

Effective 5/13/2014

Renumbered 5/12/2015

63M-1-1206 Board duties and powers.

- (1) The board shall:
 - (a) establish criteria and procedures for the allocation and issuance of contingent tax credits to designated investors by means of certificates issued by the board, provided that a contingent tax credit may not be issued unless the Utah fund of funds:
 - (i) first agrees to treat the amount of the tax credit redeemed by the state as a loan from the state to the Utah fund of funds; and
 - (ii) agrees to repay the loan upon terms and conditions established by the board;
 - (b) establish criteria and procedures for assessing the likelihood of future certificate redemptions by designated investors, including:
 - (i) criteria and procedures for evaluating the value of investments made by the Utah fund of funds; and
 - (ii) the returns from the Utah fund of funds;
 - (c) establish criteria and procedures for registering and redeeming contingent tax credits by designated investors holding certificates issued by the board;
 - (d) establish a target rate of return or range of returns for the investment portfolio of the Utah fund of funds;
 - (e) establish criteria and procedures governing commitments obtained by the board from designated purchasers including:
 - (i) entering into commitments with designated purchasers; and
 - (ii) drawing on commitments to redeem certificates from designated investors;
 - (f) have power to:
 - (i) expend funds;
 - (ii) invest funds;
 - (iii) issue debt and borrow funds;
 - (iv) enter into contracts;
 - (v) insure against loss; and
 - (vi) perform any other act necessary to carry out its purpose; and
 - (g) make, amend, and repeal rules for the conduct of its affairs, consistent with this part and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (2)
 - (a) All rules made by the board under Subsection (1)(g) are subject to review by the Legislative Management Committee:
 - (i) whenever made, modified, or repealed; and
 - (ii) in each even-numbered year.
 - (b) Subsection (2)(a) does not preclude the legislative Administrative Rules Review Committee from reviewing and taking appropriate action on any rule made, amended, or repealed by the board.
- (3)
 - (a) The criteria and procedures established by the board for the allocation and issuance of contingent tax credits shall:
 - (i) include the contingencies that must be met for a certificate and its related tax credits to be:
 - (A) issued by the board;
 - (B) transferred by a designated investor; and
 - (C) redeemed by a designated investor in order to receive a contingent tax credit; and
 - (ii) tie the contingencies for redemption of certificates to:

- (A) the targeted rates of return and scheduled redemptions of equity interests purchased by designated investors in the Utah fund of funds; and
 - (B) the scheduled principal and interest payments payable to designated investors that have made loans initiated before July 1, 2014, including a loan refinanced on or after July 1, 2014, that was originated before July 1, 2014, to the Utah fund of funds.
- (b) The board may not issue contingent tax credits under this part before July 1, 2004.
- (4)
- (a) The board may charge a placement fee to the Utah fund of funds for the issuance of a certificate and related contingent tax credit to a designated investor.
 - (b) The fee shall:
 - (i) be charged only to pay for reasonable and necessary costs of the board; and
 - (ii) not exceed .5% of the private investment of the designated investor.
- (5) The board's criteria and procedures for redeeming certificates:
- (a) shall give priority to the redemption amount from the available funds in the redemption reserve; and
 - (b) to the extent there are insufficient funds in the redemption reserve to redeem certificates, shall grant the board the option to redeem certificates:
 - (i) by certifying a contingent tax credit to the designated investor; or
 - (ii) by making demand on designated purchasers consistent with the requirements of Section 63M-1-1221.
- (6)
- (a) The board shall, in consultation with the corporation, publish on or before September 1 an annual report of the activities conducted by the Utah fund of funds, and submit the report to the governor; the Business, Economic Development, and Labor Appropriations Subcommittee; the Business and Labor Interim Committee; and the Retirement and Independent Entities Committee.
 - (b) The annual report shall:
 - (i) be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature;
 - (ii) include a copy of the audit of the Utah fund of funds described in Section 63M-1-1217;
 - (iii) include a detailed balance sheet, revenue and expenses statement, and cash flow statement;
 - (iv) include detailed information regarding new fund commitments made during the year, including the amount of money committed;
 - (v) include the net annual rate of return of the Utah fund of funds for the reported year, and the net rate of return from the inception of the Utah fund of funds, after accounting for all expenses, including administrative and financing costs;
 - (vi) include detailed information regarding:
 - (A) realized gains from investments and any realized losses; and
 - (B) unrealized gains and any unrealized losses based on the net present value of ongoing investments;
 - (vii) include detailed information regarding all yearly expenditures, including:
 - (A) administrative, operating, and financing costs;
 - (B) aggregate compensation information separated by full- and part-time employees, including benefit and travel expenses; and
 - (C) expenses related to the allocation manager;

- (viii) include detailed information regarding all funding sources for administrative, operations, and financing expenses, including expenses charged by or to the Utah fund of funds, including management and placement fees;
 - (ix) review the progress of the investment fund allocation manager in implementing its investment plan and provide a general description of the investment plan;
 - (x) for each individual fund that the Utah fund of funds is invested in that represents at least 5% of the net assets of the Utah fund of funds, include the name of the fund, the total value of the fund, the fair market value of the Utah fund of funds' investment in the fund, and the percentage of the total value of the fund held by the Utah fund of funds;
 - (xi) include the number of companies in Utah where an investment was made from a fund that the Utah fund of funds is invested in, and provide an aggregate count of new full-time employees in the state added by all companies where investments were made by funds that the Utah fund of funds is invested in;
 - (xii) include an aggregate total value for all funds the Utah fund of funds is invested in, and an aggregate total amount of money invested in the state by the funds the Utah fund of funds is invested in;
 - (xiii) describe any redemption or transfer of a certificate issued under this part;
 - (xiv) include actual and estimated potential appropriations the Legislature will be required to provide as a result of redeemed certificates or tax credits during the following five years;
 - (xv) include an evaluation of the state's progress in accomplishing the purposes stated in Section 63M-1-1202; and
 - (xvi) be directly accessible to the public via a link from the main page of the Utah fund of fund's website.
- (c) The annual report may not identify a specific designated investor who has redeemed or transferred a certificate.