows:

WHEREAS, on April 13, 2009 the Board filed suit (Core Bond Litigation) against OppenheimerFunds, Inc. and certain of its affiliates (collectively, "Oppenheimer") in regard to losses suffered by the Oregon College Savings Plan Trust because of the OppenheimerFunds Core Bond Fund.

WHEREAS, Oppenheimer has made an offer to settle the Core Bond Litigation on terms explained to the Board by the Department of Justice.

THEREFORE, BE IT RESOLVED THAT the Board approves and authorizes settlement of the Core Bond Litigation on the terms explained by the Department of Justice.

RESOLVED, FURTHER, THAT the Board hereby authorizes the Chair to execute such agreements and instruments, and to do and perform such other acts and things, as may in his discretion be deemed reasonable, necessary or proper in order to carry into effect the provisions of these resolutions.

Paul Kelly seconded the motion.

Mr. Kelly inquired if the settlement includes any specific dollars allocated to attorney fees. After some discussion, it was determined that the issue of where the payment of attorneys fees will come from will be decided at a later meeting.

Board Member Scott Sandbo asked if the settlement waives future claims against OFI. Mr. Dubanevich stated that all claims relating to the Core Bond Fund only will be released. When the case was remanded back to the state from federal court, the ruling stated that the only proper party to recoup the losses was the Board and that individual plan participants do not have a claim against either the Board or OFI.

All approved the motion to settle the OFI litigation.

Lynn Nagasako explained the remaining contractual issues between OFI and the State. The first issue is the cost of the administration of the Vanguard portfolios. OFI has claimed that the Board owes them \$1,650,000 for costs related to the administration of those portfolios. The Board has asserted that it does not. The second issue is with regards to the contingent deferred sales charge (CDSC) costs that will arise when the assets are transferred from the OppenheimerFunds 529 Plan to MFS. These costs arise out of monies that might be owed to brokers, and OFI is making a claim for \$427,000. The Board is taking the position that it doesn't owe anything. Additionally, OFI has sought to recover \$205,000 for the audit fees charged by KPMG. The Board has asserted against OFI a \$525,000 claim for past due management fees. After discussion of these issues, the parties have agreed to settle the issues as follows:

- 1) OFI has agreed to pay the Board the amount of \$320,000.
- 2) OFI will not seek any further payment for the CDSC charges either from the Board or the participants but will look strictly to MFS.
- 3) The Board will make reasonable efforts to assist OFI in recovering the CDSC charges from MFS.
- 4) The parties will continue to perform their contractual obligations under the Program Management Agreement through the transition process.

Ms. Nagasako stated that this settlement resolves numerous operational issues that have arisen during OFI's management of the 529 plans under the Program Management Agreement. The settlement offsets the audit costs against the past due management fees, resulting in the \$320,000 payment to the Board. It also results in the release of any claims OFI would have regarding the Vanguard portfolio costs and CDSC charges. The DOJ regards this settlement as a fair and favorable resolution of the issues and recommends that the Board approve settlement on these terms.

Chair Westlund moved as follows:

WHEREAS, Oppenheimer has also made an offer to settle certain claims arising out of the Program Management Agreement between the Board and Oppenheimer on terms explained to the Board by the Department of Justice.

THEREFORE, BE IT RESOLVED THAT the Board approves and authorizes settlement of those claims arising out of the Oppenheimer Program Management Agreement on the terms explained by the Department of Justice.

RESOLVED, FURTHER, THAT the Board hereby authorizes the Chair to execute such agreements and instruments, and to do and perform such other acts

and things, as may in his discretion be deemed reasonable, necessary or proper in order to carry into effect the provisions of these resolutions.

Lyn Hennion seconded the motion. All approved.

Chair Westlund adjourned the meeting at 2:25 p.m.