

MARSHALL UNIVERSITY
BOARD OF GOVERNORS

Statement of Investment Policy

for

Marshall University
Long Term Investment Pool
Short Term Cash Flow Pool

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Introduction

This policy statement provides a framework for the management of the investment assets of Marshall University (the Investment Pool). Its purpose is to assist the Investment Committee of the Board of Governors of Marshall University in effectively supervising and monitoring the investment policy, implementation and management of the Investment Pool. The Investment Committee, a subcommittee of the Board of Governors, is established to focus on implementing and monitoring the Investment Pool in accordance with the guidelines outlined in this policy statement (hereafter referred to as the Investment Committee). The guidelines are designed to allow for sufficient flexibility in the management oversight process to capture investment opportunities as they may occur, while at the same time setting forth reasonable risk control parameters to ensure prudence and care in the execution of the investment program.

The Investment Pool is currently comprised of both Operating and Long term assets; this policy statement refers primarily to both pools of assets. However, as each pool has unique and specific goals, the objectives and asset allocations will be addressed separately.

The management of the Investment Pools is expected to adhere to the following basic fiduciary responsibilities, in accordance with the provisions of the Uniform Prudent Investor Act:

- ❑ Oversight will occur with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character with like aims.
- ❑ Assets of the Investment Pool will be invested and diversified so as to minimize the risk of loss and to maximize the rate of return, within an acceptable level of market risk and at a reasonable cost of fees, unless under the circumstances it is clearly prudent not to do so. Diversification is applicable and preferable to the deployment of the assets as a whole.

The document below addresses the following issues:

- ❑ The objectives of the Investment Pools and the investment program
- ❑ The investment strategy including specific asset allocations, rebalancing procedures and investment guidelines
- ❑ The policies and procedures for the management of the investments

Goals and Objectives

Objective of the Long Term Investment Pool

The objective of the Long Term Investment Pool (LTIP) is to ensure that the future growth of the fund is sufficient to at least offset inflation, thereby preserving the constant dollar value and purchasing power of the pool. This will be accomplished through a carefully planned and executed long-term investment program. The objective of the investment program is to enhance the LTIP's long-term viability by maximizing the value of the LTIP with a prudent level of risk. The initial timeframe for the investment program of the LTIP is defined as ten years.

Performance Goals

On an annualized, net-of-fees basis, the return on the LTIP over the long term (at least a full market cycle) will be expected to:

- Equal or exceed the return of the Higher Education Price Index (HEPI) over a market cycle; and
- Equal or exceed the average return of appropriate capital market indices weighted by the asset allocation target percentages (as defined in the section "*Investment Program Strategy*") over rolling three and five-year periods.

Performance goals are based upon a long-term investment horizon; therefore, interim fluctuations should be viewed with appropriate perspective.

Investment Philosophy

The LTIP has a long-term investment horizon, and allocates its assets accordingly. It is recognized that a strategic long-run asset allocation plan implemented in a consistent and disciplined manner will be the major determinant of the LTIP's investment performance.

The assets will be managed on a total return basis. While the LTIP recognizes the importance of preservation of capital, it also adheres to the principle that varying degrees of investment risk are generally rewarded with compensating returns. It is not a breach of fiduciary responsibility to pursue riskier investment strategies if such strategies are in the participants' best interest on a risk-adjusted basis.

Risk management of the investment program is focused on understanding both the investment and operational risks to which the LTIP is exposed. The objective is to minimize risks and require appropriate compensation for investment risks which the LTIP is willing to accept.

Investment Program Policies and Procedures

Investment Program Policy

It is the policy of the investment program to invest according to an asset allocation strategy that is designed to meet the goals of the LTIP Investment Objective. The strategy will be based on a number of factors, including:

- ❑ The relationship between current and projected assets of the LTIP and its future funding requirements;
- ❑ The preservation and real growth of assets to meet future obligations;
- ❑ Historical and expected long-term capital market risk and return behaviors.

This policy provides for diversification of assets in an effort to maximize the investment return and manage the risk of the LTIP consistent with market conditions. Asset allocation modeling will assist in identifying asset classes the LTIP will use and the percentage each class represents in the total fund. Due to the fluctuation of market values, positioning within a specified range is acceptable and constitutes compliance with the policy. It is anticipated that an extended period of time may be required to fully implement the asset allocation policy, and that periodic revisions will occur.

Investment Program Strategy

As a result of the above policy, the Investment Committee has adopted the following asset allocation targets and ranges:

Target Asset Allocation and Ranges

<u>Asset Class</u>	<u>Min Wt.</u>	<u>Target Wt.</u>	<u>Max Wt.</u>	<u>Representative Index</u>
Equities <i>Multi Strategy Equity Fund</i>	50%	60% 60%	70%	S&P 500
Fixed Income <i>Multi Strategy Bond Fund</i>	10%	20% 20%	30%	Lehman Aggregate
Inflation Hedging Strategies <i>CF Realty Investors</i> <i>Multi Strategy Commodities Fd.</i>	0% 0%	20% 10% 10%	25% 15% 15%	<i>NCREIF Property</i> <i>DowJones/AIG</i>

The University's Senior Vice President for Finance and Administration will implement the asset allocation policy through the use of qualified external professional investment managers. The external investment managers will have full discretion and authority for determining investment strategy, security selection and timing subject to Policy guidelines and any other guidelines specific to their portfolio.

Spending Policy

It is not anticipated that the LTIP will have any distribution or spending needs for the next ten years, and as such, will not establish a formal spending policy at this time.

Rebalancing Policy

It is Marshall University policy to rebalance within the stated ranges on a uniform basis so as not to cause undue expense to be allocated to the portfolio. The purpose of rebalancing is to control portfolio risk and maintain the policy asset allocation within the targeted ranges. It is Marshall University policy to rebalance within the stated ranges as defined in the "Target Asset Allocation" table. Policy requires the portfolio to be rebalanced at least annually or more frequently if desired by the members of the Investment Committee charged with the oversight of the portfolio's investments. Tactical rebalancing of asset classes within their ranges is also permissible as long as the trades do not cause undue expense to the portfolio.

Under the current agreement with Commonfund's Strategic Solutions, Commonfund will review and make rebalancing recommendations on a monthly basis based on their point of view. These recommendations shall be approved by the Senior Vice President for Finance and Administration and fall within the specified asset allocation ranges. The Senior Vice President may not approve rebalancing that would result in a new investment program or an allocation outside of the policies established in this statement without the approval of the Investment Committee and Board of Governors.

Investment Management Policies and Procedures

Equity Securities

The purpose of equity investments, both domestic and international, in the LTIP is to provide capital appreciation, growth of income, and current income, with the recognition that this asset class carries with it the assumption of greater market volatility and increased risk of loss. This component includes U.S. and non U.S. common stocks, American Depository Receipts (ADRs), preferred stocks, and convertible stocks traded on the world's stock exchanges or over-the-counter markets, options and futures on equity positions.

Public equity securities shall generally be restricted to high quality, readily marketable securities of corporations that are traded on the domestic and major stock exchanges. Equity holdings must generally represent companies meeting a minimum market capitalization requirement of \$50 million with reasonable market liquidity. Decisions as to individual security selection, number of industries and holdings, current income levels and turnover are left to broad manager discretion, subject to the standards of fiduciary prudence as defined by applicable law. However, no single major industry shall represent more than 20% of the Fund's total market value, and no single security shall represent more than 5% of the Fund's total market.

The "Traditional Long-Only" Investment Manager(s) is prohibited from borrowing money or pledging assets, or trading uncovered options, commodities or currencies without the advance approval of the Investment Committee.

Within the above policies and restrictions, the Manager(s) has complete discretion over the timing and selection of equity securities.

Fixed Income Securities

The purpose of fixed income investments, both domestic and international, is to provide diversification, and a predictable and dependable source of current income. It is expected that fixed income investments will not be totally dedicated to the long term bond market, but will be flexibly allocated among maturities of different lengths according to interest rate prospects. Fixed income instruments should reduce the overall volatility of the Fund's assets, and provide a deflation hedge. This component includes both the domestic fixed income market and the markets of the world's other developed and developing economies. It includes but is not limited to U.S. Treasury and government agency bonds, foreign government and supranational debt, public and private corporate debt, mortgages and asset-backed securities, and non-investment grade debt. Fixed income also includes money market instruments, including, but not limited to, commercial paper, certificates of deposit, time deposits, bankers' acceptances, repurchase agreements, and U.S. Treasury and agency obligations.

Investments in fixed income securities should be managed actively to pursue opportunities presented by changes in interest rates, credit ratings, and maturity premiums. These investments will be subject to the following limitations:

Investments of a single issuer, with the exception of the U.S. Government and its agencies (including GNMA, FNMA and FHLMC), may not exceed 5% of the total market value of the Fund;

No more than 25% of the the fixed income portfolio may be rated below-investment grade.

Within the above guidelines and restrictions, the Manager(s) has complete discretion over the timing and selection of fixed income securities.

Cash and Equivalents

The Investment Manager may invest in the highest quality commercial paper, repurchase agreements, Treasury Bills, certificates of deposit, and money market funds to provide income, liquidity for expense payments, and preservation of the Fund's principal value. Commercial paper assets must be rated at least A1 or P-1 (by Moody's or S&P). No more than 5% of the Fund's total market value may be invested in the obligations of a single issuer, with the exception of the U.S. Government and its agencies.

Uninvested cash reserves shall be kept to a minimum; short term, cash equivalent securities are usually not considered an appropriate vehicle for investment. However, such vehicles are appropriate as depository for income distributions from longer term investments, or as needed for temporary placement of funds directed for future investment to the longer term capital markets. Also, such investments are the standard for contributions to the current fund or for current operating cash.

Within the above policies and restrictions, the Manager(s) has complete discretion over the timing and selection of cash equivalent securities.

Other Securities

Real Estate - Investments may include equity real estate, held in the form of professionally managed commercial and residential property. Such investment may be made only through professionally managed pooled real estate investment funds, as offered by institutional quality real estate managers with proven records of superior performance over time.

Marketable Alternatives - Investments may include equity-oriented or market-neutral hedge funds (i.e. Long/Short, Macro Event Driven, Convertible Arbitrage, and Fixed Income strategies) which can be both domestic and international market oriented. These components may be viewed as equity-like or fixed income-like strategies as defined by their structures and exposures.

Commodities - Investments may also include a diversified range of commodity oriented strategies. These strategies will include but may not be limited to futures, options on futures and forward contracts on exchange traded agricultural goods, metals, minerals, energy products and foreign currencies. The use of swap transactions will be permitted to access this market strategy. Investments may be held in the form of professionally managed pooled funds, segregated and limited liability or corporate investments.

Derivatives and Derivative Securities - Certain of the LTIP's managers may be permitted under the terms of their specific investment guidelines to utilize derivative instruments in the implementation of their specific investment strategy. Derivatives are contracts or securities whose market value is related to the value of another security, index, or financial instrument. Investments in derivatives include (but are not limited to) futures, forwards, options, options on futures, warrants, and interest-only and principal-only strips. No derivative positions can be established that create portfolio characteristics outside of the stated investment policies. Examples of appropriate applications of derivative strategies include hedging market, interest rate, or currency risk, maintaining exposure to a desired asset class while making asset allocation changes, gaining exposure to an asset class when it is more cost-effective than the cash markets, and adjusting duration within a fixed income portfolio. Investment managers must ascertain and carefully monitor the creditworthiness of any third parties involved in derivative transactions.

Each manager using derivatives shall (1) exhibit expertise and experience in utilizing such products; (2) demonstrate that such usage is strategically integral to their security selection, risk management, or investment processes; and (3) demonstrate acceptable internal controls regarding these investments.

Restrictions

The Investment Committee is authorized to recommend a waiver or modification of any of the restrictions in this Policy in appropriate circumstances. Any such waiver or modification will be made only after a thorough review of the manager and the investment strategy involved and only with Board of Governors approval.

For mutual and other commingled funds, the prospectus or Declaration of Trust documents of the fund(s) will govern the investment policies of the fund investments. While the Committee understands that such funds have their own stated guidelines which can not be changed for individual investors, in principle and spirit those guidelines should be similar in nature to the guidelines stated above. To the extent that a fund allows any or all of the above stated restrictions, the Committee must be aware of their possible use and be confident that the Investment Manager(s) thoroughly understands the risks being taken, has demonstrated expertise in their usage of such securities, and has guidelines in place for the use and monitoring of those securities. *Please see Duties of Investment Managers in the Roles and Responsibilities section of this policy statement for additional clarification.*

Roles and Responsibilities

Duties of the Board of Governors

In the management of the LTIP's assets, the Board of Governors or its designate(s) will:

- ❑ Approve the Investment Policy for the investment program of the LTIP. The Board of Governors' Investment Committee in its sole discretion can delegate its decision-making authority regarding the investment program.
- ❑ Approve the investment managers for the university's assets used by the University's Investment Agent (Marshall University Foundation, Inc.).

Duties of the Investment Committee

In the management of the LTIP's assets, the Investment Committee or its designate(s) will:

- ❑ Approve long-term and annual benchmarks for the LTIP, and review at least annually investment performance on both an absolute basis and relative to appropriate benchmarks.
- ❑ Review at least annually the LTIP's investment structure and financial performance. The review will include recommended adjustments to the long-term, strategic asset allocation Investment Pool, if adjustments are warranted.
- ❑ Approve the election, retention and termination of investment consultants as necessary to conduct performance review, asset allocation, manager review and selection, and topical research, in accordance with Senate Bill 603. The comments and recommendations of the consultants will be considered in conjunction with other available information to aid the Investment Committee in making informed, prudent decisions.
- ❑ Review asset allocation study at least annually, and revise, if necessary, the LTIP's investment policy.
- ❑ Review the LTIP's investments at least quarterly to ensure that policy guidelines continue to be met.
- ❑ Develop Investment Manager Policies and benchmarks, including performance objectives, for each manager. Investment performance will be monitored against these guidelines. Each Investment Manager will manage its portfolio according to a formal contract that delineates its responsibilities and appropriate performance expectations.
- ❑ Be responsible for taking appropriate action if investment objectives are not being met or if policies and guidelines are not being followed. Reviews for portfolios managed by external managers will focus on:
 - Manager compliance with the goals, objectives, and policies established in this statement as well as the Investment Manager Guidelines and benchmarks.

- Material changes in the managers' organizations, such as investment philosophy or process, personnel changes, acquisitions or losses of major accounts, etc. The managers will be responsible for keeping the University advised of any material changes in personnel, process, investment strategy, or other pertinent information potentially affecting performance.
 - Investment performance relative to each manager's stated performance benchmark(s) as set forth in the manager's investment guidelines.
- ❑ Monitor Investment Consultants to ensure that Investment Consultants' performance monitoring systems are sufficient to provide the Senior Vice President for Finance and Administration with timely, accurate and useful information.

Duties of Management (Senior Vice President for Finance and Administration)

In the management of the LTIP assets, the Management (Senior Vice President for Finance and Administration) or its designate(s) will:

- ❑ Implement the Investment Policy as directed by the Investment Committee.
- ❑ Act singly, as a named fiduciary, (1) to rebalance the LTIP to maintain the proper diversification within the ranges approved by the Investment Committee and in accordance to the guidelines established in the Rebalance Policy of this document; and (2) to fund a distribution account in the LTIP as frequently and in an amount as determined by the Senior Vice President for Finance and Administration.
- ❑ Monitor investment returns on both an absolute basis and relative to appropriate benchmarks and monitor portfolio characteristics and portfolio attribution to ensure Managers are managing to their stated style. The information for these reviews shall come from staff, outside consultants, the custodian, and the LTIP's investment managers.
- ❑ Execute documents necessary to facilitate implementation of the Investment Policy, including but not limited to contracts with consultants and investment managers for providing services.
- ❑ Review the LTIP's investments monthly statements, including market value and performance, as provided by the Custodian and/or Investment Manager, and report the status of the LTIP to the Investment Committee on a quarterly basis or as necessary.
- ❑ Administer the LTIP's investments in a cost-effective manner.
- ❑ Provide for the collection and investment of contributions and investment income, and the payment of expenditures for the management of the LTIP.

Duties of the Investment Managers

The Investment Managers will, at a minimum:

- ❑ Comply with West Virginia law.
- ❑ Provide the Senior Vice President for Finance and Administration with written agreement to invest within the guidelines established in the Investment Policy. Any violation of the Investment Manager Guidelines resulting from the misconduct of gross negligence by the Investment Manager, which results in a realized or unrealized loss to the LTIP, will require reimbursement of the amount of the loss by the Investment Manager.
- ❑ Know and comply with the policies of the LTIP as outlined in this document. It is each manager's responsibility to identify policies that may have an adverse impact on performance, and to initiate discussion with the Senior Vice President for Finance and Administration toward possible improvement of those policies.
- ❑ Provide the Senior Vice President with proof of liability and fiduciary insurance coverage.
- ❑ Be a SEC-Registered Investment Advisor recognized as providing demonstrated expertise over a number of years in the management of institutional assets and a defined investment specialty.
- ❑ Adhere to the investment management style concepts and principles for which they were retained, including developing portfolio strategy, performing research, buying and selling securities, and voting proxies.
- ❑ Maintain thorough and appropriate written risk control policies and procedures. Oversight of compliance with these policies must be ongoing and independent of line investment activity.
- ❑ Execute all transactions for the benefit of the LTIP with brokers and dealers qualified to execute institutional orders on an ongoing basis at the best net cost to the LTIP. At all times, the Investment Manager will attempt to obtain the best available price and most favorable execution with respect to all portfolio transactions.
- ❑ Provide the Senior Vice President with monthly statements, including market values and performance of the investments.
- ❑ Reconcile every month accounting, transaction and asset summary data with custodian valuations, and communicate and resolve any significant discrepancies with the custodian.
- ❑ Maintain frequent and open communication with the Senior Vice President for Finance and Administration on all significant matters pertaining to the Investment Pool, including, but not limited to, the following:
 - Major changes in the Investment Manager's investment outlook, investment strategy, investment process, or portfolio structure;

- Significant changes in ownership, organizational structure, financial condition or senior personnel;
 - Any changes in the Portfolio Manager or other personnel assigned to the LTIP;
 - All pertinent issues which the Investment Manager deems to be of significant interest or material importance;
- Meet with the Investment Committee and the Senior Vice President for Finance and Administration on an as-needed basis.

Manager(s) Reporting and Evaluation

It is expected that the Investment Manager(s) responsible for the investment of LTIP assets shall report quarterly on the performance of the portfolio, including comparative returns for the funds and their respective benchmarks; also included will be a complete accounting of all transactions involving the LTIP during the quarter, together with a statement of beginning market value, fees, capital appreciation, income and ending market value, for each account. In addition, Managers should meet with the Investment Committee at least annually; and will be supplemented by other meetings as necessary for proper review.

The Investment Committee recognizes that market conditions may greatly influence the ability of a manager to meet year to year investment goals and objectives. Further, the Investment Committee realizes that significant cash flow may also affect the ability of a manager to meet a specific short term objective. Accordingly, the Investment Committee expects to monitor performance through absolute, relative, and comparative terms over an annualized time periods. Absolute results will determine the rate of fund growth, while relative results will provide the Investment Committee with a view of investment performance compared to the securities markets and comparative results will present performance as compared to other Investment Managers.

Review of LTIP results in absolute terms shall be made with consideration towards meeting and/or exceeding the expressed minimum real rate of return over a moving three and five year time period. Review of LTIP results in relative terms shall be accomplished primarily by comparing results, over a moving annualized three and five year time period, to assigned weighted market indices.

Portfolio Level

Review of the underlying portfolio results in relative terms shall be accomplished primarily by comparing results, over a moving annualized three and five year time period, to assigned market indices.

Review of the underlying portfolio results in comparative terms shall be accomplished primarily through universe comparisons over moving annualized one, three and/or five year time periods.

APPENDIX A – Short Term Cash Flow Pool

Goals and Objectives

Objective of the Short Term Cash Flow Pool

The objective of the Short Term Cash Flow Pool (STCF Pool) is to provide the University with a diversified investment strategy for pools of short and intermediate term investments. The objective of the investment program is to enhance the STCF Pool's long-term viability by maximizing the value of the Pool within the context of capital preservation, liquidity and a prudent level of risk.

Performance Goals

On an annualized, net-of-fees basis, the return on the total portfolios over the long term (at least a full market cycle) will be expected to:

- Equal or exceed the average return of appropriate capital market indices weighted by the asset allocation target percentages (as defined in the section "*Investment Program Strategy*") annually with at or below market volatility.

Investment Philosophy

The assets of this Pool will be allocated and invested based on the principle that it is a short-term, variable investment Pool with a short (daily to one year) to intermediate (one to three year) term investment horizon. It is recognized that this Pool is subject to occasional short term cash flows and daily liquidity, for a portion of the Pool, with preservation of capital as a priority.

Investment Program Policies and Procedures

Investment Program Policy

It is the policy of the investment program to invest according to an asset allocation strategy that is designed to meet the goals of the Investment Objective for the STCF Pool. The strategy will be based on a number of factors, including:

- ❑ The preservation of capital;
- ❑ The maintenance of sufficient liquidity to meet distribution requirements;
- ❑ Historical and expected long-term capital market risk and return behaviors;

This Policy provides for diversification of assets in an effort to maximize the investment return and manage the risk of the STCF Pool consistent with market conditions. Historical cash flow analysis will help to determine asset allocation policy consistent with liquidity needs. Due to the

fluctuation of market values, positioning within a specified range is acceptable and constitutes compliance with the Policy. It is anticipated that an extended period of time may be required to fully implement the asset allocation policy, and that periodic revisions will occur.

Investment Program Strategy

As a result of the above process, the Investment Committee of Marshall University has adopted the following asset allocation targets and ranges for the two pools:

Operating Pool - Target Asset Allocation and Ranges

The target asset allocation and ranges for the Short-Term Cash Flow Pools are:

<u>Asset Class</u>	<u>Target Wt.</u>	<u>Max Wt.</u>	<u>Representative Index</u>
Short Term Cash <i>Short Term Fund</i>	75%	100%	<i>90-day T-Bill</i>
Short/Intermediate Term Bonds <i>Intermediate Term Fund</i>	25%	35%	<i>ML 1-3 Yr Govt,</i>

The Senior Vice President for Finance and Administration will implement the asset allocation policy through the use of qualified external professional investment managers in accordance with Senate Bill 603. The external investment managers will have full discretion and authority for determining investment strategy, security selection and timing subject to Policy guidelines and any other guidelines specific to their portfolio.

The Senior Vice President for Finance and Administration will apply rebalancing procedures as specified in the rebalancing policy stated on page four to ensure that the asset allocation of the STCF Pool stays within the ranges defined above. The asset allocation of the STCF Pool will be reviewed as necessary or when significant cash flows occur. The pool may be rebalanced as necessary, making use of cash flows and other distribution needs to the extent possible and considering the transaction costs involved in the rebalancing.

West Virginia Code

ARTICLE 6C. UNIFORM PRUDENT INVESTOR ACT.

§44-6C-1. Prudent investor rule.

(a) Notwithstanding the provisions of section two, article six of this chapter, and except as otherwise provided in subsection (b) of this section, a trustee who invests and manages trust assets owes a duty to the beneficiaries of the trust to comply with the prudent investor rule set forth in this article.

(b) The prudent investor rule, a default rule, may be expanded, restricted, eliminated or otherwise altered by the provisions of a trust. A trustee is not liable to a beneficiary to the extent that the trustee acted in reasonable reliance on the provisions of the trust.

§44-6C-2. Standard of care; portfolio strategy; risk and return objectives.

(a) A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements and other circumstances of the trust. In satisfying this standard, the trustee shall exercise reasonable care, skill and caution.

(b) A trustee's investment and management decisions respecting individual assets must be evaluated not in isolation but in the context of the trust portfolio as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the trust.

(c) Among circumstances that a trustee shall consider in investing and managing trust assets are such of the following as are relevant to the trust or its beneficiaries:

- (1) General economic conditions;
- (2) The possible effect of inflation or deflation;
- (3) The expected tax consequences of investment decisions or strategies;
- (4) The role that each investment or course of action plays within the overall trust portfolio, which may include financial assets, interests in closely held enterprises, tangible and intangible personal property and real property;
- (5) The expected total return from income and the appreciation of capital;
- (6) Other resources of the beneficiaries;
- (7) Needs for liquidity, regularity of income and preservation or appreciation of capital; and
- (8) An asset's special relationship or special value, if any, to the purposes of the trust or to one or more of the beneficiaries.

(d) A trustee shall make a reasonable effort to verify facts relevant to the investment and management of trust assets.

(e) A trustee may invest in any kind of property or type of investment consistent with the standards of this article.

(f) A trustee who has special skills or expertise, or is named trustee in reliance

upon the trustee's representation that the trustee has special skills or expertise, has a duty to use those special skills or expertise.

§44-6C-3. Diversification.

A trustee shall diversify the investments of the trust unless the trustee reasonably determines that, because of special circumstances, the purposes of the trust are better served without diversifying.

§44-6C-4. Duties at inception of trusteeship.

Within a reasonable time after accepting a trusteeship or receiving trust assets, a trustee shall review the trust assets and make and implement decisions concerning the retention and disposition of assets, in order to bring the trust portfolio into compliance with the purposes, terms, distribution requirements and other circumstances of the trust, and with the requirements of this article.

§44-6C-5. Loyalty.

A trustee shall invest and manage the trust assets solely in the interest of the beneficiaries.

§44-6C-6. Impartiality.

If a trust has two or more beneficiaries, the trustee shall act impartially in investing and managing the trust assets, taking into account any differing interests of the beneficiaries.

§44-6C-7. Investment costs.

In investing and managing trust assets, a trustee may only incur costs that are appropriate and reasonable in relation to the assets, the purposes of the trust and the skills of the trustee.

§44-6C-8. Reviewing compliance.

Compliance with the prudent investor rule is determined in light of the facts and circumstances existing at the time of a trustee's decision or action and not by hindsight.

§44-6C-9. Delegation of investment and management functions.

(a) A trustee may delegate investment and management functions that a prudent trustee of comparable skills could properly delegate under the circumstances.

The trustee shall exercise reasonable care, skill and caution in:

- (1) Selecting an agent;
- (2) Establishing the scope and terms of the delegation, consistent with the purposes and terms of the trust; and
- (3) Periodically reviewing the agent's actions in order to monitor the agent's performance and compliance with the terms of the delegation.

(b) In performing a delegated function, an agent owes a duty to the trust to exercise reasonable care to comply with the terms of the delegation.

(c) A trustee who complies with the requirements of subsection (a) of this section

is not liable to the beneficiaries or to the trust for the decisions or actions of the agent to whom the function was delegated.

(d) By accepting the delegation of a trust function from the trustee of a trust that is subject to the law of this state, an agent submits to the jurisdiction of the courts of this state.

§44-6C-10. Language invoking standard of article.

The following terms or comparable language in the provisions of a trust, unless otherwise limited or modified, authorizes any investment or strategy permitted under this article: "investments permissible by law for investment of trust funds", "legal investments", "authorized investments", "using the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital", "prudent man rule", "prudent trustee rule", "prudent person rule" and "prudent investor rule".

§44-6C-11. Application to existing trusts.

This article applies to trusts existing on and created after its effective date. As applied to trusts existing on its effective date, this article governs only decisions or actions occurring after that date.

§44-6C-12. Uniformity of application and construction.

This article shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this article among the states enacting it.

§44-6C-13. Short title.

This article may be cited as the "West Virginia Uniform Prudent Investor Act".

§44-6C-14. Severability.

If any provision of this article or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end the provisions of this article are severable.

§44-6C-15. Effective date.

This article takes effect on the first day of July, one thousand nine hundred ninety-six.