

## NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

**TO:** Chairman Martin E. Nohe, and Members  
Northern Virginia Transportation Authority

**FROM:** Michael Longhi, Chief Financial Officer

**DATE:** April 5, 2019

**SUBJECT:** Draft Policy 29 – Project Activation, Monitoring and De-Appropriation

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- I. **Purpose.** To seek the Northern Virginia Transportation Authority (NVTA) adoption of Policy 29 – Project Activation, Monitoring and De-Appropriation as recommended by the Finance Committee.
- II. **Suggested Motion:** *I move the Authority adoption of Policy 29 – Project Activation, Monitoring and De-Appropriation as presented in Attachment 1.*
- III. **Discussion.**
  - a. The proposed policy is modeled after, and combines elements of, two previously adopted policies: Policy 24 – Standard Project Agreement (SPA) Activation and Policy 25 – FY2017 Program First Drawdown Commitment.
  - b. The proposed draft policy will supersede and replace both Policy 24 and Policy 25.
  - c. In June 2018, an early softcopy of Draft Policy 29 – Project Activation, Monitoring and De-Appropriation was circulated to member jurisdictions and transit agencies for comment.
  - d. Comments from all respondents (5 jurisdictions and 2 transit agencies) were consolidated, circulated and discussed at the January 2019, Regional Jurisdiction and Agency Coordinating Committee (RJACC).
  - e. Further RJACC discussion occurred on February 28, 2019. This discussion resulted in extending the time period for the first project drawdown from 12 to 18 months.
  - f. An additional clarification edit was added to include Appendix A with updates to Appendix B.

**Attachment:** Policy 29 – Project Activation, Monitoring and De-Appropriation (DRAFT)

# Attachment 1

## NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

### Policy Number 29 – Project Activation, Monitoring and De-Appropriation

- I. **Purpose.** The purpose of this policy is to provide a mechanism for the Authority to monitor project activation, progress and appropriation in accordance with project descriptions and Standard Project Agreements (SPA). The monitoring activities in the policy are designed to set benchmarks and guidelines for the evaluation of de-appropriation (cancellation) of project funding.

Expenditure reimbursement requests presented later than the existing cash flow schedule (as documented on the SPA Appendix B form), result in disruption of the Authority's cash management, liquidity and investment programs.

Expending tax exempt financing through bonds issued by the Authority later than originally projected, may present Internal Revenue Service arbitrage compliance issues.

Undertaking any form of debt to meet project sponsor expenditure projections that do not materialize, will result in unnecessary debt service expenses, reducing PayGo funds for other projects.

II. **Key Definitions.**

- A. **Adopted Project** – A project which has been approved by the Authority for inclusion in the Six Year Program, and updates, but for which an appropriation has not been made.
- B. **Appropriation** - The formal approval for the expenditure of public funds by the governing body of a governmental jurisdiction. Appropriations are made for the full amount of a project in the first fiscal year the project is approved for funding, by the Authority.
- C. **Appropriated Project** - A project which was approved for inclusion in the Six Year Program and which has received an appropriation for the project amount.
- D. **De-appropriate** – Removal of an appropriation resulting in the cancellation of the project.
- E. **Project Sponsor** – Jurisdiction, Agency or representative submitting a project request to the Authority which was subsequently adopted.
- F. **Six Year Program** - The Six Year Program (SYP) is a short-term constrained funding program which has been formally adopted for the development or acquisition of a series of regionally significant transportation improvement projects. The SYP has specific planned projects, each of which is identified for specific amounts of funding, starting in specific fiscal years.
- G. **SYP Updates** - Updates to the Six Year Program are expected to occur approximately every two years, on a schedule approved by the Authority. SYP updates will add additional adopted projects approximately four to five years ahead of the expected appropriation.

- H. Substantive drawdown – A request for reimbursement which through the incurrence of directly relevant project costs clearly demonstrates project start up and/or progress. The Executive Director may accept the documented expenditure of funds from other sources, directly appropriated to the project, as a substitute for the expenditure of Authority funds.

### **III. General.**

- A. This policy will be in effect for all Regional Revenue Fund projects approved by the Authority and supersedes Policy 24 and Policy 25.
- B. There are three milestones which the Authority will use to assess project progress:
1. Standard Project Agreement (SPA) approval by the Authority for a project within three months of the appropriation of Regional Revenue Funds.<sup>1</sup>
  2. Project activation/progression documented through monthly updates submitted to NVTA and reported in the Executive Director's monthly report to the Authority for appropriated projects.
  3. Project sponsor's submission of an initial substantive drawdown on appropriated funds within 18 months of the initial appropriation of Regional Revenue Funds, demonstrating meaningful project progress.
- C. For any project at risk of missing one of these three milestones, the project's sponsor may request an extension of time from the Executive Director.
- D. The Executive Director may request additional information from the project sponsor in making a decision on an extension recommendation.
- E. Agreement on project status will be sought with the implementing jurisdiction or agency.
- F. If agreement is not reached, the Executive Director may take a project de-appropriation recommendation to the Finance Committee prior to referral to the Authority for action.
- G. Project sponsors must keep their SPA-Appendix A and B forms up to date. Appendix B's can be updated in accordance with Policy 20. III B. 2.
- H. All funds de-appropriated from actions taken under this policy will remain in the Regional Revenue Fund for future appropriation by the Authority.
- I. Projects which had funds de-appropriated may reapply for funding during the next call for projects. Such applications will need to meet the application requirements of that SYP update cycle.
- J. The Executive Director may extend SPA deadlines for adopted projects in proportion to the number of months no meetings were held by the Authority within the next three months after project appropriations.

### **IV. Responsibilities.**

#### **A. Project sponsoring jurisdiction or agency primary responsibilities:**

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<sup>1</sup> For example, a project approved in year four of the Six Year Program, must have its SPA approved within three months of the Authority's appropriation action for year four as opposed to within three months of the adoption of the Six Year Program.

1. Completion of SPAs within three months of Authority appropriation of Regional Revenue Funds to the project.
2. Document project activation/progression on appropriated projects through monthly updates submitted to NVTA for inclusion in the Executive Director's monthly report to the Authority.
3. Submittal of initial substantive drawdown on appropriated projects within 18 months of the Authority's appropriation of Regional Revenue Funds for the project.
4. Proactively inform the Executive Director of material circumstances which may delay or otherwise impede the prospects for successful start, draw down of project funds or completion of adopted and appropriated projects included in the SYP.
5. Proactively inform the Executive Director of appropriated project scheduling issues, providing a revised timeline to be submitted on SPA Appendix A forms with action steps required for timely completion of the project.
6. Proactively inform the Executive Director of adopted project scheduling issues, providing information as to a revised timeline to be submitted with action steps required to timely project completion.
7. Proactively request cancellation of an appropriated or adopted project if the project sponsor determines the project is no longer necessary or executable.
8. Provide additional project information upon request.
9. Provide continued updates as necessary to the project SPA – Appendix A and B forms (Tables B-2 and B-3) reimbursement timing/schedule for appropriated projects.

**B. NVTA Executive Director.**

1. Monitor project progress through requests for reimbursements and submission of project activation/progress reports by project sponsors.
2. Include a report of appropriated project status in the Executive Director's monthly report to the Authority. Status reports will be consistent with project progress documented by project sponsors, unless otherwise noted.
3. Receive notice from project sponsors of possible delays in submitting drawdown requests or activating/progressing the project by the deadline.
4. Request information, when required, to evaluate project sponsor notice of delay or to request information on delay.
5. Receive and evaluate notices from project sponsors of adopted projects included in the SYP which are facing schedule or other risks which may impede their successful completion.
6. Accept requests for appropriated or adopted project cancellations from project sponsors and forward with a recommendation to the Finance Committee in advance of submission to the Authority with a recommendation to accept or reject the request.

7. Evaluate requests for extension of time or other accommodations requested by project sponsor.
8. Make recommendations to the Finance Committee on project de-appropriations to be referred to the Authority.

**Approval by the Finance Committee:** March 21, 2019

**Approved by Northern Virginia Transportation Authority:**

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**NORTHERN VIRGINIA TRANSPORTATION AUTHORITY****MEMORANDUM**

**TO:** Chairman Martin E. Nohe and Members  
Northern Virginia Transportation Authority

**FROM:** Michael Longhi, Chief Financial Officer

**DATE:** April 5, 2019

**SUBJECT:** Continuing Disclosure and Post Issuance (Policy 21) Update

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- 1. Purpose:** To seek Northern Virginia Transportation Authority (NVRTA) approval of an update to the Continuing Disclosure and Post Issuance Policy, as recommended by the Finance Committee. This update is required by the Securities and Exchange Commission's (SEC) Rule 15c2-12.
- 2. Suggested Motion:** *I move Authority approval of the attached update to the NVRTA Continuing Disclosure and Post Issuance Policy (Policy 21).*
- 3. Background:**
  - a. The Authority has and may in the future, issue tax exempt and other tax-advantaged bonds.
  - b. The SEC sets post issuance compliance and disclosure requirements which the Authority is required to comply with under Rule 15c2-12.
  - c. Rule 15c2-12 previously listed 14 events which would require disclosure through the Municipal Securities Rulemaking Board (MSRB) Electronic Municipal Market Access system (EMMA).
  - d. The SEC has added two new events requiring disclosure:
    - i. Incurrence of a financial obligation, or agreements to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation any of which affect security holders, if material.
    - ii. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation, any of which reflect financial difficulties.
    - iii. The above two disclosure events apply to any issuances which occur after February 27, 2019.
  - e. The attached draft policy update includes the addition of the two new events.
  - f. The draft changes have been reviewed by the Authority's Financial Advisor, Bond Counsel and Council of Counsel.

**Attachment:** Draft Update Policy 21 - Continuing Disclosure and Post Issuance Policy

## NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

### Policy Number 21 – Continuing Disclosure and Post Issuance Policy

- I. **Purpose.** The Northern Virginia Transportation Authority (the "Authority") issues tax-exempt and other tax-advantaged bonds (collectively "Tax-Advantaged Bonds") to obtain funds to finance portions or all of various capital improvements. The Authority has adopted this policy and procedure (the "Post-Issuance Compliance Policy and Procedure") to ensure that the Authority's continuing disclosures are accurate and comply with all applicable federal and state securities laws, and to assist in monitoring the Authority's compliance with the continuing disclosure obligations specified in Rule 15c2-12 under the Securities Exchange Act of 1934.
- II. **Designation of Responsibilities.** The Chief Financial Officer (CFO) shall be designated as the Chief Compliance Officer and shall be responsible for the administration and supervision of the Authority's post-issuance compliance management program. The Chief Compliance Officer shall review the Post Compliance Issuance procedure document at least annually. Material changes to this document shall only be made after recommendation by the Finance Committee and approval of the Authority.
- III. **Records Retention.**
- A. **The Records.** The Tax Compliance Officer shall retain records demonstrating compliance with the Post-Issuance Compliance Policy and Procedure. These records may consist of, but shall not be limited to, the documents listed on Appendix A (the "Records").
- B. **The Annual Compliance File.** The Tax Compliance Officer shall retain an electronic or paper file for each continuing disclosure annual filing the Authority completes (the "Annual Compliance File"). Each Annual Compliance File shall include, but not be limited to:
1. Final versions of the Authority's Official Statement;
  2. Audited financial statements; written confirmations of the annual filings made by the Authority with the MSRB;
  3. Any related letters and legal opinions;
  4. A list of individuals to whom they have been distributed and the dates of such distributions; and
  5. Any other specific records relating to tax and other post-issuance compliance as enumerated in Appendix B attached hereto.
- C. The Annual Compliance File shall be maintained in a central repository by the Authority in accordance with the length of time as specified by federal requirements applicable to Tax-Advantaged Bonds or Virginia Record Retention Requirements, whichever is longer.

- D. Electronic media will be the preferred method for storage of all documents and other records maintained by the Authority in connection with tax and other post-issuance compliance.

IV. **Continuing Disclosure.**

- A. Under the provisions of the Securities and Exchange Commission (the "SEC") Rule 15c2-12 (the "Rule"), underwriters of Authority bonds are typically required to obtain an agreement for ongoing disclosure in connection with the public offering of bonds. The transcript for each such issue of bonds will include a Continuing Disclosure Certificate or another undertaking by the Authority to comply with the Rule (the "Undertaking").
- B. **Annual Filings.** Pursuant to each Undertaking, the Authority is required each year to file annual reports with the Municipal Securities Rulemaking Board's (the "MSRB") Electronic Municipal Market Access ("EMMA") system in accordance with such Undertakings. Such annual reports are required to include certain updated financial and operating information identified on Appendix B, and the Authority's audited financial statements.
- C. **Event Notices.** As set forth in each Undertaking, the Authority must provide notice (an "Event Notice") to the MSRB of the events identified in and listed in Appendix C attached hereto. Weekly, the CFO or appropriate Designee shall monitor such list for the occurrence of such an event and, if needed, shall prepare an Event Notice that complies with the Rule and shall file such Event Notice with EMMA as required by the Rule.
- D. **Financial Statements.** The CFO or Designee shall submit the Authority's audited financial statements ("Financial Statements") to EMMA on an annual basis as required under each Undertaking.

- V. **Public Statements of Financial Information.** Whenever the Authority makes statements or releases information relating to its finances to the public that are reasonably expected to reach investors and the trading markets (including without limitation, all Event Notices, statements in the audited financial statements and other financial reports and statements of the Authority), the Authority is obligated to ensure that such statements and information contained therein are complete, true and accurate in all material respects. The CFO or appropriate designee shall determine whether such statements or releases should be provided to the MSRB as voluntary disclosure, and if so, the CFO or appropriate designee shall prepare and make a filing on EMMA of such statements or releases.

- VI. **Remedial Action.** In the event the Authority discovers that it has become non-compliant with its continuing disclosure obligations, the CFO shall work with the Authority's attorney and/or bond counsel to remedy the noncompliance and file the necessary notices to the MSRB with EMMA.

**VII. Training.** Authority personnel are to periodically obtain training with regard to the Authority’s continuing disclosure obligations and retention of the records set forth in Section III of this Continuing Disclosure & Post Issuance Compliance Policy. The training shall include a review of the Authority’s recent compliance initiatives and discussions relating to post-issuance compliance requirements. Training is especially warranted in the event of changes in law or changes in Authority staff.

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**Approved by the Finance Committee: December 5, 2014**  
**Update Recommended by the Finance Committee: XXXXX**  
**Approved by Northern Virginia Transportation Authority: December 11, 2014**  
**Update Approved by Northern Virginia Transportation Authority: XXXXXX**

## APPENDIX A

### LIST OF POST-ISSUANCE COMPLIANCE RECORDS (TO BE AMENDED BY THE AUTHORITY AS NECESSARY)

1. Preliminary and Final Official Statements.
2. Audited Financial Statements.
3. Filings made by the Authority with the MSRB, whether made pursuant to a continuing disclosure undertaking to which the Authority is a party or otherwise.
4. Press releases and other information distributed by the Authority for public dissemination to the extent that such releases are reasonably expected, in the determination of the Chief Financial Officer, the Authority Attorney and/or bond counsel, to reach investors and the trading markets for municipal securities.
5. Rating Agency Presentations.
6. Such portions of the Authority's published annual Adopted Budget as the CFO, the Authority Attorney and/or bond counsel deem to be appropriate, which shall at a minimum include the Executive Summary.
7. Any other communications that are reasonably expected, in the determination of the CFO, the Authority Attorney and/or bond counsel, to reach investors and the trading markets for municipal securities.

**Appendix B**

**Operating Data**

Below is the list of operating data that must be updated annually and filed with the MSRB in accordance with Section IV.B. of the Policy.

This list is current as of December 31, 2014, and must be updated by the CFO or appropriate designee annually.

**FY2014 Regional Revenues**

	<b>FY20__ Budget</b>	<b>FY20__ Actual</b>	<b>Percentage Change Budget / Actual</b>
<b>Additional Sales and Use Tax</b>			
<b>Regional Congestion Relief Fee</b>			
<b>Regional Transient Occupancy Tax</b>			
<b>Total:</b>			

**FY20\_\_ Regional Revenues by Member Locality and By Source**

<b>Member Locality</b>	<b>Additional Retail Sales and Use Tax</b>	<b>Regional Congestion Relief Fee</b>	<b>Transient Occupancy Tax</b>	<b>Total</b>
City of Alexandria				
Arlington County				
City of Fairfax				
Fairfax County				
City of Falls Church				
Loudoun County				
City of Manassas				
City of Manassas Park				
Prince William County				
<b>Total FY 20__ Regional Revenues:</b>				

**Budgeted and Projected Regional Revenues<sup>(1)</sup>**

	<b>20__</b>	<b>20__</b>	<b>20__</b>	<b>20__</b>	<b>20__</b>	<b>20__</b>
<b>Additional Retail Sales and Use Tax</b>						
<b>Regional Congestion Relief Fee</b>						
<b>Additional Transient Occupancy Tax</b>						
<b>Total:</b>						

Note: (1) Preliminary estimates and actual results may vary.

## Appendix C

### LIST OF EVENT NOTICES

The Chief Financial Officer should review this list at least weekly to determine whether any event has occurred that may require a filing with EMMA.

For Tax-Advantaged Bonds subject to Rule 15c2-12, the following events automatically trigger a requirement to file with EMMA within ten (10) business days of their occurrence:

1. Principal and interest payment delinquencies.
2. Non-payment related defaults, if material.
3. Unscheduled draws on debt service reserves reflecting financial difficulty.
4. Unscheduled draws on credit enhancements reflecting financial difficulty.
5. Substitution of credit or liquidity providers, or their failure to perform.
6. Adverse tax opinions or events affecting the tax-exempt status of the security.
7. Modifications to rights of security holders, if material.
8. Bond calls or tender offers, if material.
9. Defeasances.
10. Release, substitution or sale of property securing repayment of the securities, if material.
11. Rating Changes.
12. Bankruptcy, insolvency, receivership or similar event of the obligated person as set forth in §17 CFR 240 15c2-12.
13. Merger, acquisition or sale of all or substantially all of issuer assets.
14. Appointment of successor trustee or additional trustee or name changes of a trustee, if material.
15. Failure to provide, in a timely manner, notice to provide required annual financial information by the date specified in any continuing disclosure undertaking.

16. Incurrence of a financial obligation, or agreements to covenants, events of default, remedies, priority rights, or other similar terms of a financial obligation any of which affect security holders, if material. (Effective February 27, 2019.)

17. Default, event of acceleration, termination event, modification of terms, or other similar events under the terms of a financial obligation, any of which reflect financial difficulties. (Effective February 27, 2019.)

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## NORTHERN VIRGINIA TRANSPORTATION AUTHORITY

MEMORANDUM

**TO:** Chairman Martin E. Nohe and Members  
Northern Virginia Transportation Authority

**FROM:** Michael Longhi, Chief Financial Officer

**DATE:** April 5, 2019

**SUBJECT:** Investment Policy (Policy 13) Revision

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1. **Purpose:** To seek Northern Virginia Transportation Authority (NVTA) approval of changes to the NVTA Investment Policy as recommended by the Finance Committee.
2. **Suggested Motion:** *I move Authority approval of the attached changes to the Authority's Investment Policy (Policy 13).*
3. **Background:**
  - a. The Investment Policy was adopted on December 11, 2014, and has not been updated since that time.
  - b. The Investment Policy approach is to never exceed the parameters for investment activity set out in the Code of Virginia.
  - c. These changes do one of two things as identified below:
    - i. Make the Investment Policy consistent with the Code of Virginia.
    - ii. Make the Investment Policy more restrictive than the Code of Virginia.
  - d. The draft changes have been review by the Council of Counsels.
2. **Proposed Policy Changes:**
  - a. **Making the Investment Policy consistent with the Code of Virginia:**
    - i. In December 2018, staff realized the Corporate Note and Negotiable Certificate of Deposit standards in the Investment Policy were inconsistent with the Code of Virginia Section 2.2-4510.
    - ii. The inconsistency is that both sections allowed ratings by Fitch Ratings to be considered in the purchase of Corporate Notes and Negotiable Certificates of Deposit.
    - iii. The portfolio does not contain any Negotiable Certificates of Deposit which used Fitch Ratings in the purchase decision.
    - iv. In December the portfolio contained three Corporate Notes totaling \$40 million of face value where the purchase decision relied on Fitch Ratings.
    - v. To bring the portfolio into compliance staff sold the three Corporate Notes at a gain of \$67,649.

- vi. The changes in item 10 - Corporate Notes and 15 - Negotiable certificates of deposit (both on page 10) eliminate the reference to Fitch Ratings.

**b. Making the Investment Policy more restrictive than the Code of Virginia.**

- i. Investments in bonds issued by States, Counties and Cities are permitted in the Code of Virginia. The Code sets minimum requirements for the purchase of these instruments.
- ii. The Investment Policy matches the minimum requirements as set out in the Code.
- iii. The proposed change is to further restrict these purchases to bonds with Securities rated by at least two of the three following rating agencies with ratings of at least; Aa or higher for Moody's, AA or higher for Standard and Poor's, AA or higher for Fitch. Proposed changes are noted on page 8 of the attached draft.
- iv. There are no securities from State, County or City issuers in the portfolio at this time.

**Attachment:** Policy 13 – Investment Post (with Draft Changes)



**Northern Virginia Transportation Authority**  
*The Authority for Transportation in Northern Virginia*

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## **Northern Virginia Transportation Authority**

### **Investment Policy**

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Adopted December 11, 2014

Revised XXXXX

This Investment Policy has been established by the Northern Virginia Transportation Authority (Authority) to ensure effective management of the day-to-day investment activity, and is designed to increase non-tax revenues by investing funds when not needed for current obligations. The objective is to obtain, while protecting principal, the highest possible yield on available financial assets, consistent with constraints imposed by safety objectives, cash flow considerations and the laws of the Commonwealth of Virginia that govern the placement of public funds. The general custody of all funds requires the investment of those funds within the confines of the Code of Virginia and a comprehensive Investment Policy developed and maintained by the Authority.

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**Investment Policy**

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## INVESTMENT POLICY

### PURPOSE AND SCOPE

The purpose of this statement of investment policy is to establish guidelines for the safeguarding and efficient management of Authority funds and for the purchase, sale and custody of investment instruments. The goal is to minimize risk and to ensure the availability of cash to meet Authority expenditures, while generating revenue from the use of funds, which might otherwise remain idle.

Unless otherwise noted, all citations in this policy refer to the Code of Virginia (1950), as amended.

### OBJECTIVES

The primary objectives of the Authority's investment activities, in priority order, are: safety, liquidity, and yield (SLY).

Safety of principal is the foremost objective in the investment of public funds. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio.

The investment portfolio will remain sufficiently liquid to enable the Authority to meet all operating requirements, which might be reasonably anticipated.

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles. This objective shall take into account constraints as to acceptable risk, the characteristics of the Authority's cash flows and the funding expectations of approved projects.

### ROLE OF THE CHIEF FINANCIAL OFFICER

The Chief Financial Officer (CFO) is charged with collecting, safeguarding and disbursing Authority funds. The CFO serves as the investment officer for the Authority with authority for investment decisions to include managing the day-to-day operations of the portfolio, placing purchase orders and sell orders with dealers and financial institutions, procuring banking and financial services and preparing reports as required.

The CFO shall invest all available cash (with the exception of 30% funds) into a common investment portfolio. The CFO is required to file a statement of economic interest annually with the Authority Administrative Assistant/Clerk by no later than January 15 (§2.2-3116). The CFO may require any employee of the Authority entrusted with the investment of Authority funds to file a similar statement. In no event shall any employee involved in the investment process also be involved in personal business activity that could conflict with proper execution of the investment program.

The CFO shall continue to monitor the statutes and regulations and modify investment procedures accordingly to ensure compliance.

The CFO as well as staff assigned to investment and accounting functions; shall individually and as a group stay current on new regulations and market trends in investments, technology enhancements and new banking as well as financial services. Individual readings, research, subscriptions to news services, attending training and informational symposiums on these topics is encouraged and supported.

### **ROLE OF THE INVESTMENT MONITOR**

The Investment Monitor is designated by the CFO to review the balances and activity in the Authority's investment portfolio. The Investment Monitor shall be thoroughly familiar with this Investment Policy and the Code of Virginia regarding allowable investments. The Investment Monitor will not be actively involved in investment activity other than to monitor transactions for compliance with this policy and the Code of Virginia. The Investment Monitor shall have read-only access to the portfolio tracking system with which to confirm all investment balances, purchases, maturities, sales and trades.

### **ROLE OF THE FINANCE COMMITTEE**

The Finance Committee is established in the Authority to review the CFO's actions regarding the disposition of Authority funds. The Finance Committee meets at regular intervals with the CFO to review the Statement of Accountability. The makeup of the Finance Committee is specified in the Bylaws.

### **ETHICS AND CONFLICT OF INTEREST**

Employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program, or that could impair their ability to make impartial decisions. Employees shall disclose any material interests in financial institutions with which they conduct business. They shall further disclose any personal financial/investment positions that could be related to the performance of the investment portfolio. Employees shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the Authority.

### **INTERNAL CONTROLS**

The CFO is responsible for establishing and maintaining an internal control structure designed to ensure that the assets of the Authority are protected from loss, theft or misuse. The internal control structure shall be designed to provide reasonable assurance that these objectives are met, to the extent possible with staff resources.

- Prevention of collusion
- Separation of transaction authority from accounting and recordkeeping
- Custodial safekeeping using a delivery versus payment basis
- Avoidance of physical delivery securities
- Clear delegation of authority to subordinate staff members
- Written confirmation of transactions for investments and wire transfers
- Development of a wire transfer agreement with the lead bank and third-party custodian.

### **EXTERNAL PORTFOLIO MANAGEMENT**

In order to better manage yield in changing interest rate environments, the CFO may decide to contract for external portfolio management. This portion of the investment portfolio may be invested for periods greater than two (2) years but not more than five (5) years. Since these funds have been set aside they are not currently required to meet the near term liquidity needs of the Authority. These funds may not exceed 25% of the net balance of the Authority's 70% Regional Fund pooled cash and investments. The external portfolio manager must comply with all the requirements of the Code of Virginia with respect to the investment of local funds.

### **COMMUNITY BANK PROGRAM**

In order to enable community based financial institutions to compete against regional and national institutions for Authority funds the CFO may set aside a portion of Authority funds upon which only local community based institutions may bid. In order to qualify for the Community Bank Program, an institution must be headquartered locally or maintain a significant portion of its branches within the Authority membership jurisdictional boundaries. Any banks which show significant community reinvestment activities beyond the minimums required in the Community Reinvestment Act will receive consideration. Newly chartered banks, meeting the above criterion, will qualify after being closely reviewed for solvency, stability and quality as well as experience of executive management.

The aggregate investments held for any qualifying institution is not to exceed five (5) percent of the institution's total assets as reported on their most recent audited financial statements or Quarterly Call Report. The CFO may require such bids to include a premium over the market rate to compensate for the increased administrative costs and reduction of liquidity which this program may entail. Such premiums shall be determined by the CFO periodically based on prevailing market conditions.

The investments under the Community Bank Program are subject to the same restrictions and the same collateralization requirements as all other investments. The CFO reserves the right to reject bids that are not suitable or otherwise not in the best interest of the Authority.

### **INVESTMENT OF BOND PROCEEDS**

The Tax Reform Act of 1986 restricts the interest which may be earned on the unexpended proceeds of tax-exempt bonds issued after 1986. The average yield of investments purchased with bond proceeds may not exceed the yield on the bonds. Any excess earnings are considered arbitrage earnings and must be remitted to the U.S. Treasury. In order to avoid the difficulties associated with arbitrage, all unexpended bond proceeds shall be invested separately in the State Non-Arbitrage Pool, or its equivalent.

Notwithstanding the general policy that the CFO shall refrain from specific fund investments, interest earned on these investments shall be allocated to the funds for which the bonds were issued.

### **ARBITRAGE MANAGEMENT PROGRAM**

The arbitrage management program seeks to promptly reimburse pooled cash for expenses related to bond projects and to manage the Authority relationship with the State Non-Arbitrage Program (SNAP). Through the prompt replenishment of eligible capital expenses the Arbitrage Management Program seeks to maximize the Authority's liquidity and investment earnings. The main points of the program are:

1. Make cash draws from the appropriate SNAP account based on the Authority general ledger activity.
2. Establish and manage arbitrage rebate accounts to cover projected IRS rebate liability.
3. Provide the most accurate information to the Arbitrage Rebate Calculation Agent based on the Authority general ledger activity.
4. Return any erroneously drawn funds to the appropriate SNAP account within five (5) months, if the underlying expense is retracted by a member jurisdiction.
5. Rely on the appropriate member jurisdictions to maintain the detailed documents to support their transactions related to expenses eligible for cash draws.

#### **PAYMENT OF BANKING SERVICE AND INVESTMENT FEES**

The CFO determines whether paying for banking, financial services and financial products directly or through compensating balances is in the best interest of the Authority. The method of payment chosen will, for the most part, be based on the current rate of return on the portfolio versus the compensating balance rate offered by individual institutions.

Payment methods may change on a month to month and institution by institution basis depending upon which arrangement produces the best overall return, cost constraint and operational efficiency. Investment proceeds and/or compensating balance arrangements can be used for banking and financial services only within the fund which holds the balance. Examples would be investment fees stay within the 70% Regional Revenue funds. Operational banking fees remain within the Operating Fund.

#### **AUTHORIZED DEPOSITORY AND FEE SERVICE BANKS**

The CFO shall maintain a list of financial institutions authorized to provide depository and/or investment services. In order to ensure orderly and fair competition, the CFO will routinely bid new fee services on an individual basis, when such service is not functionally linked to an existing banking process. Priority will be given to making certain that opportunities are presented to participants in a fair and orderly process.

1. Banks must be “qualified public depositories” as defined in the *Code of Virginia* §2.2-4401 Security for Public Deposits Act.
2. All commercial banks wishing to be authorized to provide services must report a minimum of 4% or greater in the Tier 1 (Core) capital rating in their Quarterly Call Report filed with the FDIC. If any bank were to report a rating of less than 4% the deposit and fee relationship will be considered in jeopardy and the CFO will take appropriate and prudent action.
3. The CFO will conduct a bi-annual review of the condition of each authorized financial institution. The CFO will undertake interim reviews as conditions dictate.

#### **AUTHORIZED INVESTMENT BROKER/DEALERS**

The CFO shall maintain a list of financial institutions authorized to provide depository (Certificates of Deposit, Negotiated Order of Withdrawal and Money Market accounts) and/or investment broker services.

In order to ensure orderly and fair competition, the CFO shall limit the number of broker/dealers on the authorized list. For the broker/dealers on the list, priority will be given to making certain that opportunities are presented to participants in a fair and orderly process.

Further, authorized financial institutions will:

1. Maintain compliance with FINRA Net Capital Requirements for Brokers or Dealers - SEC Rule 15c3-1.
2. Any broker must maintain an active registration in good standing with FINRA.
3. Achieve a successful review, by the Authority, of individual broker records as posted by FINRA.
4. All Broker/Dealers are required to sign an acknowledgement as to receiving, understanding and agreeing to abide by this investment policy prior to the start of any activity. Broker/Dealers which repeatedly propose non-allowable or noncompetitive investments will be removed from the approved list.

- |
5. Broker/Dealers will be automatically removed from the authorized list if no instruments have been purchased from their firm for 16 consecutive months.

**BENCHMARKS**

The portfolio performance benchmarks will be both the Fed Funds Rate and the Treasury 90 Day T-Bill rate. Comparisons to the Virginia State Non-Arbitrage Program (SNAP) and the Virginia Local Government Investment Pool (LGIP) will be maintained as they are both highly liquid investment pools operated in compliance with the Code of Virginia.

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## PURCHASE OF INVESTMENTS

### GENERAL

Generally, investment offers must be considered in a competitive environment. Investments in excess of five (5) million dollars must be selected on a competitive basis. Offers must be solicited/received from a minimum of two dealers or financial institutions. The CFO may use discretion in selecting the bidders, taking into consideration an institution's reputation, past success rate, timeliness in providing bids and any other factors which the CFO believes have bearing.

In general, the highest yielding instrument offered with an appropriate maturity to match with projected liquidity needs will be the investment selected. The CFO may reject an investment, even if it yields the highest rate, if he feels it carries an element of risk which may not be reflected in the published credit rating or if it is not in the Authority's interest to hold such an investment in its portfolio.

Banks and broker/dealers shall be instructed to mail trade confirmations or similar documentation to the Authority Administrative Assistant/Clerk. The Administrative Assistant will show all trade confirmations to the Executive Director, keep a copy on file and provide the originals to the Authority Assistant Finance Officer for entry into the accounting system.

In accord with primary objectives, in priority order of safety, liquidity, and yield (SLY), investments shall be made with the judgment and care which persons of discretion, prudence and intelligence exercise in the management of their own affairs, not for speculation, but for the protection of principal. Consideration for the safety of capital shall be paramount over the probable income to be derived. Individuals responsible for investing Authority funds shall in no way benefit personally as a result of investment decisions.

### INVESTMENT POLICIES AND STANDARDS

There are certain standards of "adequacy" and "appropriateness" set by the Authority, in addition to the creditworthiness of an institution, against which offers shall be measured when purchasing investments. For example, diversification reduces overall portfolio risks while attaining market average rates of return. The policies and standards which regulate specific investments and the composition of the investment portfolio shall include, but not be limited to, the following:

1. No investment shall be purchased if the yield is less than that of the most recently auctioned issue of the United States Treasury of a similar term.
  - a. No investment shall be purchased if two of three or more enhanced ratings from nationally recognized ratings firms are not at or above the minimum required in the Code of Virginia. Due to the use of credit qualifiers by the rating agencies to signify rating reviews in the financial market turmoil starting in calendar year 2009, negative rating qualifications (such as AA- or A1-) will not exclude the instrument.
  - b. The status of any credit enhancement firm will be examined when considering the purchase of an instrument. The CFO will keep a list of unacceptable credit enhancement firms. Any instrument with a credit enhancement by a firm on this list will be considered based on its underlying credit rating not the enhanced rating.
2. At no time, shall more than thirty-five percent of the portfolio be invested in commercial paper.

3. No more than five (5) percent of the portfolio shall be invested in the commercial paper of a single entity.
4. The CFO will determine/reaffirm on a weekly basis the target balance for the portion of the portfolio invested with maturities greater than 24 months.
5. At no time shall the remaining maturity of an investment exceed 60 months, unless such investment has a PUT option as described in the Diversity & Maturity Section.
6. The CFO shall endeavor to maintain an appropriate diversification in the portfolio. The CFO will diversify instruments and institutions in order to reduce overall portfolio risk while attaining market rates of return.
7. The CFO shall use the average of the three-month Treasury bill auctions for a quarter as a benchmark for the return on the investment portfolio.
8. All investments with the sole exception of bank depository instruments, will be purchased on a delivery versus payment basis through a trust and custody agent under contract with the Authority.

The Finance Committee may add, delete or modify standards of investment at its discretion in response to changing economic, national or international conditions. Such additions, deletions or modifications shall be reported to the Authority at the next meeting of that body.

All institutions solicited for offers shall be advised of the allowable investments and any restrictions upon investments. Only investments which meet the criteria enumerated above may be considered. The CFO may consider barring institutions from consideration should they repeatedly offer disallowed investments.

#### **ALLOWABLE INVESTMENTS**

The Authority must limit investments to those allowed by the Code of Virginia. The Authority, however, may restrict investments beyond the limits imposed by the Code if such restrictions serve the purpose of further safeguarding Authority funds or are in the best interests of the Authority.

The allowable types of investments under the Code of Virginia for non-sinking funds are as follows:

1. Stocks, bonds, notes and other evidences of indebtedness of the Commonwealth of Virginia, and other evidences of indebtedness unconditionally guaranteed as to payment of principal and interest by the Commonwealth of Virginia.
2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Stocks, bonds, notes and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than ninety days; provided, that within the twenty fiscal years next preceding the

making of such investment, such state has not been in default for more than ninety days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.

4. Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body in the Commonwealth upon which there is no default; provided, that if the principal and interest be payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in Article 2 (§ 26-45.3 et seq.) of Chapter 3 of Title 26, without reference to this section, shall apply.

In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed by the provisions of this section without limitation. Securities must be rated by at least two of the three following rating agencies with ratings of at least: Aa or higher for Moody's, AA or higher for Standard and Poor's, AA or higher for Fitch.

**Commented [ML1]:** Imposes a higher standard than required in the Code of Virginia.

5. Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than ninety days; provided, that (i) within the twenty fiscal years next preceding the making of such investment, such city, county, town or district has not been in default for more than ninety days in the payment of any part of principal or interest of any stock, bond, note or other evidence of indebtedness issued by it; (ii) such city, county, town or district shall have been in continuous existence for at least twenty years; (iii) such city, county, town or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks, bonds, notes or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town or district issuing the same; (v) the city, county, town or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and (vi) the net indebtedness of such city, county, town or district (including the issue in which such investment is made), after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed ten (10) percent of the value of the taxable property in such city, county, town or district, to be ascertained by the valuation of such property therein for the assessment of taxes next preceding the making of such investment; and (vii) where the rating by two of the three following rating agencies is: Moody's Aa or higher, Standard and Poor's AA or higher and Fitch AA or higher.

**Commented [ML2]:** Imposes a higher standard than required in the Code of Virginia.

6. Savings accounts or time deposits in any bank or savings and loan association within the Commonwealth of Virginia, providing such bank or savings and loan association is a "qualified public depository". Such savings accounts or time deposits must meet the collateralization requirements as set forth in the Virginia Security for Public Deposits Act and the regulations of the State Treasury Board. The collateral must be a security or securities allowable as a direct investment with a market value of not less than fifty percent of the deposit amount where the depository is a commercial bank and

not less than one hundred percent of the deposit amount where the depository is a savings and loan or savings bank. This collateral must be pledged to the Treasury Board and held by the Board in its designated trust depository or another depository approved by the Board (§58.1-3149 and §2.2-4400).

7. Repurchase agreements which are collateralized with securities that are approved for direct investment. The Treasurer may require that physical possession of the collateral be taken (§2.2-4507). Physical possession must be taken when the term of the repurchase agreement exceeds ten (10) days. The Treasurer shall execute a master repurchase agreement with the bank or broker/dealer, which is the counterparty to the repurchase transaction prior to entering into any repurchase transaction.
8. Banker's acceptances from "prime quality" institutions. Prime quality shall be as determined by one or more nationally recognized rating agencies (§2.2-4504).
9. "Prime quality" commercial paper (§2.2-4502). "Prime quality" shall be as rated by at least two (2) of the following: Moody's Investors Service, Inc., within its NCO/Moody's rating of P1, by Standard & Poor's, Inc., within its rating of A-1, by Fitch Investor's Services, Inc., within its rating of F-1, by Duff and Phelps, Inc., within its rating of D-1, or by their corporate successors (§2.2-4502.3).
10. "High quality" corporate notes (§2.2-4510). High quality shall be defined as a rating of at least AA by Standard and Poor's, at least Aa by Moody's ~~and at least AA/F1 by Fitch~~ and a maturity of no more than five (5) years. All investments should be rated by at least two rating agencies.
11. Certificates representing ownership in either treasury bond principal at maturity or its coupons for accrual periods. The underlying United States Treasury bonds or coupons shall be held by a safekeeping agent independent of the seller of the certificates (§2.2-4505).
12. The Local Government Investment Pool (LGIP). Investments in this pool are subject to the rules and regulations as set forth by the Virginia Department of the Treasury which manages the pool (§2.2-4602). The CFO shall, on a continual basis, monitor the management and operations of the LGIP.
13. The State Non-Arbitrage Pool (SNAP). Investments in this pool are limited to unexpended proceeds from the issuance of bonds, the interest on which is subject to rebate under the provisions of the Tax Reform Act of 1986 (§2.2-4700), and reserve accounts directly related to the issuance of debt or other credit agreement.
14. Open-end mutual funds, provided the funds are registered under the Security Act of Virginia or the Federal Investment Act of 1940 and that the investments by such Funds are restricted to the same securities as approved for direct investments (§2.2-4508).
15. Negotiable certifications of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks with a rating of at least A-1 by Standard & Poor's, P-1 by Moody's Investor Service, Inc., ~~A-1, by Fitch Investor's Services, Inc.,~~ and F-1, by Duff and Phelps, Inc., ~~for~~ maturities of one year or less, and a rating of at least AA by Standard & Poor's and Aa by Moody's Investor Service, Inc., for maturities over one year and not exceeding five years (§2.2-4509).

**Commented [ML3]:** Remove reference to Fitch Ratings as it is not referenced in the Code of Virginia.

**Commented [ML4]:** Remove reference to Fitch Ratings as it is not referenced in the Code of Virginia

16. Non-negotiable certificates of deposit of banks certified as qualified to hold Virginia Public Deposits.

**DIVERSIFICATION & MATURITIES**

The CFO will diversify holdings of the investment instruments to avoid incurring unreasonable risk inherent in over-investing in any specific instruments or class of instruments, individual financial institution or maturity schedule; while attaining market average rates of return.

Length and allowable percentage of instruments maturity scheduling shall be timed according to anticipated need. Investment maturities for operating funds shall be scheduled to coincide with projected cash flow needs, taking into account large routine expenditures as well as considering sizable blocks of anticipated revenues.

If a legally authorized stock, bond, note or other evidence of indebtedness of any city, county, town or district situated in any one of the states of the United States has a PUT option which requires the issuer of the instrument to return all principal, and accrued interest within 30 days of the exercise of the PUT option, than the maturity of that instrument will be considered the PUT option not the stated maturity of the instrument.

The table below shows the maximum length and maximum portfolio composition of each investment class:

<u>Class</u>	<u>Length</u>	<u>Percent of total portfolio &amp; cash</u>
Stocks, bonds, notes and other evidences of indebtedness of the Commonwealth of Virginia	60 months or less	75%
Stocks, bonds, notes and other evidences of indebtedness of the United States	60 months or less	100%
Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth of Virginia	36 months or less	75%
Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town or district situated in any one of the states of the United States.	36 months or less	75%
Savings accounts or time deposits (CDs) in any bank or savings and loan association within the Commonwealth of Virginia	24 months or less	60%
Repurchase Agreements	12 months or less	20%
Banker's Acceptances	12 months or less	10%

<u>Class</u>	<u>Length</u>	<u>Percent of total portfolio &amp; cash</u>
Prime Quality Commercial Paper	270 days or less	35% with a 5% per issuer limit
High Quality Corporate Notes	36 months or less	50%
Certificates representing ownership in either treasury bond principal at maturity or its coupons for accrual periods	36 months or less	25%
The Local Government Investment Pool (LGIP)	N/A	100%
Open End Mutual Funds	N/A	Maximum 20% in any one fund. Prior 3 year history must exceed internal performance by 25bps, net of mgmt fee.
The State Non-Arbitrage Pool (SNAP)	N/A	100% of bond proceeds or debt related reserve account
Negotiable certificates of deposit and negotiable bank deposit notes	24 months or less	25%
External Management Contract	3 years or less	25% of net balance of pooled investments, using lowest portfolio amount as target point. Prior 3 year history must exceed internal performance by 25bps, net of mgmt fee.

**DELIVERY REQUIREMENTS**

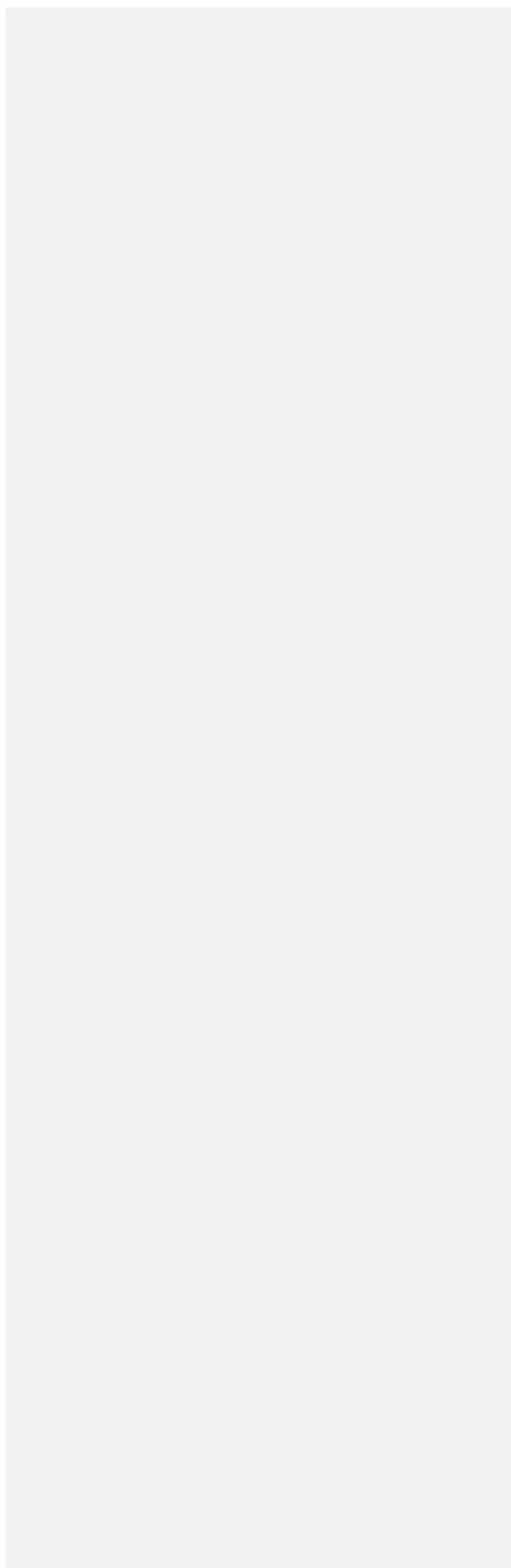
Collateral for savings and time deposits shall be pledged according to the provisions of the Security for Public Deposits Act and the requirements of the State Treasury Board regulations.

All securities will be purchased on a delivery versus payment basis.

The Authority must designate one or more institutions to act as custodian for all non-depository investments. Such institutions must be qualified to do business in the State of Virginia as banks or trust companies. Delivery to the designated trustee, in lieu of physical possession, meets these delivery requirements.

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## **REPORTS OF INVESTMENT ACTIVITY**

### **REPORTS TO THE FINANCE COMMITTEE**

The CFO shall report to the Finance Committee on a regular basis, as determined by the Committee, such information as the Committee requires in order to fulfill its function. At its discretion the Committee may require additional information or clarification from the CFO either orally or in writing.

The reports to the Finance Committee shall consist of a summary of cash and investments which are the assets of the Authority. This report, will list each depository, investment firm or custodian with balances. A listing of all investments, a detailed report of the investments held and the annual return being realized by each will be provided. A separate report shall be prepared for each calendar month as of the last day of that month.

### **FINANCIAL STATEMENT BASIS**

Financial statement presentation of investments, accrual of interest, amortization of premiums and accretion of discounts shall be according to generally accepted accounting principles as applied to municipalities.

Those principals shall be as determined by the Commonwealth of Virginia Auditor of Public Accounts, the American Institute of Certified Public Accountants and its designated units, the Financial Accounting Standards Board and the Governmental Accounting Standards Board.

Reporting components will include:

- Listing of individual securities held at the end of the reporting period.
- Mark to market valuation on a monthly basis.
- Average weighted yield to maturity of portfolio.
- Listing of investments by maturity date.
- Percentage of the total portfolio which each type of investment represents.

### **COMPLIANCE WITH THE CODE OF VIRGINIA**

This policy seeks to restrict and define investment actions at a more detailed level than presented in the Code of Virginia.

In the absence of any issue or situation not specifically addressed by this policy; any action undertaken by the CFO or his staff will at all times be in compliance with the Code of Virginia.

## ATTACHMENTS

### GLOSSARY – Attachment 1

#### **Accrual Basis**

Basis of accounting under which revenues are recorded when earned and expenditures are recorded as soon as they result in liabilities for benefits received.

#### **Accrued Interest**

The accumulated interest due on a bond as of the last interest payment made by the issuer.

#### **Agency Security**

A debt security issued by a federal or federally sponsored agency. Federal agencies are backed by the full faith and credit of the U.S. Government. Federally sponsored agencies (FSAs) are backed by each particular agency with a market perception that there is an implicit government guarantee. An example of federal agency is the Government National Mortgage Association (GNMA). An example of a FSA is the Federal National Mortgage Association (FNMA).

#### **Amortization**

The systematic reduction of the amount owed on a debt issue through periodic payments of principal.

#### **Arbitrage**

A technique employed to take advantage of price differences in separate markets. This may be accomplished by purchasing a security in one market and immediately selling in another market at a better price. As used in the context of investing public funds, arbitrage means borrowing at low tax-exempt rates and investing in taxable instruments. The arbitrage rebate provisions of the 1986 tax reform act govern this type of activity.

#### **Average Life**

The average length of time that issues of serial bonds and/or term bonds with a mandatory sinking fund feature is expected to be outstanding.

#### **Bankers Acceptance**

Negotiable time drafts drawn on commercial banks to finance import, export, shipment and storage of goods. Banker's acceptances are backed by the credit of the bank, which assumes primary liability. The acceptance is further collateralized by the goods in shipment or storage. Possession of a banker's acceptance requires taking delivery of a physical instrument.

#### **Basis Point (bps)**

A basis point refers to the measure of the yield to maturity of an investments calculated to four decimal places. For example, one quarter of one percent would be expressed as "twenty-five basis points".

#### **Bid**

The indicated price at which a buyer is willing to purchase a security or commodity.

#### **Book Value**

The value at which a security is carried on the inventory lists or other financial records

of an investor. The book value may differ significantly from the security's current value in the market.

**Bond**

A written, interest bearing certificate of debt with a promise to pay on a specific date and with a set annual rate of interest.

**Broker**

A person or firm acting as an agent for buyers and sellers.

**Callable Bond**

A bond issue in which all or part of its outstanding principal amount may be redeemed before maturity by the issuer under specified conditions.

**Call Price**

The price at which an issuer may redeem a bond prior to maturity. The price is usually at a slight premium to the bond's original issue price to compensate the holder for loss of income and ownership.

**Call Risk**

The risk to a bondholder that a bond may be redeemed prior to maturity.

**Capital Reserve Fund**

That portion of the County's investment portfolio which the Treasurer may designate for longer term investment. These funds are not currently required to meet the County's working capital needs and can be invested on a longer term basis.

**Cash Equivalents**

Instruments or investments of such high liquidity and safety that they are virtually as good as cash. Examples are a money market fund and a treasury bill.

**Cash Sale/Purchase**

A transaction which calls for delivery and payment of securities on the same day that the transaction is initiated.

**Certificate of Deposit**

A bank deposit evidenced by a negotiable or non-negotiable instrument which provides on its face that the amount of such deposit is payable to the bearer or a specified person on a certain date or upon notice in writing. Negotiable CD's may be sold on the secondary market, thus providing liquidity. Liquidation of non-negotiable CD's generally involves penalties.

**Collateralization**

Process by which a borrower pledges securities, property, or other deposits for the purpose of securing the repayment of a loan and/or security.

**Collusion**

Collusion is a situation where two or more individuals are working in conjunction to commit fraud.

**Commercial Paper**

Business promissory notes, with a stated date of payment, which are usually sold at a discount and are backed by the general credit of the company. The credit of commercial paper may be enhanced by letters of credit from one or more banks.

Commercial paper is generally for terms of less than 270 days, longer corporate obligations are referred to as notes or bonds and are subject to a greater degree of regulation.

**Compensating Balance**

A minimum level of deposits maintained in one or more non-interest bearing accounts at a bank to defray the costs of banking services.

**Coupon Rate**

The annual rate of interest received by an investor from the issuer of certain types of fixed-income securities. Also known as the "interest rate."

**Credit Quality**

The measurement of the financial strength of a bond issuer. This measurement helps an investor to understand an issuer's ability to make timely interest payments and repay the loan principal upon maturity. Generally, the higher the credit quality of a bond issuer, the lower the interest rate paid by the issuer because the risk of default is lower. Credit quality ratings are provided by nationally recognized rating agencies.

**Credit Risk**

The risk to an investor that an issuer will default in the payment of interest and/or principal on a security.

**Current Yield (Current Return)**

A yield calculation determined by dividing the annual interest received on a security by the current market price of that security.

**Custodial Safekeeping**

Securities purchased from any bank or dealer including appropriate collateral (as defined by state law) shall be placed with an independent third party for custodial safekeeping.

**Demand Deposit**

A depository account from which withdrawals may be made as desired, e.g. a checking account.

**Derivative Security**

Financial instrument created from, or whose value depends upon, one or more underlying assets or indexes of asset values.

**Discount**

The amount or percentage at which a security sells below par value. For example, if a bond with a \$1,000 par value sells for \$900 the discount is \$100 or 10%.

**D.K.**

"Don't know". If the delivery of a security fails because the trustee was not informed to take delivery or because the security is delivered for a different amount than agreed upon, the trade is "DK'ed", meaning refused.

**D.T.C.**

The Depository Trust Company (DTC) of New York acts as the repository for all securities which are electronic, as opposed to physical, delivery. These include all U.S. Treasury and agency issues and certain issues of commercial paper.

**D.V.P.**

Delivery Verses Payment. Delivering securities “DVP” means that funds are not released by the trustee until the security is delivered either in physical form or through DTC.

**Duration**

A measure of the timing of the cash flows, such as the interest payments and the principal repayment, to be received from a given fixed-income security. This calculation is based on three variables: term to maturity, coupon rate, and yield to maturity. The duration of a security is a useful indicator of its price volatility for given changes in interest rates.

**Fair Value**

The amount at which an investment could be exchanged in a current transaction between willing parties, other than in a forced or liquidation sale.

**FDIC**

Federal Deposit Insurance Corporation

**Federal Funds (Fed Funds)**

Funds placed in Federal Reserve banks by depository institutions in excess of current reserve requirements. These depository institutions may lend fed funds to each other overnight or on a longer basis. They may also transfer funds among each other on a same-day basis through the Federal Reserve banking system. Fed funds are considered to be immediately available funds.

**Federal Funds Rate**

Interest rate charged by one institution lending federal funds to the other.

**Federal Reserve System**

System established by the Federal Reserve Act of 1913 to regulate the U.S. monetary and banking system. The Federal Reserve System (the Fed) is comprised of 12 regional Federal Reserve Banks, their 24 branches, and all national and state banks that are part of the system. National banks are stockholders of the Federal Reserve Bank in their regions. The Fed’s main functions are to regulate the national money supply, set reserve requirements for member banks, supervise the printing of currency at the mint, act as clearinghouse for the transfer of funds throughout the banking system and examine member banks to make sure they meet various Federal Reserve regulations.

**FINRA**

Financial Industry Regulatory Authority is the largest non-governmental regulator for all securities firms doing business with the United States public.

**Fiscal Year**

A twelve-month period of time to which the annual budget applies and at the end of which a governmental unit determines its financial position and the results of its operation.

**Governmental Accounting Standards Board (GASB)**

A nationally recognized board consisting of five members, appointed by and operating under the Financial Accounting Foundation. The GASB is the highest source of reporting and accounting guidance for state and local governments.

**Government Securities**

An obligation of the U.S. government, backed by the full faith and credit of the government. These securities are regarded as the highest quality of investment securities available in the U.S. securities market.

**Interest Rate**

See Coupon Rate.

**Interest Rate Risk**

The risk associated with declines or rises in interest rates which cause an investment in a fixed-income security to increase or decrease in value.

**Internal Controls**

Internal controls are procedures designed to protect the assets of the entity from loss, theft, or misuse.

**Inverted Yield Curve**

A chart formation that illustrates long-term securities having lower yields than short-term securities. This configuration usually occurs during periods of high inflation coupled with low levels of confidence in the economy and a restrictive monetary policy.

**Investment**

The use of capital to create more money, either through income producing vehicles or through more risk-oriented ventures designed to result in capital gains. Investment connotes the idea that safety of principal is important. Speculation, on the other hand, is far riskier.

**Investment Company Act of 1940**

Federal legislation which sets the standards by which investment companies, such as mutual funds, are regulated in the areas of advertising, promotion, performance reporting requirements, and securities valuations.

**Investment Policy**

A concise and clear statement of the objectives and guidelines formulated by an investor or investment manager for a portfolio of investment securities.

**Investment-grade Obligations**

An investment instrument suitable for purchase by institutional investors under the prudent person rule. Investment-grade is restricted to those obligations rated BBB or higher by a rating agency.

**Jumbo CD**

A certificate of deposit of at least one hundred thousand dollars.

**Liquidity**

A measure of the ability to convert a security into cash with a minimum risk of loss of

principal or accrued interest. The easier the ability to convert the more liquid the security.

**Local Government Investment Pool (LGIP)**

An investment by local governments in which their money is pooled as a method for managing local funds.

**Mark-to-market**

The process whereby the book value or collateral value of a Security is adjusted to reflect its current market value.

**Market Risk**

The risk that the value of a security will rise or decline as a result of changes in market conditions.

**Market Value**

Current market price of a security.

**Maturity**

The date on which payment of a financial obligation is due. The final stated maturity is the date on which the issuer must retire a bond and pay the face value to the bondholder.

**Money Market Mutual Fund**

Mutual funds that invest solely in money market instruments (short-term debt instruments, such as Treasury bills, commercial paper, bankers' acceptances, repos and federal funds).

**Municipal Obligation**

A security issued by a state or local government, authority or similar entity. These obligations are generally exempt from federal income tax. Taxable municipal obligations are issued by localities or authorities for non-purpose projects.

**Mutual Fund**

An investment company that pools money and can invest in a variety of securities, including fixed-income securities and money market instruments. Mutual funds are regulated by the Investment Company Act of 1940 and must abide by the Securities and Exchange Commission (SEC) disclosure guidelines.

**Mutual Fund Statistical Services**

Companies that track and rate mutual funds, e.g., IBC/Donoghue, Lipper Analytical Services, and Morningstar.

**National Association of Securities Dealers (NASD)**

A self-regulatory organization (SRO) of brokers and dealers in the over-the-counter securities business. Its regulatory mandate includes authority over firms that distribute mutual fund shares as well as other securities.

**Net Asset Value**

The market value of one share of an investment company, such as a mutual fund. This figure is calculated by totaling a fund's assets which includes securities, cash, and any

accrued earnings, subtracting this from the fund's liabilities and dividing this total by the number of shares outstanding. This is calculated once a day based on the closing price for each security in the fund's portfolio.  $[(\text{Total assets}) - (\text{Liabilities})]/(\text{Number of shares outstanding})$ .

**No Load Fund**

A mutual fund which does not levy a sales charge on the purchase of its shares.

**Nominal Yield**

The stated rate of interest that a bond pays its current owner, based on par value of the security. It is also known as the "coupon," "coupon rate," or "interest rate."

**Offer**

An indicated price at which market participants are willing to sell a security or commodity. Also referred to as the "Ask price."

**Opportunity Cost**

The highest price or rate of return an alternative course of actions would provide. In securities investments, the cost of forgoing a safe return on an investment in hopes of making a larger profit. For instance, an investor might buy a stock that shows great promise but yields on 4%, even though a higher safe return is available in a money market fund yielding 10%. The 6% yield difference is called the opportunity cost.

**Par Value**

The value of a security as expressed on its face without any consideration of any premium, discount or accrued interest. Par value is also known as "face amount" or "face value".

**Positive Yield Curve**

A chart formation that illustrates short-term securities having lower yields than long-term securities.

**Premium**

The amount by which the price paid for a security exceeds the par value. For example, if a bond with a \$1,000 par value sells for \$1,100 the premium is \$100 or 10%.

**Primary Dealer**

A securities dealer that buys government securities directly from the Federal Reserve Bank (the Fed) and that has met certain minimum financial criteria set by the Markets Reports Division of the Federal Reserve Bank of New York. The Fed requires primary dealers to maintain a minimum capital adequacy ratio of liquid capital to measured risk that meets or exceeds 125 percent.

**Prime Rate**

A preferred interest rate charged by commercial banks to their most creditworthy customers. Many interest rates are keyed to this rate.

**Principal**

The face value or par value of a debt instrument. Also may refer to the amount of capital invested in a given security.

**Prospectus**

A legal document that must be provided to any prospective purchaser of new securities offerings registered with the SEC. This can include information on the issuer, the issuer's business, the proposed use of proceeds, the experience of the issuer's management, and certain certified financial statements.

**Prudent Person Rule**

An investment standard outlining the fiduciary responsibilities of public funds investors relating to investment practices.

**Repurchase Agreement ("Repo")**

A short term investment wherein an investor purchases a security (i.e. a Treasury Bond) in return for the seller's agreement to buy the security back on a specified date for a specified amount greater than the amount the investor paid. The principal is guaranteed and the return fixed under such an agreement.

**Rule 2a-7 of the Investment Company Act**

Applies to all money market mutual funds and mandates such funds to maintain certain standards, including a 13-month maturity limit and a 90-day average maturity on investments, to help maintain a constant net asset value of one dollar (\$1.00).

**Safekeeping**

Holding of assets (e.g., securities) by a financial institution.

**SEA**

Securities Exchange Act

**Serial Bond**

A bond issue, usually of a municipality, with various maturity dates scheduled at regular intervals until the entire issue is retired.

**Sinking Fund**

Money accumulated on a regular basis in a separate custodial account that is used to redeem debt securities or preferred stock issues.

**SLY**

Safety, Liquidity and Yield

**SNAP (State Non-Arbitrage Program)**

An investment program established by the State Treasurer, as authorized under Section 2.1-234.9, to assist local bond issuers in the management, investment and accounting of bond proceeds in compliance with certain provisions of the federal Tax Reform Act of 1986. The purpose of this arrangement is to centralize the administrative and legal requirements of compliance with complex IRS provisions regarding municipal bond Arbitrage.

**Swap**

Trading one asset for another.

**Term Bond**

Bonds comprising a large part or all of a particular issue which come due in a single

maturity. The issuer usually agrees to make periodic payments into a sinking fund for mandatory redemption of term bonds before maturity.

**Time Deposit**

A bank deposit drawing interest at intervals and having a restrictive level of withdrawals, e.g. a savings account.

**Total Return**

The sum of all investment income plus changes in the capital value of the portfolio. For mutual funds, return on an investment is composed of share price appreciation plus any realized dividends or capital gains. This is calculated by taking the following components during a certain time period.  $(\text{Price Appreciation}) + (\text{Dividends paid}) + (\text{Capital gains}) = \text{Total Return}$

**Treasury Bills**

Short-term U.S. government non-interest bearing debt securities with maturities of no longer than one year and issued in minimum denominations of \$10,000. Auctions of three- and six-month bills are weekly, while auctions of one-year bills are monthly. The yields on these bills are monitored closely in the money markets for signs of interest rate trends.

**Treasury Bonds**

Long-term U.S. government debt securities with maturities of ten years or longer and issued in minimum denominations of \$1,000. Currently, the longest outstanding maturity for such securities is 30 years.

**Treasury Notes**

Intermediate U.S. government debt securities with maturities of one to 10 years and issued in denominations ranging from \$1,000 to \$1 million or more.

**Treasury Obligations**

Securities representing obligations backed by the full faith and credit of the United States. Treasury bills are short term obligations (3 and 6 month), treasury notes are medium term obligations (1 to 7 years) and treasury bonds are long term obligations (over 7 years).

**U.S. Agency Securities**

Obligations issued by agencies established by the United States but not backed by the full faith and credit of the government. These obligations are regarded as almost as risk free as direct treasury issues as the federal government supervises and regulates the issuers and is regarded as having a moral obligation to ensure repayment.

**Volatility**

A degree of fluctuation in the price and valuation of securities.

**Weighted Average Maturity (WAM)**

The average maturity of all the securities that comprise a portfolio. According to SEC rule 2a-7, the WAM for SEC registered money market mutual funds may not exceed 90 days and no one security may have a maturity that exceeds thirteen months.

**When Issued (WI)**

A conditional transaction in which an authorized new security has not been issued. All "when issued" transactions are settled when the actual security is issued.

**Yield**

The current rate of return on an investment security generally expressed as a percentage of the security's current price.

**Yield-to-call (YTC)**

The rate of return an investor earns from a bond assuming the bond is redeemed (called) prior to its nominal maturity date.

**Yield Curve**

A graphic representation that depicts the relationship at a given point in time between yields and maturity for bonds that are identical in every way except maturity. A normal yield curve may be alternatively referred to as a positive yield curve.

**Yield-to-maturity**

The rate of return yielded by a debt security held to maturity when both interest payments and the investor's potential capital gain or loss are included in the calculation of return.

**Zero Balance Account**

A disbursing account in which no cash is maintained. As checks drawn on the account are presented the funds necessary to pay them are withdrawn from a master account at the same bank. Zero balance accounts are used to control float or provide account separation for specialized purposes.

**Zero-coupon Securities**

Security that is issued at a discount and makes no periodic interest payments. The rate of return consists of a gradual accretion of the principal of the security.

**RELEVANT CODE SECTIONS – Attachment 2**

CHAPTER 44  
VIRGINIA SECURITY FOR PUBLIC DEPOSITS ACT

**§ 2.2-4400. Short title; declaration of intent; applicability.**

- A. This chapter may be cited as the "Virginia Security for Public Deposits Act."
- B. The General Assembly intends by this chapter to establish a single body of law applicable to the pledge of security as collateral for public funds on deposit in financial institutions so that the procedure for securing public deposits may be uniform throughout the Commonwealth.
- C. All public deposits in qualified public depositories that are required to be secured by other provisions of law or by a public depositor shall be secured pursuant to this chapter.
- D. This chapter, however, shall not apply to deposits made by the State Treasurer in out-of-state financial institutions related to master custody and tri-party repurchase agreements, provided (i) such deposits do not exceed ten percent of average monthly investment balances and (ii) the out-of-state financial institutions used for this purpose have a short-term deposit rating of not less than A-1 by Standard & Poor's Rating Service or P-1 by Moody's Investors Service, Inc., respectively.  
(1973, c. 172, § 2.1-359, 2.1-361; 1984, c. 135; 2000, cc. 335, 352; 2001, c. 844.)

**§ 2.2-4401. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Default or insolvency" includes, but shall not be limited to, the failure or refusal of any qualified public depository to return any public deposit upon demand or at maturity and the issuance of an order of supervisory authority restraining such depository from making payments of deposit liabilities or the appointment of a receiver for such depository.

"Eligible collateral" means securities of the character authorized as legal investments under the laws of the Commonwealth for public sinking funds or other public funds and securities acceptable under United States Treasury Department regulations as collateral for the security of treasury tax and loan accounts and Federal Loan Bank letters-of-credit that adhere to the guidelines as promulgated by the Treasury Board.

"Located in Virginia" means having a main office or branch office in the Commonwealth where deposits accepted, checks are paid, and money is lent.

"Public deposit" means moneys of the Commonwealth or of any county, city, town or other political subdivision thereof, including moneys of any commission, institution, committee, board or officer of the foregoing and any state, circuit, county or municipal court, which moneys are deposited in any qualified public depository in any of the following types of accounts: nonnegotiable or registered time deposits, demand deposits, savings deposits, and any other transaction accounts, and security for such deposit is required by other provisions of law, or is required due to an election of the public depositor.

"Qualified public depository" means any national banking association, federal savings and loan association or federal savings bank located in Virginia and any bank, trust company or savings institution organized under Virginia law that receives or holds public deposits that are secured pursuant to this chapter.

"Required collateral" of a qualified public depository means, (i) in the case of a bank, a sum equal to fifty percent of the actual public deposits held at the close of business on the last banking day in the month immediately preceding the date of any computation of such balance, or the average balance of all public deposits for such preceding month, whichever is greater, and (ii) in the case of a savings and loan association or savings bank, a sum equal to 100 percent of the average daily balance for the month immediately preceding the date of any computation of such balance of all public deposits held by such depository but shall

not be less than 100 percent of the public deposits held by such depository at the close of business on the last banking day in such preceding month.

"Treasurer" and "public depositor" means the State Treasurer, a county, city, or town treasurer or director of finance or similar officer and the custodian of any other public deposits secured pursuant to this chapter.

"Treasury Board" means the Treasury Board of the Commonwealth created by § 2.2-2415. (1973, c. 172, § 2.1-360; 1984, c. 135; 1987, c. 718; 1996, c. 77; 1998, cc. 20, 21; 2001, c. 844; 2008, c.)

**§ 2.2-4402. Collateral for public deposits.**

Every qualified public depository shall deposit with the State Treasurer, or, with the approval of the Treasury Board, with the Federal Reserve Bank of Richmond or any other bank or trust company located within or without the Commonwealth, eligible collateral equal to or in excess of the required collateral of such depository to be held subject to the order of the Treasury Board. Eligible collateral shall be valued as determined by the Treasury Board. Substitutions and withdrawals of eligible collateral may be made from time to time under regulations issued by the Treasury Board.

Each qualified public depository shall, at the time of the deposit of eligible collateral, deliver to the State Treasurer a power of attorney authorizing him to transfer any registered securities deposited, or any part thereof, for the purpose of paying any of the liabilities provided for in this chapter.

Notwithstanding any other provisions of law, no depository shall be required to give bond or pledge securities in the manner herein provided for the purpose of securing deposits received or held in the trust department of the depository and that are secured as required by § 6.1-21 or that are secured pursuant to Title 12, § 92a of the United States Code by securities of the classes prescribed by § 6.1-21.

No qualified public depository shall accept or retain any public deposit that is required to be secured unless it has deposited eligible collateral equal to its required collateral with some proper depository pursuant to this chapter.

(1973, c. 172, § 2.1-362; 2001, c. 844.)

**§ 2.2-4403. Procedure for payment of losses where depository is bank.**

When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has occurred with regard to a qualified public depository that is a bank, it shall as promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified public depository in default or insolvent that are secured pursuant to this chapter, either with the cooperation of the Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.
2. The amount of such public deposits ascertained as provided in subdivision 1, net of applicable deposit insurance, shall be assessed by the Treasury Board first against the depository in default or insolvent to the extent of the full realizable current market value of the collateral deposited by it to secure its public deposits, and second, to the extent that such collateral is insufficient to satisfy the liability of the depository upon its deposits secured pursuant to this chapter against each of the other qualified public depositories according to the ratio that the average daily balance for each month of the secured public deposits held by the depository during the twelve calendar months immediately preceding the date of the default or insolvency with respect to which the assessment is made bears to the total average daily balance for each month of all secured public deposits held by all qualified public depositories that are banks, other than the defaulting depository, during those twelve calendar months.

3. Assessments made by the Treasury Board shall be payable on the second business day following demand, and in case of the failure of any qualified public depository to pay such assessment when due, the State Treasurer shall promptly take possession of the eligible collateral deposited with him or with the Federal Reserve Bank of Richmond or other bank or trust company pursuant to this chapter and liquidate the same to the extent necessary to pay such assessment and turn over such amounts received to the Treasury Board.
4. Upon receipt of such assessment, payments or the proceeds of the eligible collateral liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

(1973, c. 172, § 2.1-363; 1978, c. 14; 1984, c. 135; 2001, c. 844.)

**§ 2.2-4404. Procedure for payment of losses where depository is savings bank or savings and loan association.**

When the Treasury Board is advised by any treasurer or otherwise determines that a default or insolvency has occurred with regard to a qualified public depository that is a savings bank or a savings and loan association, it shall as promptly as practicable make payment to the proper treasurer of all funds subject to such default or insolvency, pursuant to the following procedures:

1. The Treasury Board and the treasurer shall ascertain the amount of public funds on deposit with the qualified public depository in default or insolvent that are secured pursuant to this chapter, either with the cooperation of the Commissioner of Financial Institutions or receiver appointed for such depository or by any other means available, and the amount of deposit insurance applicable to such deposits.
2. The amount of such public deposits ascertained as provided in subdivision 1 net of applicable deposit insurance, shall be assessed by the Treasury Board against the depository in default or insolvent. The State Treasurer shall promptly take possession of such of the eligible collateral deposited by such depository with him, or with any other depository pursuant to this chapter, as is necessary to satisfy the assessment of the Treasury Board and shall liquidate the same and turn over the proceeds thereof to the Treasury Board.
3. Upon receipt from the State Treasurer of the payments or proceeds of the eligible collateral liquidated to pay such assessments from the State Treasurer, the Treasury Board shall reimburse the public depositors to the extent of the depository's deposit liability to them, net of any applicable deposit insurance.

(1984, c. 135, § 2.1-363.1; 2001, c. 844.)

**§ 2.2-4405. Powers of Treasury Board relating to the administration of this chapter.**

The Treasury Board shall have power to:

1. Make and enforce regulations necessary and proper to the full and complete performance of its functions under this chapter;
2. Prescribe regulations fixing terms and conditions consistent with this chapter under which public deposits may be received and held;
3. Require such additional collateral, in excess of the required collateral of any qualified public depository, of any and all such depositories as it may determine prudent under the circumstances;
4. Determine what securities shall be acceptable as eligible collateral, and to fix the percentage of face value or market value of such securities that can be used to secure public deposits;
5. Require any qualified public depository to furnish such information concerning its public deposits; and
6. Determine when a default or insolvency has occurred and to take such action as it may

deem advisable for the protection, collection, compromise or settlement of any claim arising in case of default or insolvency.  
(1973, c. 172, § 2.1-364; 2001, c. 844.)

**§ 2.2-4406. Subrogation of Treasury Board to depositor's rights; payment of sums received from distribution of assets.**

Upon payment in full to any public depositor, the Treasury Board shall be subrogated to all of such depositor's rights, title and interest against the depository in default or insolvent and shall share in any distribution of its assets ratably with other depositors. Any sums received from any such distribution shall be paid to the other qualified public depositories against which assessments were made, in proportion to such assessments, net of any proper expense of the Treasury Board in enforcing any such claim.  
(1973, c. 172, § 2.1-365; 2001, c. 844.)

**§ 2.2-4407. Deposit of public funds in qualified public depository mandatory.**

No public deposit that is required to be secured pursuant to this chapter shall be made except in a qualified public depository.  
(1973, c. 172, § 2.1-366; 2001, c. 844.)

**§ 2.2-4408. Authority to deposit public funds.**

- A. All treasurers and public depositors are hereby authorized to deposit funds under their control in qualified public depositories securing public deposits pursuant to this chapter.
- B. Local officials handling public funds in the Commonwealth may not require from a depository institution any pledge of collateral for their deposits in such institution which is in excess of the requirements of this chapter.  
(1973, c. 172, § 2.1-367; 1980, c. 538, § 2.1-234.5; 1998, cc. 20, 21; 2001, c. 844.)

**§ 2.2-4409. Authority to secure public deposits; acceptance of liabilities and duties by public depositories.**

All institutions located in the Commonwealth that are permitted to hold and receive public deposits are hereby authorized to secure such deposits in accordance with this chapter. Any institution accepting a public deposit that is required to be secured pursuant to this chapter shall be deemed to have accepted the liabilities and duties imposed upon it pursuant to this chapter with respect to the deposit.  
(1973, c. 172, § 2.1-368; 2001, c. 844.)

**§ 2.2-4410. Liability of treasurers or public depositors.**

When deposits are made in accordance with this chapter no treasurer or public depositor shall be liable for any loss thereof resulting from the failure or default of any depository in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his assistants or employees.  
(1973, c. 172, § 2.1-370; 2001, c. 844.)

**§ 2.2-4411. Reports of public depositories.**

Within ten days after the end of each calendar month or when requested by the Treasury Board each qualified public depository shall submit to the Treasury Board a written report, under oath, indicating (i) the total amount of public deposits held by it at the close of business on the last banking day in the month, (ii) the average daily balance for the month of all secured public deposits held by it during the month, (iii) a detailed schedule of pledged collateral at its current asset value for purposes of collateral at the close of business on the last banking day in the month, and (iv) any other information with respect to its

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secured public deposits that may be required by the Treasury Board. Each qualified public depository shall also furnish at the same time to each public depositor for which it holds deposits and that makes a written request therefore a schedule of the secured public deposits to the credit of such depositor as of the close of business on the last banking day in the month and the total amount of all secured public deposits held by it upon such date. (1973, c. 172, § 2.1-369; 1979, c. 154; 2001, c. 844.)

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CHAPTER 45  
INVESTMENT OF PUBLIC FUNDS ACT

**§ 2.2-4500. Legal investments for public sinking funds.**

The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any sinking funds belonging to them or within their control in the following securities:

1. Bonds, notes and other evidences of indebtedness of the Commonwealth, and securities unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
2. Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
3. Bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body of the Commonwealth upon which there is no default; provided, that such bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body are either direct legal obligations of, or those unconditionally guaranteed as to the payment of principal and interest by the county, city, town, district, authority or other public body in question; and revenue bonds issued by agencies or authorities of the Commonwealth or its political subdivisions upon which there is no default.
4. Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, bonds and other obligations issued, guaranteed or assumed by the Asian Development Bank and bonds and other obligations issued, guaranteed or assumed by the African Development Bank.
5. Savings accounts or time deposits in any bank or savings institution within the Commonwealth provided the bank or savings institution is approved for the deposit of other funds of the Commonwealth or other political subdivision of the Commonwealth. (1956, c. 184, § 2-297; 1958, c. 102; 1966, c. 677, § 2.1-327; 1970, c. 75; 1974, c. 288; 1986, c. 270; 1988, cc. 526, 834; 1996, cc. 77, 508; 2001, c. 844.)

**§ 2.2-4501. Legal investments for other public funds.**

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in the following:

- 1) Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth.
- 2) Bonds, notes and other obligations of the United States, and securities unconditionally guaranteed as to the payment of principal and interest by the United States, or any agency thereof. The evidences of indebtedness enumerated by this subdivision may be held directly, or in the form of repurchase agreements collateralized by such debt securities, or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such

- investment company or investment trust is limited to such evidences of indebtedness, or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.
- 3) Stocks, bonds, notes and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than ninety days; provided, that within the twenty fiscal years next preceding the making of such investment, such state has not been in default for more than ninety days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.
  - 4) Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body in the Commonwealth upon which there is no default; provided, that if the principal and interest be payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in Article 2 (§ 26-45.3 et seq.) of Chapter 3 of Title 26, without reference to this section, shall apply.  
In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed by the provisions of this section without limitation.
  - 5) Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than ninety days; provided, that
    - i) within the twenty fiscal years next preceding the making of such investment, such city, county, town or district has not been in default for more than ninety days in the payment of any part of principal or interest of any stock, bond, note or other evidence of indebtedness issued by it;
    - ii) such city, county, town or district shall have been in continuous existence for at least twenty years;
    - iii) such city, county, town or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants;
    - iv) the stocks, bonds, notes or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town or district issuing the same;
    - v) the city, county, town or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and
    - vi) the net indebtedness of such city, county, town or district (including the issue in which such investment is made), after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed ten percent of the value of the taxable property in such city, county, town or district, to be ascertained by the valuation of such property therein for the assessment of taxes next preceding the making of such investment.
  - 6) Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction and Development, by the Asian Development Bank or by the African Development Bank.
- B. This section shall not apply to retirement funds and deferred compensation plans to be

invested pursuant to §§ 51.1-124.30 through 51.1-124.35 or § 51.1-601.

- C. Investments made prior to July 1, 1991, pursuant to § 51.1-601 are ratified and deemed valid to the extent that such investments were made in conformity with the standards set forth in Chapter 6 (§ 51.1-600 et seq.) of Title 51.1. (1956, c. 184, § 2-298; 1966, c. 677, § 2.1-328; 1980, c. 596; 1988, c. 834; 1991, c. 379; 1992, c. 810; 1996, c. 508; 1999, c. 772; 2001, c. 844.)

**§ 2.2-4502. Investment of funds of Commonwealth, political subdivisions, and public bodies in "prime quality" commercial paper.**

- A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking funds in "prime quality" commercial paper, with a maturity of 270 days or less, of issuing corporations organized under the laws of the United States, or of any state thereof including paper issued by banks and bank holding companies. "Prime quality" shall be as rated by at least two of the following: Moody's Investors Service, Inc., within its NCO/Moody's rating of prime 1, by Standard & Poor's, Inc., within its rating of A-1, by Fitch Investor's Services, Inc., within its rating of F-1, by Duff and Phelps, Inc., within its rating of D-1, or by their corporate successors, provided that at the time of any such investment:

- 1) The issuing corporation, or its guarantor, has a net worth of at least fifty million dollars; and
- 2) The net income of the issuing corporation, or its guarantor, has averaged three million dollars per year for the previous five years; and
- 3) All existing senior bonded indebtedness of the issuer, or its guarantor, is rated "A" or better or the equivalent rating by at least two of the following: Moody's Investors Service, Inc., Standard & Poor's, Inc., Fitch Investor's Services, Inc., or Duff and Phelps, Inc.

Not more than thirty-five percent of the total funds available for investment may be invested in commercial paper, and not more than five percent of the total funds available for investment may be invested in commercial paper of any one issuing corporation.

- B. Notwithstanding subsection A, the Commonwealth, municipal corporations, other political subdivisions and public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, except for sinking funds, in commercial paper other than "prime quality" commercial paper as defined in this section provided that:

- 1) Prior written approval is obtained from the governing board, committee or other entity that determines investment policy. The Treasury Board shall be the governing body for the Commonwealth; and
- 2) A written internal credit review justifying the creditworthiness of the issuing corporation is prepared in advance and made part of the purchase file.

(1973, c. 232, § 2.1-328.1; 1974, c. 295; 1976, c. 665; 1986, c. 170; 1987, c. 73; 1988, c. 834; 1992, c. 769; 2001, c. 844.)

**§ 2.2-4503.**

Not set out.

**§ 2.2-4504. Investment of funds by the Commonwealth and political subdivisions in bankers' acceptances.**

Notwithstanding any provisions of law to the contrary, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control other than sinking

funds in bankers' acceptances.  
(1981, c. 18, § 2.1-328.3; 1988, c. 834; 2001, c. 844.)

**§ 2.2-4505. Investment in certificates representing ownership of treasury bond principal at maturity or its coupons for accrued periods.**

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, in certificates representing ownership of either treasury bond principal at maturity or its coupons for accrued periods. The underlying United States Treasury bonds or coupons shall be held by a third-party independent of the seller of such certificates.  
(1983, c. 117, § 2.1-328.5; 1985, c. 352; 1988, c. 834; 2001, c. 844.)

**§ 2.2-4506. Securities lending.**

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, political subdivisions and all public bodies of the Commonwealth may engage in securities lending from the portfolio of investments of which they have custody and control, other than sinking funds. The Treasury Board shall develop guidelines with which such securities lending shall fully comply. Such guidelines shall ensure that the state treasury is at all times fully collateralized by the borrowing institution.  
(1983, c. 268, § 2.1-328.6; 2001, c. 844.)

**§ 2.2-4507. Investment of funds in overnight, term and open repurchase agreements.**

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth, may invest any and all moneys belonging to them or within their control in overnight, term and open repurchase agreements that are collateralized with securities that are approved for direct investment.  
(1985, c. 352, § 2.1-328.8; 1988, c. 834; 2001, c. 844.)

**§ 2.2-4508. Investment of certain public moneys in certain mutual funds.**

Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds that are governed by the provisions of § 2.2-4500, in one or more open-end investment funds, provided that the funds are registered under the Securities Act (§ 13.1-501 et seq.) of the Commonwealth or the Federal Investment Co. Act of 1940, and that the investments by such funds are restricted to investments otherwise permitted by law for political subdivisions as set forth in this chapter, or investments in other such funds whose portfolios are so restricted.  
(1986, c. 170, § 2.1-328.9; 1988, c. 834; 1996, c. 508; 2001, c. 844.)

**§ 2.2-4509. Investment of funds in negotiable certificates of deposit and negotiable bank deposit notes.**

Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal corporations, and other political subdivisions and all other public bodies of the Commonwealth may invest any or all of the moneys belonging to them or within their control, other than sinking funds, in negotiable certificates of deposit and negotiable bank deposit notes of domestic banks and domestic offices of foreign banks with a rating of at least A-1 by Standard & Poor's and P-1 by Moody's Investor Service, Inc., for maturities of one year or less, and a rating of at least AA by Standard & Poor's and Aa by Moody's Investor Service, Inc., for maturities over one year and not exceeding five years.

(1998, cc. 20, 21, § 2.1-328.15; 2001, c. 844.)

**§ 2.2-4510. Investment of funds in corporate notes.**

- A. Notwithstanding any provision of law to the contrary, the Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in high quality corporate notes with a rating of at least Aa by Moody's Investors Service, Inc., and a rating of at least AA by Standard and Poors, Inc., and a maturity of no more than five years.
- B. Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in high quality corporate notes with a rating of at least A by two rating agencies, one of which shall be either Moody's Investors Service, Inc., or Standard and Poors, Inc.

As used in this section, "qualified public entity" means any state agency or institution of the Commonwealth, having an internal or external public funds manager with professional investment management capabilities.

(1987, c. 187, § 2.1-328.10; 1988, c. 834; 1994, c. 145; 2001, c. 844; 2002, cc. 18, 438.)

**§ 2.2-4511. Investment of funds in asset-backed securities.**

Notwithstanding any provision of law to the contrary, any qualified public entity of the Commonwealth may invest any and all moneys belonging to it or within its control, other than sinking funds, in asset-backed securities with a duration of no more than five years and a rating of no less than AAA by two rating agencies, one of which must be either Moody's Investors Service, Inc., or Standard and Poors, Inc.

As used in this section, "qualified public entity" means any state agency, institution of the Commonwealth or statewide authority created under the laws of the Commonwealth having an internal or external public funds manager with professional investment management capabilities.

(1994, c. 145, § 2.1-328.13; 1997, c. 29; 2001, c. 844.)

**§ 2.2-4512. Investment of funds by State Treasurer in obligations of foreign sovereign governments.**

Notwithstanding any provision of law to the contrary, the State Treasurer may invest unexpended or excess moneys in any fund or account over which he has custody and control, other than sinking funds, in fully hedged debt obligations of sovereign governments and companies that are fully guaranteed by such sovereign governments, with a rating of at least AAA by Moody's Investors Service, Inc., and a rating of at least AAA by Standard and Poors, Inc., and a maturity of no more than five years.

Not more than ten percent of the total funds of the Commonwealth available for investment may be invested in the manner described in this section.

(1988, c. 461, § 2.1-328.11; 2001, c. 844.)

**§ 2.2-4513. Investments by transportation commissions.**

Transportation commissions that provide rail service may invest in, if required as a condition to obtaining insurance, participate in, or purchase insurance provided by, foreign insurance companies that insure railroad operations.

(1988, c. 834, § 2.1-328.12; 2001, c. 844.)

**§ 2.2-4514. Commonwealth and its political subdivisions as trustee of public funds; standard of care in investing such funds.**

Public funds held by the Commonwealth, public officers, municipal corporations, political subdivisions, and any other public body of the Commonwealth shall be held in trust for the

citizens of the Commonwealth. Any investment of such funds pursuant to the provisions of this chapter shall be made solely in the interest of the citizens of the Commonwealth and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(1996, c. 437, § 2.1-328.14; 2001, c. 844.)

**§ 2.2-4515. Collateral and safekeeping arrangements.**

Securities purchased pursuant to the provisions of this chapter shall be held by the public official, municipal corporation or other political subdivision or public body or its custodial agent who may not otherwise be a counterparty to the investment transaction. Securities held on the books of the custodial agent by a custodial agent shall be held in the name of the municipal corporation, political subdivision or other public body subject to the public body's order of withdrawal. The responsibilities of the public official, municipal corporation, political subdivision or other public body shall be evidenced by a written agreement that shall provide for delivery of the securities by the custodial agent in the event of default by a counterparty to the investment transaction.

As used in this section, "counterparty" means the issuer or seller of a security, an agent purchasing a security on behalf of a public official, municipal corporation, political subdivision or other public body or the party responsible for repurchasing securities underlying a repurchase agreement.

The provisions of this section shall not apply to (i) investments with a maturity of less than thirty-one calendar days or (ii) the State Treasurer, who shall comply with safekeeping guidelines issued by the Treasury Board or to endowment funds invested in accordance with the provisions of the Uniform Prudent management of Institutional Funds Act, Article 1.1 (§ 55-268.1 et seq.) of Chapter 15 of Title 55.

(1988, c. 834, § 2.1-329.01; 2001, c. 844; 2008, c. 184.)

**§ 2.2-4516. Liability of treasurers or public depositors.**

When investments are made in accordance with this chapter, no treasurer or public depositor shall be liable for any loss there from in the absence of negligence, malfeasance, misfeasance, or nonfeasance on his part or on the part of his assistants or employees.

(1979, c. 135, § 2.1-329.1; 2001, c. 844.)

**§ 2.2-4517. Contracts on interest rates, currency, cash flow or on other basis.**

A. Any state entity may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the state entity, as represented by bonds or investments, in whole or in part, on the interest rate cash flow or other basis desired by the state entity. Such contract or other arrangement may include contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the state entity in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the state entity, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by a nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board, the governing body of the state entity or any public funds manager with professional investment capabilities duly authorized by the Treasury Board or the governing body of any state entity authorized to issue such obligations to make such determinations.

As used in this section, "state entity" means the Commonwealth and all agencies,

authorities, boards and institutions of the Commonwealth.

- B. Any money set aside and pledged to secure payments of bonds or any of the contracts entered into pursuant to this section may be invested in accordance with this chapter and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to this section.

(2002, c. 407.)

**§ 2.2-4518. Investment of funds in certificates of deposit.**

- A. Notwithstanding any provision of law to the contrary, the Commonwealth and all public officers, municipal corporations, other political subdivisions, and all other public bodies of the Commonwealth, each referred to in this section as a "public entity," may invest any or all of the moneys belonging to them or within their control in accordance with the following conditions:

- 1) The moneys are initially invested through any federally insured bank or savings institution selected by the public entity that is qualified by the Virginia Treasury Board to accept public deposits;
- 2) The selected bank or savings institution arranges for the deposit of the moneys in certificates of deposit in one or more federally insured banks or savings institutions wherever located, for the account of the public entity;
- 3) The full amount of principal and any accrued interest of each such certificate of deposit are covered by federal deposit insurance;
- 4) The selected bank or savings institution acts as custodian for the public entity with respect to such certificates of deposit issued for the public entity's account; and
- 5) At the same time that the public entity's moneys are deposited and the certificates of deposit are issued, the selected bank or savings institution receives an amount of deposits from customers of other financial institutions wherever located equal to or greater than the amount of moneys invested by the public entity through the selected bank or savings institution.

- B. Moneys arranged to be invested by the selected bank or savings institution in certificates of deposit in one or more federally insured banks or savings institutions wherever located, for the account of the public entity in accordance with the conditions prescribed in subsection A shall not be subject to the provisions of Chapter 44 (§ 2.2-4400 et seq.), § 2.2-4515, or any security or collateral requirements that may otherwise be applicable to the investment or deposit of public moneys by government investors.

(2008, c. 103.)

CHAPTER 46  
LOCAL GOVERNMENT INVESTMENT POOL ACT

**§ 2.2-4600. Short title; definitions.**

This chapter may be cited as the "Local Government Investment Pool Act."  
(1980, c. 538, §§ 2.1-234.1, 2.1-234.3; 1996, c. 77; 2001, c. 844.)

**§ 2.2-4601. Findings and purpose.**

- A. The General Assembly finds that the public interest is served by maximum and prudent investment of public funds so that the need for taxes and other public revenues is decreased commensurately with the earnings on such investments. In selecting among avenues of investment, the highest rate of return, consistent with safety and liquidity, shall be the objective.
- B. The purpose of this chapter is to secure the maximum public benefit from the investment of public funds, and, in furtherance of such purposes to:
  - 1) Establish and maintain a continuing statewide policy for the deposit and investment of public funds;
  - 2) Establish a state-administered pool for the investment of local government funds; and
  - 3) Authorize treasurers or any other person collecting, disbursing, or otherwise handling public funds to invest such public funds either in accordance with Chapter 45 (§ 2.2-4500 et seq.) of this title or through the local government investment pool created by the chapter.
- C. The General Assembly finds that the objectives of this chapter will best be obtained through improved money management, emphasizing the primary requirements of safety and liquidity and recognizing the different investment objectives of operating and permanent funds.  
(1980, c. 538, § 2.1-234.2; 2001, c. 844.)

**§ 2.2-4602. Local government investment pool created.**

- A. A local government investment pool is created, consisting of the aggregate of all funds from local officials handling public funds that are placed in the custody of the State Treasurer for investment and reinvestment as provided in this chapter.
- B. The Treasury Board or its designee shall administer the local government investment pool on behalf of the participating local officials subject to regulations and guidelines adopted by the Treasury Board.
- C. The Treasury Board or its designee shall invest moneys in the local government investment pool with the degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived. Specifically, the types of authorized investments for local government investment pool assets shall be limited to those set forth for local officials in Chapter 45 (§ 2.2-4500 et seq.) of this title.
- D. A separate account for each participant in the fund shall be kept to record individual transactions and totals of all investments belonging to each participant. A monthly report showing the changes in investments made during the preceding month shall be furnished to each participant having a beneficial interest in the local government investment pool. Details of any investment transaction shall be furnished to any participant upon request.
- E. The Treasury Board or its designee shall administer and handle the accounts in the same manner as bond and sinking fund trust accounts.
- F. The principal and accrued income, and any part thereof, of each and every account

maintained for a participant in the local government investment pool shall be subject to payment at any time from the local government investment pool upon request, subject to applicable regulations and guidelines. Accumulated income shall be remitted or credited to each participant at least quarterly.

- G. Except as provided in this section, all instruments of title of all investments of the local government investment pool shall remain in the custody of the State Treasurer. The State Treasurer may deposit with one or more fiscal agents or banks, those instruments of title he considers advisable, to be held in safekeeping by the agents or banks for collection of the principal and interest or other income, or of the proceeds of sale. The State Treasurer shall collect the principal and interest or other income from investments of the investment pool, the instruments of title to which are in his custody, when due and payable.

(1980, c. 538, § 2.1-234.8; 1984, c. 320; 1988, c. 834; 2001, c. 844.)

**§ 2.2-4603. Investment authority.**

Subject to the procedures set forth in this chapter, any local official handling public funds may invest and reinvest any money subject to his control and jurisdiction in the local government investment pool established by § 2.2-4602.

(1980, c. 538, § 2.1-234.4; 1988, c. 834; 2001, c. 844.)

**§ 2.2-4604. Interfund pooling for investment purposes.**

Local officials handling public funds may effect temporary transfers among separate funds for the purpose of pooling amounts available for investment. This pooling may be accomplished through interfund advances and other appropriate means consistent with recognized principles of governmental accounting provided that (i) moneys are available for the investment period required; (ii) the investment fund can repay the advance by the time needed; (iii) the transactions are fully and promptly recorded; and (iv) the interest earned is credited to the loaning or advancing jurisdiction.

(1980, c. 538, § 2.1-234.6; 1981, c. 583; 2001, c. 844.)

**§ 2.2-4605. Powers of Treasury Board relating to the administration of local government investment pool.**

A. The Treasury Board shall have power to:

- 1) Make and adopt regulations necessary and proper for the efficient administration of the local government investment pool hereinafter created, including but not limited to:
  - a) Specification of minimum amounts that may be deposited in the local government investment pool and minimum periods of time for which deposits shall be retained in such pool;
  - b) Creation of a reserve for losses;
  - c) Payment of administrative expenses from the earnings of such pool;
  - d) Distribution of the earnings in excess of such expenses, or allocation of losses, to the several participants in a manner that equitably reflects the differing amounts of their respective investments and the differing periods of time for which such amounts were in the custody of the pool; and
  - e) Procedures for the deposit and withdrawal of funds.
- 2) Develop guidelines for the protection of the local government investment pool in the event of default in the payment of principal or interest or other income of any investment of such pool, such guidelines to include the following procedures:
  - a) Instituting the proper proceedings to collect the matured principal or interest or other income;
  - b) Accepting for exchange purposes refunding bonds or other evidences of indebtedness at appropriate interest rates;

- c) Making compromises, adjustments, or disposition of matured principal or interest or other income as considered advisable for the purpose of protecting the moneys invested;
  - d) Making compromises or adjustments as to future payments of principal or interest or other income considered advisable for the purpose of protecting the moneys invested.
- 3) Formulate policies for the investment and reinvestment of funds in the local government investment pool and the acquisition, retention, management, and disposition of investments of the investment pool.
- B. The Treasury Board may delegate the administrative aspects of operating under this chapter to the State Treasurer, subject to the regulations and guidelines adopted by the Treasury Board.
- C. Such regulations and guidelines may be adopted without complying with the Administrative Process Act (§ 2.2-4000 et seq.) provided that input is solicited from local officials handling public funds. Such input requires only that notice and an opportunity to submit written comments be given.
- (1980, c. 538, § 2.1-234.7; 2001, c. 844.)

**§ 2.2-4606. Chapter controlling over inconsistent laws; powers supplemental.**

Insofar as the provisions of this chapter are inconsistent with the provisions of any other law, the provisions of this chapter shall be controlling and the powers conferred by this chapter shall be in addition and supplemental to the powers conferred by any other law.

(1980, c. 538, § 2.1-234.9; 2001, c. 844.)

CHAPTER 47  
GOVERNMENT NON-ARBITRAGE INVESTMENT ACT

**§ 2.2-4700. Authorization to Treasury Board to provide certain assistance.**

- A. This chapter shall be known, and may be cited, as the "Government Non-Arbitrage Investment Act."
- B. The General Assembly authorizes the Treasury Board to make available to the Commonwealth, to counties, cities and towns in the Commonwealth, and to their agencies, institutions, and authorities or any combination of the foregoing assistance as provided in this chapter in making and accounting for such investments.
- (1988, c. 498, § 2.1-234.9:1; 1990, c. 516; 1991, c. 245; 2001, c. 844.)

**§ 2.2-4701. Definitions.**

As used in this chapter, unless the context requires a different meaning:

"Bonds" means bonds or other obligations issued by the Commonwealth, by counties, cities and towns, and by their agencies, institutions, and authorities or by any combination of the foregoing under the provisions of the Public Finance Act (§ 15.2-2600 et seq.), or otherwise, the interest on which is intended to be excludable from the gross income of the recipients thereof for federal income tax purposes.

"Depository institution" means any commercial bank, trust company, or savings institution insured by an agency or instrumentality of the United States government.

"Issuers" means the Commonwealth, counties, cities and towns in the Commonwealth, and their agencies, institutions, and authorities.

"Official handling public funds" or "official" means the treasurer of the issuer or, if there is no officer known as treasurer of the issuer, the chief financial officer of the issuer, and any person or entity described in § 58.1-3123.

(1988, c. 498, § 2.1-234.9:2; 1990, c. 516; 1991, c. 245; 1996, c. 77; 2001, c. 844.)

**§ 2.2-4702. Powers of the Treasury Board under this chapter.**

The Treasury Board shall have power to:

1. Provide assistance to issuers in the management of and accounting for their funds, including, without limitation, bond proceeds, reserves and sinking funds, and the investment thereof, any portion of the investment earnings on which is or may be subject to rebate to the federal government.
2. Manage, acquire, hold, trade and sell investment obligations, for and on behalf of issuers or a pool or pools, and not for its own account, that are authorized investments for issuer bond proceeds, reserves, sinking funds or other funds, as the case may be.
3. Establish one or more pools of the issuer bond proceeds, reserves, sinking funds or other funds that are placed in the custody of the State Treasurer for investment and reinvestment in authorized investments.
4. Adopt regulations necessary and proper for the efficient administration of the pools authorized by this chapter without complying with the Administrative Process Act (§ 2.2-4000 et seq.), provided that notice and an opportunity to submit written comments on such regulations be given to officials handling public funds.
5. Formulate policies for the investment and reinvestment of funds under management, including funds in the pool or pools, and the acquisition, retention, management and disposition of investments.
6. Delegate the administration of this chapter to the State Treasurer, subject to the regulations and guidelines adopted by the Treasury Board.
7. Retain employees and engage and enter into contracts with independent investment managers, accountants, counsel, depository institutions and other advisors and agents, as may be necessary or convenient.
8. Enter into contracts with issuers with respect to the performance of investment services.
9. Charge issuers for the costs of its investment services and for its expenses.
10. Do any and all other acts and things necessary, appropriate or incidental in carrying out the purposes of this chapter.

(1988, c. 498, § 2.1-234.9:3; 1990, c. 516; 2001, c. 844.)

**§ 2.2-4703. Powers of issuers.**

Any provision of any general or special law or of any charter to the contrary notwithstanding, issuers may use the investment services of the Treasury Board and for that purpose may enter into contracts with the Treasury Board and its agents.

(1988, c. 498, § 2.1-234.9:4; 1990, c. 516; 2001, c. 844.)

**§ 2.2-4704. Alternative method.**

This chapter shall be deemed to provide an additional, alternative method for the performance of actions authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as in derogation of any powers now existing.

(1988, c. 498, § 2.1-234.9:5; 2001, c. 844.)

**§ 2.2-4705. Liberal construction; inconsistent laws inapplicable.**

- A. This chapter, being necessary for the welfare of the people of the Commonwealth, shall be liberally construed to effect the purposes thereof.
- B. Insofar as the provisions of this chapter are inconsistent with the provisions of any general or special laws or charters, or parts thereof, the provisions of this chapter shall control.

(1988, c. 498, §§ 2.1-234.9:6, 2.1-234.9:7; 2001, c. 844.)

## Treasurers

**§ 58.1-3149. Money received to be deposited.** - All money received by a treasurer for the account of either the Commonwealth or the treasurer's county or city shall be deposited intact by the treasurer as promptly as practical after its receipt in a bank or savings institution authorized to act as depository therefore. All deposits made pursuant to this provision shall be made in the name of the treasurer's county or city. The treasurer may designate any bank or savings and loan association authorized to act as a depository to receive any payments due to the county or city directly, either through a processing facility or through a branch office. ((Code 1950, § 58-939; 1975, c. 20.; 1984, c. 675; 1996, c. 77.) **The 1996 amendment** substituted "savings institution" for "savings and loan association" near the end of the first sentence.

**§ 58.1-3150. Duties of depository officers.** - No treasurer or executive officer of any depository shall permit any public deposit to remain in any depository which is not a "qualified public depository" as defined in §2.1-360 (b) and which is not secured pursuant to the Virginia Security for Public Deposits Act (§2.1-359 et seq.). (Code 1950, § 58-948; 1984, c. 675; 1996, cc. 364, 390.)

**The 1996 amendments.** - The 1996 amendments by cc. 364 and 390 are identical, and rewrote the section which formerly read; "No treasurer or executive officer of any depository shall permit the amount of money on deposit with any depository at any time pursuant to the provisions of this article to exceed the amount of bond given or the value of the securities pledged and deposited to secure such money, plus the amount insured by the Federal Insurance Deposit Corporation."

**§ 58.1-3151. County finance board.** - Each county of the Commonwealth may establish a county finance board, which shall consist of the chairman of the governing body of the county, the treasurer of the county and a citizen of the county of proven integrity and business ability. The citizen member shall be appointed by the circuit court of the county. However, in any county adjoining any county having a population of more than 500 per square mile the county finance board shall consist of the chairman of the governing body, the treasurer, the attorney for the Commonwealth and a citizen of the county of proven integrity and business ability. The citizen member thereof shall be appointed by the circuit court of the county or by the judge thereof in vacation. The term of the citizen member shall be four years, but the circuit court of the county may remove for cause any such member and appoint some other qualified citizen of the county in his stead for the unexpired portion of his term.

The governing body of any county which has a county finance board established under the provisions of this section may by ordinance duly adopted abolish the finance board, whereupon all authority, powers, and duties of the finance board shall vest in the governing body. (Code 1950, § 58-940; 1954, c. 587; 1984, c. 675.)

**§ 58.1-3152. Organization and procedure of board.** - The chairman of the governing body of the county shall be the chairman of the county finance board and the clerk of the governing body shall be ex officio clerk thereof. The board shall meet at such times and at such places as the chairman or a majority of the members of the board may decide. The clerk shall record the activities and proceedings of such board in a suitable record book which shall be provided for such purpose by the governing body. (Code 1950, § 58-941; 1984, c. 675.)

**§ 58.1-3153. Compensation for the citizen member of the county finance board.** - The citizen member of the county finance board may in the discretion of the governing body of

the county receive for each day's attendance as a member of the board a sum not less than twenty dollars and such reimbursement for his daily mileage as prescribed in §14.1-5. The allowance made under this section shall be paid by the governing body out of county funds, on a certificate of attendance from the chairman of the county finance board, verified by the written statement of the citizen member as to mileage traveled in going to and returning from the meeting. The total compensation paid under this section shall not exceed \$360, in addition to the mileage allowance, in any one year. (Code 1950, § 58-942; 1952, c. 630; 1974, c. 6; 1976, c. 308; 1984, c. 675.)

**§ 58.1-3154. Selection and approval of depositories.** - The depository or depositories for the money received by a county treasurer shall be selected pursuant to the provisions of the Virginia Security for Public Deposits Act (§2.1-359 et seq.). (Code 1950, § 58-943; 1984, c. 675.)

**§ 58.1-3155. Deposit of local funds in banking institutions outside of the Commonwealth to meet obligations payable outside of the Commonwealth.** - Notwithstanding other provisions of this article the treasurer of any county, city or town may if the State Commission on Local Debt gives prior approval, deposit local funds in banking institutions outside of the Commonwealth. Such institutions, which shall be designated by the commission, shall give such security as the commission deems proper and shall meet such other conditions as the commission prescribes. All such deposits shall be limited to the sums reasonable necessary to pay principal or interest on obligations of the county, city or town which are payable at some place outside the commonwealth and where any such banking institution is located. (Code 1950, § 58-943.1; 1950, p.410; 1984, c. 675.)

**§ 58.1-3156. County finance boards may direct treasurer to invest under certain circumstances.** - Notwithstanding other provisions of this article, whenever the county finance board determines that county or district funds would otherwise draw no interest or draw a lesser rate of interest, the finance board may direct the county treasurer to invest such funds in accordance with guidelines issued by the State Treasurer. ( Code 1950, § 58-943.2, 1954, c. 498; 1974, c. 224; 1984, c. 675; 1988, c. 834.)

**§ 58.1-3158. Duties of treasurers.** - No treasurer shall permit any public deposit to be deposited with any depository unless it is a "qualified public depository" as defined in § 2.1-360(b). All such deposits shall be secured pursuant to the Virginia Security for Public Deposits Act (§2.1-359 et seq.). (Code 1950, § 58-944; 1956, c. 84; 1958, c. 442; 1966, c. 498; 1984, c. 675; 1996, cc. 364, 390.)

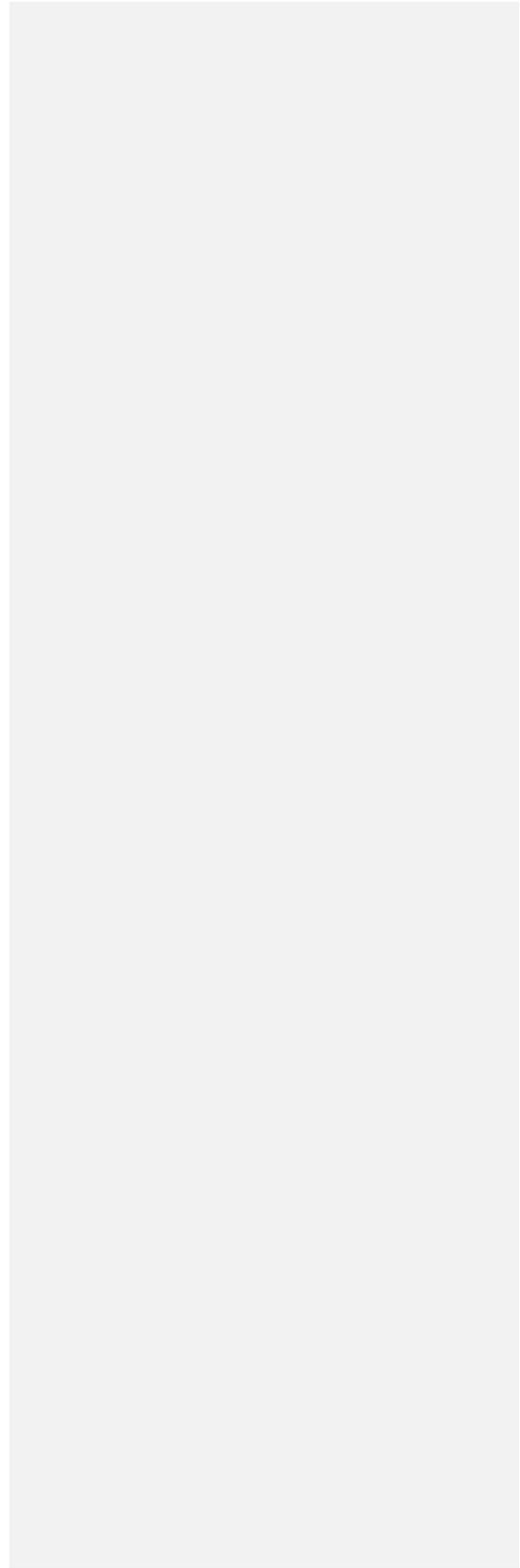
The 1996 amendments by cc. 364 and 390 are identical, and rewrote the section, which formerly read: "No money received by a treasurer shall be deposited with any depository until such depository has given bond with the same conditions as those required for bonds given by state depositories who elect to give bond to protect money deposited with them by the State Treasurer pursuant to the provisions of §§ 2.1-211 to 2.1-214 or until such depository has qualified under § 2.1-239 et seq."

**§ 58.1-3160. Monthly report of treasurer to board.** - At the end of each month each county treasurer shall report to the county finance board the amount of money on deposit with each depository. (Code 1950, § 58-949, 1984, c. 675.)

**§ 58.1-3161. Interest on deposits.** - Each depository of each county shall, in the discretion of the county finance board, pay interest on money deposited under the provisions of this article. The rate of such interest shall be agreed upon by the treasurer and the depository subject to the approval of the county finance board if it so desires. (Code 1950, § 58-950;

| 1984, c. 675.)

DRAFT



**Broker/Dealer Investment Policy Confirmation**  
**The Investment Policy for the Northern Virginia Transportation Authority**  
**(Effective December 11, 2014)**

Name of Firm/Bank/Broker/Dealer:

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I acknowledge that I have received and reviewed the Investment Policy of the Northern Virginia Transportation Authority. I have read and understand the policy and am aware of the Code of Virginia with respect to municipal investment statutes, as included as an appendix to the Investment Policy. Further, I have insured that other personnel, who may conduct business with the Authority from time to time, are aware of the Policy and its provisions. In my dealings with the Authority, I will, at all times, follow the guidelines as presented in the Investment Policy.

I certify that I am authorized to represent and commit my firm to this acknowledgement.

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_