

Meeting No. 1,022

THE MINUTES OF THE BOARD OF REGENTS
OF
THE UNIVERSITY OF TEXAS SYSTEM

Pages 1 - 24

October 12, 2007

Austin, Texas

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 OF
 THE UNIVERSITY OF TEXAS SYSTEM
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MEETING NO. 1,022

FRIDAY, October 12, 2007.--The members of the Board of Regents of The University of Texas System convened this special called meeting at 9:07 a.m. on Friday, October 12, 2007, on the Ninth Floor, Ashbel Smith Hall, 201 West Seventh Street, Austin, Texas, with the following participation:

ATTENDANCE.--

Present

Chairman Huffines, presiding
Vice Chairman Clements
Vice Chairman Krier (for afternoon session)
Vice Chairman Caven
Regent Barnhill
Regent Camarillo
Regent Craven
Regent Estrada
Regent McHugh
Regent Rowling

CONVENE JOINT MEETING: BOARD OF REGENTS AND THE UNIVERSITY OF TEXAS INVESTMENT MANAGEMENT COMPANY (UTIMCO) BOARD OF DIRECTORS.--At 9:08 a.m., in accordance with a notice being duly posted with the Secretary of State and there being a quorum of both Boards present, Chairman Huffines and Vice Chairman Caven, Chairman of the Board of Directors of The University of Texas Investment Management Company (UTIMCO), convened the annual joint meeting of The University of Texas System Board of Regents and the UTIMCO Board of Directors.

1. U. T. System Board of Regents: Introduction and welcome to The University of Texas Investment Management Company (UTIMCO) Board of Directors

Chairman Huffines and Vice Chairman Caven, Chairman of the Board of Directors of The University of Texas Investment Management Company (UTIMCO), welcomed the following members of the UTIMCO Board and staff:

UTIMCO Directors

Chairman H. Scott Caven, Jr.
Vice-Chairman Robert B. Rowling
Vice-Chairman for Policy Mark G. Yudof
Mr. Clint D. Carlson

Mr. J. Philip Ferguson
Ms. Colleen McHugh
Mr. Ardon E. Moore
Mr. Erle Nye
Mr. Charles W. Tate

The University of Texas System Staff

Mr. Philip Aldridge, Associate Vice Chancellor for Finance
Mr. William Huang, Senior Financial Analyst
Mr. Barry Burgdorf, Vice Chancellor and General Counsel
Mr. James Phillips, Senior Attorney, Office of General Counsel
Ms. Karen Lundquist, Attorney, Office of General Counsel
Ms. Francie Frederick, General Counsel to the Board of Regents
Mr. Charles Chaffin, Director of Internal Audit
Ms. Amy Barrett, Assistant Director of Internal Audit

UTIMCO Management

Mr. Bruce Zimmerman, Chief Executive Officer and Chief Investment Officer
Ms. Cathy Iberg, President and Deputy Chief Investment Officer (did not attend)
Ms. Cecilia Gonzalez, Internal General Counsel
Mr. Lindel Eakman, Managing Director, Private Markets
Mr. Bill Edwards, Managing Director, Information Technology
Ms. Joan Moeller, Managing Director, Accounting, Finance and Administration
Mr. Uzi Yoeli, Director, Portfolio Risk Management
Ms. Christy Wallace, Executive Assistant

UTIMCO Board Advisors and Consultants

Dr. Keith Brown, Advisor to the Chairman, Fayez Sarofim Fellow and Professor of Finance, Red McCombs School of Business, U. T. Austin
Mr. Jerry Turner, General Counsel, Vinson & Elkins LLP (did not attend)
Mr. Bruce Myers, Investment Consultant, Cambridge Associates LLC
Mr. Tom Wagner, Audit Partner, Deloitte & Touche LLP (did not attend)
Mr. Gifford Fong, President, Gifford Fong Associates (did not attend)

Mr. Gregory R. Anderson, Associate Vice Chancellor and Treasurer, The Texas A&M University System, was also in attendance at the meeting. Chairman Huffines reminded members of both Boards that this is the third joint meeting. The joint meeting is a result of the recommendations from U. T. System staff adopted by the Board of Regents on April 29, 2004, and is included in the UTIMCO bylaws. Mr. Huffines stated that significant changes in policy have been made in the last three years, including the following accomplishments:

- a. Improvements in oversight responsibilities, investment policies, and the Investment Management Services Agreement (IMSA) between the Board of Regents and UTIMCO, with clear language concerning roles and responsibilities;

- b. The creation of a formal process for selecting new UTIMCO external directors and a more comprehensive listing of Board of Regents' expectations for new UTIMCO directors (reference Pages 4 - 8);
 - c. The creation of a UTIMCO Risk Committee chaired by Mr. Charles Tate, which is part of an overall enhanced focus on risk management;
 - d. The posting of all UTIMCO policies, UTIMCO Board Minutes, and Committee Charters on the UTIMCO Web site;
 - e. The completion of a definitive five-year UTIMCO Total Investment Management Cost Effectiveness Study, circulated in February 2007, to be discussed later today (October 12) by Executive Vice Chancellor Kelley (see Item 5 on Page 10); and
 - f. The decision by UTIMCO to hire an internal general counsel and an independent chief compliance officer.
2. U. T. System Board of Regents: Report on legislation and legal issues: Master Investment Management Services Agreement (IMSA); Board of Regents' Expectations of UTIMCO Directors; and Uniform Prudent Management of Institutional Funds Act (UPMIFA)

Vice Chancellor and General Counsel Barry Burgdorf discussed the highlights of the current Master Investment Management Services Agreement (IMSA) with The University of Texas Investment Management Company (UTIMCO), referencing the Board of Regents' Expectations for Appointees to the UTIMCO Board of Directors set forth on Pages 4 - 8, which served as background information for this discussion.

Ms. Cecilia Gonzalez, Internal General Counsel to UTIMCO, summarized issues related to the Uniform Prudent Management of Institutional Funds Act (UPMIFA), which adopts the prudent investor standard of the Prudent Investor Act with a few exceptions and addresses investment of institutional funds and endowment spending.

U. T. System Board of Regents Expectations for Appointees to the UTIMCO BOARD OF DIRECTORS

Overview of UTIMCO

The University of Texas Investment Management Company (“UTIMCO”), a Texas nonprofit corporation qualified as a tax-exempt entity under Section 501(c)(3) of the Internal Revenue Code, was created for the sole purpose of managing the investment of funds under the control and management of the Board of Regents of The University of Texas System pursuant to authorization provided in Section 66.08 of the *Texas Education Code* (the “UTIMCO statute”). UTIMCO manages more than \$23.7 billion in total assets, comprised of approximately \$18.4 billion in endowment funds, including the Permanent University Fund (PUF), Permanent Health Fund (PHF), Long Term Fund (LTF), and Separately Invested Funds, and more than \$5.3 billion in centralized operating funds.

The corporate activities of UTIMCO are managed by its Board of Directors (the “UTIMCO Board”), subject to the Master Investment Management Services Agreement (“IMSA”) between UTIMCO and the Board of Regents, the applicable provisions of the Board of Regents’ *Rules and Regulations*, the UTIMCO statute, UTIMCO’s Articles of Incorporation and Bylaws, and other applicable law.

The Chancellor of the U. T. System serves as the Vice Chairman for Policy.

- The Chancellor is charged by the UTIMCO Bylaws with coordination of responsibilities, including the appropriate resolution of policy issues, assigned to UTIMCO and to the U. T. System by the Regents’ *Rules* to ensure implementation of UTIMCO’s performance of core investment duties.
- The IMSA between the U. T. System Board of Regents and UTIMCO provides that unless otherwise provided in writing by the U. T. Board, “UTIMCO shall look to the Chancellor to provide primary oversight and management concerning relations with the media, legal issues that implicate policies of the U. T. Board other than the Investment Policies, public disclosure of information and intergovernmental relations. Except for the foregoing matters, the UTIMCO Board of Directors and the CEO of UTIMCO shall be responsible for making all decisions necessary to implement the Investment Policies. The CEO of UTIMCO shall confer with the Chancellor on the above-mentioned matters where the Chancellor has primary oversight and management and on other matters that may implicate broader policies of the U. T. Board.”
- The Regents’ *Rules*, Series 20101 and Series 70401 provide additional detail on these duties.

Qualifications and Terms

Pursuant to the UTIMCO statute, the UTIMCO Board consists of nine (9) members. The Chancellor of the U. T. System serves as a Director. The other members of the UTIMCO Board are appointed by the Board of Regents and must include at least three (3) current members of the Board of Regents and one person selected by the Board of Regents from a list of candidates with substantial expertise in investments submitted by the Board of Regents of

the Texas A&M University System. Pursuant to the UTIMCO bylaws approved by the Board of Regents, the three (3) Regental Directors serve two-year terms that expire on the first day of April of each odd-numbered year, and the external Directors serve three-year staggered terms that expire on the first day of April of the appropriate year. No external Director may serve more than three (3) full three-year terms. Any UTIMCO Director may be removed as a Director by the Board of Regents with or without cause and at any time.

Operations and Resources

The UTIMCO Board has delegated primary responsibility for certain functions to key chartered Board Committees:

1. Audit and Ethics Committee (Appointments approved by the Board of Regents)
2. Compensation Committee
3. Policy Committee
4. Risk Committee

U. T. System Administration staff provide oversight through the Office of Business Affairs, including the Office of Finance; the Office of General Counsel; Internal Audit; the System-wide Compliance Officer; and the General Counsel to the Board of Regents. UTIMCO Directors also have the benefit of professional independent consultants, including:

1. Investment consultants (Cambridge Associates);
2. Outside legal counsel (Vinson & Elkins);
3. Compensation consultants (Mercer Human Resources Group);
4. External auditors (Deloitte & Touche LLP);
5. Dr. Keith Brown, Professor of Finance at U. T. Austin, Advisor to the Chairman of the UTIMCO Board; and
6. Risk consultant (Gifford Fong Associates).

Duties and Responsibilities

By statute and charter, as a fiduciary under the IMSA, UTIMCO is dedicated to the sole purpose of investing funds under the management and control of the Board of Regents. In practice, the fiduciary duties of UTIMCO Directors are focused on the fulfillment of the Board of Regents' investment policy directives. As Directors of a nonprofit corporation, UTIMCO Directors' fiduciary duties also include:

1. Duty of care in prudently managing the corporation's investment management and other affairs;
2. Duty of loyalty, requiring the avoidance of conflicts of interest; and
3. Duty to avoid conduct that exceeds the chartered powers of the corporation.

Investment Management Responsibilities: The Board of Regents is the ultimate fiduciary responsible for all matters relating to the investment of the funds under its control, in accordance with the "prudent investor" standard of care established by the Texas Constitution, Texas Education Code, and other applicable law. This standard provides that the Board of Regents, in making investments, may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions it establishes and in amounts it considers appropriate, any kind of investment that prudent investors, exercising reasonable

care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

The Board of Regents delegates to UTIMCO as its fiduciary, under the management of the UTIMCO Board, authority to act for the Board of Regents in the investment of those funds, subject to limitations and restrictions articulated through the IMSA; the Board of Regents' investment policies; and other applicable laws, rules, and agreements. The UTIMCO Board's investment management authority, thus derived, includes the following investment management responsibilities:

- Review of the U. T. Board's current Investment Policies for each Fund at least annually by June 1 of each year. Such review shall include distribution (spending) guidelines, long-term investment return expectations and expected risk levels, asset allocation targets and ranges for each eligible asset class, expected returns for each asset class and fund, designated performance benchmarks for each asset class and such other matters as the U. T. Board or its staff designees may request.
- After UTIMCO completes its assessment, UTIMCO must forward any recommended changes to U. T. System staff for review and appropriate action.
- Oversee the investment management process pursuant to the Investment Policies. Such oversight shall include without limitation the development of an investment outlook based on global economic and capital market forecasts, the rebalancing of allocations to each asset class within ranges in response to changes in the investment outlook, and the selection of a combination of portfolio managers to construct portfolios designed to generate the expected returns of each asset class.
- Monitor and report on investment performance for each of the Funds. With respect to all Funds other than the SIFs, such responsibilities shall include the calculation and evaluation of investment returns for each asset class and individual Fund portfolio against approved benchmarks over various periods of time, and the periodic review of performance benchmarks. With respect to all Funds, such responsibilities shall also include the reporting of investment performance of such specific Funds as may be requested by the U. T. Board, and the reporting to regulatory agencies and others regarding investments under management to the extent required by applicable law.
- Develop and implement a risk management system to measure and monitor overall portfolio derivative exposure, risk levels, liquidity, and leverage.
- Monitor and enforce compliance with all investment and other policies and applicable law.
- Monitor termination of external managers in accordance with Delegation of Authority Policy and investment policies.

Some investment management responsibilities delegated to UTIMCO, including but not limited to the following, are expressly subject to Board of Regents approval:

- Analyze and recommend investment strategies for U. T. System funds managed by UTIMCO, including asset allocation targets, ranges, and performance benchmarks for each asset class (Exhibit A of the Fund Investment Policy Statements).
- Consider and recommend investments not covered by investment policy statements.

- Select one or more Custodians, each of which shall be approved by the U. T. Board, which shall also enter into or approve each agreement with the Custodian(s).
- Select, engage, and evaluate External Auditor(s) for the funds.
- Review and propose amendments to Board of Regents' policies related to the investment management of the U. T. System funds, including (not limited to):
 1. Investment Policy Statements for all U. T. System funds.
 2. Distribution (spending) guidelines, rates, and amounts as required.
 3. Liquidity Policy.
 4. Derivative Policy.

Corporate Governance Responsibilities: The UTIMCO Board manages the activities of the corporation, providing the primary governance and oversight of the CEO, other professionals employed by UTIMCO, and outside investment managers with whom funds have been invested. Management oversight responsibilities of the UTIMCO Board or UTIMCO Board Committees include the following:

- Monitor actual staffing, operating, and capital expenditures relative to approved budgets.
- Monitor compliance with the Delegation of Authority policy.
- Consider and approve actions outside the authority delegated to the CEO as required.
- Select, engage, and evaluate UTIMCO's outside counsel, custodian(s), external auditor(s) for the corporation, investment consultant(s) and risk consultant(s).
- Ensure compliance with UTIMCO's Code of Ethics, including conflict of interest policies and applicable law.
- Develop and administer a compensation plan, consistent with current regulations for determining reasonable compensation, to attract and retain high caliber investment professionals and support staff. With the exception of changes to the appendices, the Compensation Plan is subject to approval by the Board of Regents.
- Appoint, supervise, evaluate and compensate UTIMCO's CEO.
- Evaluate investment results against incentive compensation plan performance objectives; approve and recommend bonus compensation for UTIMCO's officers.
- Review and approve committee charters.
- Assure establishment and implementation of legally compliant and administratively effective personnel policies.
- Oversee implementation of accounting principles, policies, internal financial controls, and reporting in the spirit of the Sarbanes-Oxley Act.
- Oversee implementation of public disclosures in compliance with the Texas Public Information Act and other applicable law, in collaboration with the Chancellor/Vice Chairman for Policy.

Some corporate management responsibilities of the UTIMCO Board, including but not limited to the following, are expressly subject to approval by the Board of Regents:

- Review and approve the proposed annual UTIMCO operating and capital budgets, including incentive compensation, capital expenditures, and management fee allocations.
- Review, approve, and recommend key governance documents such as the Articles of Incorporation, Bylaws, and Code of Ethics.

- Approval of Performance Incentive Awards that will result in an increase of 5% or more of the total performance incentive awards calculated to the approved Performance Incentive Plan contained in the UTIMCO Compensation Program.

Prohibited Transactions -- Conflicts of Interest

The *UTIMCO Code of Ethics* (“Code”) details, among other things, prohibitions on transactions between UTIMCO and entities controlled by UTIMCO Directors, as required by the UTIMCO statute and supplementing the general requirements under the Texas Non-Profit Corporation Act. Amendments to the Code are expressly subject to Board of Regents’ approval.

The Code prohibits any transaction or agreement between UTIMCO and any investment fund or account managed by a UTIMCO Director as a fiduciary or agent for compensation. The Code prohibits agreements or transactions between UTIMCO and a business entity controlled by a UTIMCO Director or in which a UTIMCO Director owns five percent or more of the fair market value of the assets or of the voting stock or from which the director received more than five percent of his or her gross income for the preceding calendar year.

The Code prohibits a UTIMCO Director from investing in the private investments of a business entity in which UTIMCO contemporaneously owns a private investment. The Code also prohibits UTIMCO from investing in the private investments of a business entity in which a UTIMCO Director contemporaneously owns a private investment; provided, however, that a limited exception is available where the UTIMCO Director’s private investment was acquired before the date the director assumed a position on the UTIMCO Board. For this purpose, “private investment” means any debt or equity interest that is not publicly traded, including a private investment in a public company.

Application of the Texas Public Information Act

UTIMCO and its officers, directors and employees are subject to the provisions of the Texas Public Information Act. Corporate documents, correspondence, and emails are subject to public inspection and duplication, unless specifically excepted from disclosure under the Act.

Meeting Requirements

UTIMCO Directors are expected to attend all regularly scheduled Board meetings which are typically held approximately every two months. In addition, special Board meetings may be scheduled from time to time with prior notice. The Texas Open Meetings Act applies to the UTIMCO Board, requiring that all deliberations of a quorum of the Board take place in open meetings after advance notice of the meeting is posted as required by the Act. Committee meetings are held as needed to address specific items within the Committee charters.

*October 1, 2007
Office of the Board of Regents*

3. U. T. System Board of Regents: Report on The University of Texas Investment Management Company (UTIMCO) Board operations and committees

Vice Chairman Caven, Chairman of The University of Texas Investment Management Company (UTIMCO) Board of Directors, discussed changes in UTIMCO staff, including the hiring of Mr. Bruce Zimmerman as Chief Executive Officer. He then introduced the UTIMCO Board Committee Chairmen for remarks:

- Audit and Ethics Committee, Chairman Erle Nye

Mr. Nye spoke about the relationship of this Committee with the Risk Committee, relying on the Risk Committee's assurances with respect to such things as investment risk management and compliance, risk management procedures and controls, models and modeling, and liquidity of the various funds. Chairman Nye said the financials for the period ending August 31, 2006, had been reviewed in the spirit of Sarbanes-Oxley and while that was a good exercise, the Committee does not recommend such review of the financials for this year. Chairman Nye also spoke about Deloitte and Touche LLP replacing Ernst & Young LLP as outside auditor. The Committee recommended the hiring of a chief compliance officer.

- Risk Committee, Chairman Charles W. Tate

Mr. Tate said the Risk Committee responsibilities have been expanded to include oversight of the information technology security systems and working with UTIMCO staff to recommend annually the investment strategy to the whole UTIMCO Board. Chairman Tate commented on the work of Gifford Fong Associates, the risk management consultant, whose letter dated October 2, 2007, was before both Boards. With respect to the investment strategy, Mr. Tate said UTIMCO is a manager of managers, managing managers of assets. He added that while the 18% return for the performance period rate as of June 30, 2007, may be attractive in absolute terms, this lags the top performing endowment of Yale University by 10%; a large opportunity cost to the beneficiaries of the endowment funds. Mr. Tate said the Committee will be reviewing the staff-proposed investment strategy of the investment funds for next year and will present it to the UTIMCO Board of Directors in November and to the U. T. System Board of Regents in December.

Since changes in the asset allocation policy will be recommended in December 2007, Chairman Huffines suggested a new Request for Proposals (RFP) be issued in 12-18 months to perform another external risk assessment of UTIMCO.

- Policy Committee, Chairman Robert B. Rowling

Regent Rowling said the Policy Committee will review the Code of Ethics this year in addition to the investment policy statements.

- Compensation Committee, Chairman J. Philip Ferguson

Chairman Ferguson spoke about the departure of certain UTIMCO staff members, including the Chief Executive Officer/Chief Investment Officer, during the last year and subsequent implementation of a transition compensation plan and a retention incentive plan for key employees. He said individual employee evaluation goals were established and a new, simpler, transparent compensation plan will be in effect for next year (FY 2008-2009) following hiring of a compensation consultant to engage in a new benchmark study.

4. U. T. System Board of Regents: Update regarding The University of Texas Investment Management Company (UTIMCO)

Mr. Bruce Zimmerman, Chief Executive Officer of The University of Texas Investment Management Company (UTIMCO), reported on the UTIMCO organizational structure, corporate performance, investment performance, control environment, reporting/communication enhancements, and investment focus. Mr. Zimmerman said in the coming months UTIMCO staff would focus on enhancing reporting and communication in an effort to be clear and transparent in the information provided to both Boards. He committed to efforts to attract and retain high-caliber professionals, to focus on the investment process, and to seek input in the investment strategy, focusing on real assets and global opportunities.

5. U. T. System Board of Regents: Report on Investment Management Cost Effectiveness

Dr. Scott C. Kelley, Executive Vice Chancellor for Business Affairs, reported on the cost effectiveness of The University of Texas Investment Management Company's (UTIMCO) investment management of The University of Texas System assets. The presentation showed value added and total actual costs for Fiscal Years 2002-2006. The value added by UTIMCO is based on an analysis performed by Cambridge Associates as included in the Agenda materials.

UTIMCO's performance added nearly \$1.13 billion in value during the five fiscal years ending August 31, 2006, net of all investment management costs. Value was added despite the fact that total investment management costs increased 21.4% in Fiscal Year 2006 and have more than doubled as a percent of assets managed since Fiscal Year 2002.

6. U. T. System: Update Regarding Centralization of Operating Funds

Dr. Scott C. Kelley, Executive Vice Chancellor for Business Affairs, provided an update on the centralization of The University of Texas System operating funds, which was implemented on February 1, 2006, including a brief overview of centralization and details on the value added from centralization through the fiscal year ended August 31, 2007.

Executive Vice Chancellor Kelley commended U. T System and The University of Texas Investment Management Company (UTIMCO) staff for their performance particularly during the recent personnel transition. Chairman Huffines also applauded UTIMCO staff, saying that in the last 12 months the added value net of what was done two years ago on the Intermediate Term Fund was almost \$140 million. He compared that to receipt of a \$2.8 billion endowment over the past 12 months with distribution of 5% of the earnings, saying the value added benefits the campuses with more cash flow.

7. U. T. System Board of Regents: Report on Investment Objectives and Performance from The University of Texas Investment Management Company (UTIMCO) Board Investment Consultant

Mr. Bruce Myers, Cambridge Associates LLC, reported on the investment objectives and performance of funds managed by The University of Texas Investment Management Company (UTIMCO) including objectives, performance, policy portfolios, benchmarks, and asset allocation.

Following the presentation, Ms. Natasha Levinsohn, a student at The University of Texas at Austin and a member of The White Rose Society, provided remarks urging the targeted divestment of University of Texas System funds managed by UTIMCO from Sudan, Africa. Ms. Levinsohn's handout titled "Reference packet for address on U. T. divestment from Sudan," is on file in the Office of the Board of Regents.

Mr. Bruce Zimmerman, Chief Executive Officer of UTIMCO, committed to look into the issue of UTIMCO investments in Sudan.

8. U. T. System Board of Regents: Discussion of U. T. System assets managed by The University of Texas Investment Management Company (UTIMCO) in context of U. T. System financial resources

Dr. Scott C. Kelley, Executive Vice Chancellor for Business Affairs, discussed the importance of investment assets in the context of The University of Texas System's overall financial resources, providing an overview of the U. T. System's assets, liabilities, revenues, and expenditures, and the role that assets managed by The University of Texas Investment Management Company (UTIMCO) play in supporting the financial condition of the U. T. System.

Regent Barnhill asked Dr. Kelley how investment income has performed over time as a percentage of the budget since state appropriations have decreased and Mr. Philip Aldridge, Associate Vice Chancellor for Finance, responded the income has increased. Chancellor Yudof said this is based on a \$10.7 billion budget, which includes billing for medical enterprises and \$2 billion for research expenditures. The trend would be the same, he said, but the more realistic way to look at it would be to look at construction costs and isolate that apart from hospitals and physician practice plans.

Chairman Huffines asked how the annual U. T. total for philanthropy of approximately \$600 million stacks against other public universities. He asked Dr. Kelley if the hearings in Washington concerning mandating a 5% distribution from university endowments would impact UTIMCO and Dr. Kelley responded it is conceivable U. T. would be included in the mandated distribution.

9. U. T. System Board of Regents: Report on Investment Strategy

Mr. Bruce Zimmerman, Chief Executive Officer of The University of Texas Investment Management Company (UTIMCO), reported on the investment strategy in anticipation of bringing potential changes to the investment policies to The University of Texas System Board of Regents at the December 2007 meeting. Mr. Zimmerman spoke about increasing transparency and he reviewed strategic investment themes, including global growth and emerging markets, natural resources, and real estate. UTIMCO Director Erle Nye asked if the proposed investment strategy were adopted today, how long would it take to implement and CEO Zimmerman responded about three years depending on consistent, measured commitments of private investments, human resources at UTIMCO, and cyclical headwinds (hot markets). Mr. Zimmerman said he will come back to both Boards with an implementation plan that has targets per year as well as minimums and maximums.

UTIMCO Director Charles W. Tate commented on the one assumption to grow the illiquid asset category, saying the Intermediate Term Fund is a good analogy as campuses were investing excess cash in short-term, liquid assets. He noted that taking the pool of cash and investing it in longer term financial instruments will, because of their longer duration, likely result in higher returns. With the actual cash operating needs of the endowment at 5% per year, he noted that the stringent illiquidity requirements are not necessary and UTIMCO could take a higher percentage of assets and put them in less liquid assets that over time will achieve a higher return. UTIMCO Director J. Philip Ferguson commented on the risk level and, following discussion, UTIMCO Directors asked members of the Board of Regents for guidance on the Board's level of risk tolerance. Chairman Huffines asked those who have ideas to discuss the matter with Mr. Zimmerman.

ADJOURN JOINT MEETING AND CONVENE BOARD OF REGENTS' MEETING.-- Prior to adjourning the joint meeting, Chairman Huffines thanked members of both Boards for their interest and input during the meeting today (October 12) and said he looks forward to next year's meeting and a continued close and productive working relationship throughout the year.

At 1:05 p.m., the joint meeting of The University of Texas System Board of Regents and UTIMCO Board of Directors was adjourned. Chairman Huffines announced the U. T. System Board of Regents would reconvene in Open Session to consider the following Agenda Items.

10. U. T. System Board of Regents: Acceptance of the Brackenridge Tract Task Force Report for further review, approval to discharge the Task Force, and certificate of appreciation

On July 14, 2006, Chairman Huffines, acting on behalf of the Board, announced the establishment of the Brackenridge Tract Task Force and gave the following charge to the Task Force:

The charge to the Task Force is to review and identify facts and issues that impact land held in Travis County by the U. T. System Board of Regents for the benefit of The University of Texas at Austin and known as the Brackenridge Tract. The Task Force is asked to seek input and advice concerning the Board's stewardship of the Brackenridge Tract, to make findings of fact related to the asset, to identify alternatives concerning long-term uses of the Tract, and to make recommendations concerning the best and most prudent ways to utilize the asset to the maximum benefit of The University of Texas at Austin.

Chairman Huffines appointed the following members to the Task Force:

- Mr. Larry E. Temple, Chair
- Dr. Pat L. Clubb
- Mr. Frank W. Denius
- Mr. Jesus Garza (not in attendance at October 12 Board meeting)
- Ms. Dealey Herndon
- Mr. Kevin P. Hegarty
- Dr. Scott C. Kelley
- Mr. Tom Meredith (not in attendance at October 12 Board meeting)
- Mr. C. Patrick Oles, Jr.
- Ambassador Pamela P. Willeford

Chairman Huffines remarked he was pleased to see the review process concerning this asset conducted with such openness and transparency and he introduced Mr. Temple to discuss the findings and recommendations of the Task Force. Approximately 40 members of the community attended the meeting.

Following a presentation by Mr. Temple, Chairman Huffines said the Task Force has clearly fulfilled its charge and, on behalf of the Board of Regents, he thanked the Task Force members for donating their expertise, their time, and their energy to this project, stating they have provided a strong foundation for the Board to fulfill its fiduciary and legal duties in its stewardship of the Brackenridge Tract in support of U. T. Austin's educational mission. ([Mr. Temple's PowerPoint presentation](#), including the findings and recommendations of the Task Force, is on file in the Office of the Board of Regents.)

The Board accepted the [report of the Task Force \(and appendix\)](#) for further review and the Task Force was discharged by adopting the resolution before the members of the Board on yellow paper and as set forth below. Chairman Huffines suggested the Board continue to review the findings and recommendations contained in the report and provide a formal opportunity for additional public comment at the Board's November meeting.

RESOLUTION OF APPRECIATION TO MEMBERS OF THE BRACKENRIDGE TRACT TASK FORCE

WHEREAS, The members of the Brackenridge Tract Task Force have contributed unsparingly of their time, effort, and expertise in completing the investigation and evaluation of the land known as the Brackenridge Tract in Austin, Texas;

WHEREAS, The findings and recommendations of the Brackenridge Tract Task Force have been gratefully received by The University of Texas System Board of Regents for careful study, consideration, and future action; and

WHEREAS, The unselfish dedication to service by members of the Brackenridge Tract Task Force exemplifies the measure of community interest and concern for the best interest of The University of Texas at Austin.

NOW THEREFORE, BE IT RESOLVED, That the Board of Regents of The University of Texas System expresses sincere appreciation to the members of the Brackenridge Tract Task Force for their significant contributions and discharges the Task Force with sincere thanks and recognition for the distinguished service rendered;

BE IT FURTHER RESOLVED, That, as an integral part of its obligation as governing board for The University of Texas System and in view of the great commitment as demonstrated by the members of the Brackenridge Tract Task Force, The University of Texas System Board of Regents pledges a full consideration of the recommendations made by the Task Force; and

BE IT FINALLY RESOLVED, That this resolution of appreciation be included in the Minutes of this meeting as tangible and lasting evidence of the gratitude and respect of the Board of Regents for the service rendered by each member of the Brackenridge Tract Task Force.

11. U. T. System Board of Regents: Approval of the U. T. System-wide Internal Audit Plan for Fiscal Year 2008

The Board approved The University of Texas System-wide Internal Audit Plan (Plan) for Fiscal Year 2008. Development of the Plan is based on risk assessments performed at each institution. Implementation of the Plan will be coordinated with the institutional auditors.

Institutional audit plans, compiled by the internal audit departments after input and guidance from the U. T. System Audit Office, the Offices of Academic or Health Affairs, and the institution's management and Institutional Audit Committee, were submitted to all Institutional Audit Committees and institutional presidents for review and comments.

12. U. T. System Board of Regents: Amendment to Regents' Rules and Regulations, Series 60102, related to fees for endowment administration and management

The Board amended the Regents' *Rules and Regulations*, Series 60102, as set forth on Pages 17 - 18 to rename the fee for institutional endowment compliance as the fee for institutional endowment administration and management and the fee for educational purposes as the fee for System endowment administration and management.

Further, authorization was granted to allow the fees to increase to more fully compensate The University of Texas System Administration and U. T. System institutions for actual endowment administrative and management costs.

Previously, Regents' *Rules and Regulations*, Series 60102, authorized The University of Texas Investment Management Company (UTIMCO) to assess, on behalf of U. T. System, a fee for institutional endowment compliance, which has varied from 0.04% to 0.08% over the last five years. By Board of Regents' resolution, UTIMCO has assessed a "fee for educational purposes," which has remained constant at 0.02% over the last five years. These fees were meant to reimburse U. T. System Administration and U. T. System institutions for administration and management of endowments, including compliance, but in reality were not sufficient to fully compensate U. T. System Administration and U. T. System institutions for these costs.

In addition to renaming the fees, allowance is made to adequately compensate U. T. System Administration and the U. T. System institutions to carry out required administrative, management, and compliance activities without the need to rely on additional funding resources. The revised Regents' *Rule* includes a provision that U. T. System Administration and U. T. System institutions may not take advantage of increased cost recovery until and unless they have demonstrated auditable proof that such administrative and management expenses are indeed being incurred. Therefore, U. T. System institutions may receive an administrative and management fee on their endowments from a minimum of 0.08% to a maximum of 0.20% and U. T. System Administration may receive an administrative and management fee of between 0.02% to a maximum 0.03%.

1. Title

Fees for Endowment Administration and Management

2. Rule and Regulation

Sec. 1 Background. Each University of Texas System institution is charged with raising private sector contributions for the establishment of endowments to fulfill the mission and goals of the institution. Endowments are designated for student scholarships and fellowships, faculty and administrative support, and for programmatic purposes. Administration and management of the endowments are the joint responsibility of the U. T. System and each institution. The U. T. System and System institutions must devote adequate resources to assure appropriate accounting and use of endowment funds. In addition, high-quality, effective compliance programs are of fundamental importance and represent an ongoing fiduciary responsibility of System Administration and each institution. As authorized by *Texas Education Code* Section 65.37, the Board of Regents may assess fees for endowment administration and management.

Sec. 2 Type and Amount of Fees. The Board of Regents authorizes The University of Texas Investment Management Company (UTIMCO) to assess an administration and management fee of up to 0.20% of the market value of the Long Term Fund's (LTF) net asset value as determined by UTIMCO for the support of endowment administration and management efforts by each institution.

In addition, the Board of Regents authorizes UTIMCO to assess an administrative fee of up to 0.03% of the market value of the LTF's net asset value as determined by UTIMCO for the support of endowment administration and management efforts by System Administration for support of enhanced and expanded System Administration endowment administration and management efforts. These administration and management fees replace the previously charged fee for endowment compliance (0.08%) and the fee for education purposes (0.02%) and those fees will no longer be assessed.

- Sec. 3 Implementation and Use of Fee. This Rule authorizes a small portion of the LTF (up to an aggregate of 0.23%) to be used to offset the U. T. System and an institution's administrative and management activities to ensure appropriate administration and management as well as institutional compliance with the agreements made with endowment donors. The Chancellor may authorize an institution to exercise this funding option and assess up to 0.20% of the market value of its endowments invested in the LTF and up to 0.03% of the market value of all LTF endowments for System Administration.

To be eligible to receive these administration and management fees at or above a rate of 0.08% for the institutions and 0.02% for the U. T. System, System Administration offices and each institution must provide evidence of expenditures on endowment administration and management based on guidance provided by the Office of External Relations and verified by institutional internal audit departments in coordination with the System Audit Office. The assessment of the administration and management fees on the endowments may not exceed the amount necessary to reimburse System offices and the institution for its verified endowment administration and management expenses. An institution may exempt specific endowments from the assessment and is not required to assess a fee if it wishes to absorb administration and management expenses.

- Sec. 4 Program Details. Operational details are to be determined by the Chancellor, the President and Chief Executive Officer of UTIMCO, and/or their designated representatives.
- 4.1 Basis of Distributions. Assessment level distributions will be made annually based on the prior 12-quarter average of the market value of the LTF on May 31 of each fiscal year.

3. Definitions

Endowment – funds that typically have certain donor imposed restrictions placed upon the principal and/or the funds available for distribution (e.g., income and/or gains).

13. U. T. System: Approval to allow the Texas Campus Compact, a 501(c)(3) nonprofit organization, to occupy approximately 886 square feet of space located at 702 Colorado Street, Austin, Texas; to provide certain services; and finding of public purpose

On behalf of The University of Texas System Administration, the Board granted approval to

- a. allow the Texas Campus Compact, a 501(c)(3) nonprofit corporation, to occupy approximately 886 square feet of space located in the Colorado Building at 702 Colorado Street, Austin, Texas, for the purpose of carrying out the educational purposes of the Texas Campus Compact and for no other purpose;
- b. determine that the use of the space by the Texas Campus Compact and the provision of basic office services to the Texas Campus Compact, including but not limited to, phone service, Internet access, and postal handling for the stated reason serves a public purpose appropriate to the function of U. T. System, and that the consideration to the U. T. System for the agreement is adequate;
- c. require that the proposed agreement with the Texas Campus Compact contains adequate safeguards to ensure that the public purpose continues to be met throughout the life of the agreement; and
- d. authorize the Executive Vice Chancellor for Business Affairs to execute all documents, instruments, and other agreements, subject to approval of all such documents as to legal form by the Office of General Counsel, and to take all further actions deemed necessary or advisable to carry out the purpose and intent of the foregoing actions.

The Texas Campus Compact, Inc. (TXCC), a consortium of Texas colleges and universities, is affiliated with the National Campus Compact. Its mission is to provide support for colleges and universities committed to nurturing students into responsible, caring leaders in their communities by ensuring that students gain an understanding of their duties and responsibilities as citizens; promote community service in connection with academic studies; participate actively in the community and lend institutional resources for its improvement; and model the concept of community, cultivation and encourage open discourse on issues and values and take actions to address these concerns.

TXCC, founded in 2000, is a 501(c)(3) nonprofit corporation with 45 dues-paying member institutions of higher education located on 50 Texas college and university campuses. Two University of Texas System presidents serve on the TXCC Board of Directors and confirm the importance of its mission in strengthening institutions of higher education in Texas and to developing

students' citizenship skills and values, encouraging partnerships between campuses and communities, and assisting faculty who seek to integrate public and community engagement into their teaching and research.

Specific terms of the agreement are as follows:

- TXCC will be solely responsible for all compensation and benefits provided to its employees, and such employees will not be employees of the U. T. System.
- On behalf of the TXCC Board of Directors, the U. T. System Audit Office will inspect and review records maintained by the University in regard to the accounts established and funded solely by TXCC, consistent with the auditing procedures utilized for all university accounts. Reports will be presented directly to the Executive Committee of the TXCC Board of Directors and to the Chancellor of the U. T. System.
- All TXCC employees will be required to certify and sign the U. T. System Authorized Use Policy and agree to its terms.
- The agreement shall be evaluated at the end of each fiscal year to ensure that the arrangement continues to meet the needs and furthers the purposes of both the U. T. System and TXCC. If it is determined that a more suitable host arrangement should be pursued, the U. T. System and TXCC agree to release one another from the agreement.
- TXCC shall hold harmless, defend, and indemnify the U. T. System against all claims, actions, liability, damage, loss and expense by reason of injury or death to any person or persons or damage to property arising or alleged to have arisen from the acts or omissions of TXCC, its employees, agents, and subcontractors during the course of this Agreement. TXCC shall assume liability for and shall indemnify and hold harmless the U. T. System for any and all liabilities, obligations, losses, damages, or costs of any kind and nature whatsoever in any way relating to or arising out of TXCC's operations and/or use of the space.
- The U. T. System shall not be liable to TXCC or any other person in the building or space by TXCC's consent, initiation, or license for any loss, expense, or damage either to the person or property sustained by reason of any condition of the building or space, or due to any act of any employee or agent of the U. T. System, or the act of any other person whatsoever; and in the event the 60-day termination clause is invoked by TXCC, they shall reimburse the U. T. System for all expenses incurred and accrued to that point, and an amount required

to settle any noncancelable obligations incurred by TXCC. Active grants or contracts will be transferred to TXCC upon termination unless otherwise indicated by the grantor.

The University of Texas System may offer the space and provide services to TXCC at no cost only if a determination is made by the Board of Regents that the location of TXCC within the facilities of U. T. System Administration serves a public purpose appropriate to the function of the U. T. System, that adequate consideration is received by the U. T. System, and that the System maintains adequate safeguards and controls to ensure that the public purpose continues to be met.

The U. T. System Administration has determined that the agreement meets the requirements in the following manner: the property will be used to further and advance the public educational purpose of the U. T. System through TXCC's actions and mission, the consideration is the added value of student volunteer coordination to institutions of higher education, and the agreement contains controls through the 60-day termination provision and the requirement that TXCC abide by all applicable laws and regulations. U. T. System agrees to assist TXCC in its endeavors by providing office space and certain services. The agreement will be for a two-year term and may be continued with the mutual agreement of U. T. System and the TXCC Board of Directors.

14. U. T. System: Approval of allocation of Intermediate Term Fund proceeds for System-wide projects

The Board approved the allocation of \$16.5 million in Intermediate Term Fund (ITF) proceeds for the following projects:

- \$2.5 million to a matching program for completion of the Lonestar Education and Research Network (LEARN) network to all University of Texas System institutions;
- \$9 million for the Science and Technology Acquisition and Retention (STARs) Plus Program (allocated 75% to academic institutions and 25% to health institutions), which will provide funds for operating costs and to recruit and retain outstanding faculty in all disciplines; and
- \$5 million for the Graduate Programs Initiative, a competitive grant program to support innovations in the education of nonprofessional graduate students (Ph.D. and comparable degree candidates) at all U. T. System institutions.

The University of Texas System Allocation Policy for Non-Endowment Funds was approved by the Board on November 10, 2005, implemented on February 1, 2006, as part of the centralization of non-endowment funds, and amended on August 23, 2007. The Allocation Policy is intended to ensure that sufficient liquidity is available at all times to meet the needs of the U. T. System institutions and U. T. System Administration, while ensuring that all funds not needed for short-term liquidity purposes are invested with an appropriate time horizon to enhance the total return of the non-endowment funds. Non-endowment funds are invested in the ITF and Short Term Fund (STF) pursuant to the Allocation Policy.

The Allocation Policy permits sharing of investment returns from the ITF if the total investment return on the ITF in a fiscal year (and since ITF inception) is in excess of the national Consumer Price Index (CPI-U) published by the Bureau of Labor Statistics plus 3.0%. The amount in excess of the CPI-U plus 3.0% is split with 90% of the excess return being retained by the institutions and 10% being distributed to U. T. System Administration. The funds distributed to U. T. System Administration are to be used exclusively for strategic initiatives that benefit the institutions, and all expenditures of the funds by U. T. System Administration require approval of the Board of Regents.

For Fiscal Year 2007 (and for the period since ITF inception), the total investment return on the ITF was in excess of CPI-U plus 3.0%. The 10% portion of the excess return to be distributed to U. T. System Administration for System-wide projects is \$16.5 million (ITF proceeds).

15. U. T. System: Approval to form a Coordinating Committee and provide for funding to advance the Texas Alliance for Nanotechnology (TxAN) initiative with The Texas A&M University System

Following discussion in Executive Session (see Item 2a on Page 24), the Board authorized the Chancellor to take the steps necessary and reasonable to

- a. together with The Texas A&M University System, form a Coordinating Committee comprised of four University of Texas System appointees and four Texas A&M System appointees to begin exploratory work as detailed below for the creation of the Texas Alliance for Nanotechnology (TxAN), a proposed State of Texas university-industry laboratory for nanotechnology research and development, and
- b. provide \$500,000 in Available University Funds (AUF) to be matched by Texas A&M University System for use by the Committee as described on the following page.

Under the leadership of the Governor's Office, U. T. System and The Texas A&M University System have been working over the past nine months on the TxAN initiative. TxAN is conceived to be an advanced nanotechnology research and development infrastructure providing opportunities for collaboration among researchers located across the State of Texas to further the research, development, promotion, and commercialization of nanotechnology in the State of Texas. If feasible, TxAN will culminate in the creation of a statewide laboratory to promote advanced commercialization and opportunities in Texas by leveraging top university research talent and existing resources.

U. T. System and The Texas A&M University System believe that TxAN will provide a conduit to enhance the research capabilities of both systems and will promote collaboration among faculty of educational institutions and universities in the State of Texas and the recruitment and retention of faculty members and student researchers in the field of nanotechnology.

The Committee will be charged with 1) working with an outside contractor to road map the TxAN project, including plans for equipment and facilities, requests for additional investments, and inclusion of other universities and industry participants; 2) determining whether to prepare and then preparing, if appropriate, a request for proposal (RFP) for governmental and industry partners for TxAN; and 3) creating a standardized intellectual property format and technology transfer vehicle under which both U. T. System and the Texas A&M University System will agree to operate, including, for example, master licensing agreements.

RECESS TO EXECUTIVE SESSION.--At 2:35 p.m., Chairman Huffines announced the Board would recess to convene in Executive Session pursuant to *Texas Government Code* Sections 551.071 and 551.074 to consider matters listed on the Executive Session agenda.

RECONVENE IN OPEN SESSION.--At 2:55 p.m., the Board reconvened in open session and took actions as follows on matters discussed in Executive Session.

1. U. T. System: Discussion and appropriate action regarding individual personnel matters relating to appointment, employment, evaluation, compensation, assignment, and duties of presidents (academic and health institutions), U. T. System Administration officers (Executive Vice Chancellors and Vice Chancellors), other officers reporting directly to the Board (Chancellor, General Counsel to the Board, and Director of Audits and System-wide Compliance Officer), and U. T. System and institutional employees

No action was taken.

- 2a. U. T. System: Discussion regarding legal issues related to the Texas Alliance for Nanotechnology (TxAN) initiative

See Item 15 on Page 22 related to action taken regarding the Texas Alliance for Nanotechnology (TxAN) initiative for The University of Texas System.

- 2b. U. T. System Board of Regents: Discussion with Counsel on pending legal issues

No action was taken.

ADJOURNMENT.--There being no further business, the meeting was adjourned at 2:56 p.m.

/s/ Francie A. Frederick
General Counsel to the Board

November 7, 2007