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State of Utah
Department of Commerce
Division of Securities

FRANCINE A. GIANI
Executive Director

KEITH WOODWELL
Director, Division of Securities

June 25, 2014

Daniel D. Andersen
Executive Director
Utah Retirement Systems
560 East 200 South
Salt Lake City, UT 84102-2099

Re: Utah Retirement Systems No-Action Request

Dear Mr. Andersen:

The Utah Division of Securities ("Division") has reviewed your June 16, 2014 request for a no-action letter concerning Utah Retirement Systems ("URS"). Your request for a no-action letter from the Division is authorized by Section 61-1-25(5) of the Utah Uniform Securities Act ("Act") and Utah Administrative Code Rule R164-25-5.

Your letter requests that the Division take a no-action position with respect to URS and URS employees who provide investment advice to plan participants. Specifically, you request that the Division staff recommend no enforcement action if URS and its employees provide investment advice to URS plan participants without being licensed as an investment adviser and investment adviser representatives.

Based upon the representations made in your letter and in discussions with Division staff, we will not recommend any enforcement or administrative disciplinary action should the activities proceed in Utah as outlined in your request.


In making this determination, we note several points. First, URS is an independent state agency created and governed by statute. It is accordingly subject to statutory mandates and limitations as well as legislative and executive oversight. Second, the scope of advice to be provided to plan participants by URS and its employees is narrowly tailored to the limited investment products available in the URS defined contribution and defined benefit plans. Consistent with duties applicable to licensed investment advisers and investment adviser representatives, advice given will be in the best interest of plan participants in consideration of participants' individual situations and needs. The professionals giving advice will be properly qualified, trained and supervised. Finally, we note that the services provided to plan participants

are at no cost and the compensation of employees is not related to the advice that will be provided.

As this recommendation is based upon the representations made to the Division, any different facts or conditions of a material nature might require a different conclusion. Furthermore, the relief granted herein is expressly limited to URS and will have no precedential effect whatsoever for any other party. This response does not purport to express any legal conclusions regarding the applicability of statutory or regulatory provisions of federal or state securities laws to the questions presented. It merely expresses the position of the Division staff on enforcement or administrative actions. Finally, the issuance of a no-action letter does not absolve any party from complying with the anti-fraud provisions contained in Section 61-1-1 of the Act.

Very truly yours,

UTAH DIVISION OF SECURITIES


Charles M. Lyons
Securities Analyst

June 16, 2014
RECEIVED

JUN 16 2014

Utah Department of Commerce
Division of Securities

Division of Securities, State of Utah
160 E 300 S, 2nd Floor
Salt Lake City, UT 84111

Re: No-Action Letter for Utah Retirement Systems to Provide Participant-Only URS Benefits and Investment Advice

Division of Securities:

Utah Retirement Systems (URS) respectfully requests a No-Action Letter from the Utah Division of Securities (the "Division") regarding URS employees providing investment advice about its defined benefit and defined contribution plans. Specifically, URS requests that the Division declare that it will take no action if URS is not licensed with the Division as an investment adviser and permit its employees to provide investment advice to its participants in the manner and for the purpose outlined below.

Background

URS, an independent state agency created under Utah Code Title 49, is responsible for administering defined benefit (DB) and defined contribution (DC) benefits for State, local government, and public education employees in the State of Utah. URS offers eight DB pension systems and four DC plans. URS currently offers participants 11 institutional investment options and a self directed brokerage account in the URS 401(k), 457, traditional IRA and Roth IRA retirement plans. In January 2015, URS will offer 12 target date funds, 8 institutional investment options, and a self directed brokerage option to URS plan participants. Presently, URS employees do not provide investment advice to participants, only education about URS administered benefits and general retirement planning. For specific investment advice, participants may turn to financial advisers not affiliated with URS or invest without any guidance. As outlined in the proposal, general retirement planning education will expand to include investment advice from URS employees to better meet participants' needs.

Proposal: URS Benefits and Investment Advice Process

The URS Investment Advice process will parallel standard industry practices in many respects. Data collected in the process may include: a participant's age, pension status, estimated Social Security benefit, non-URS retirement resources, current tax bracket, anticipated retirement tax bracket, marital status, bequest intentions, beneficiary designations, planned retirement date (time horizon), investment experience, risk tolerance, risk capacity, liquidity needs, expectations about work in retirement, life expectancy, target income replacement ratio desired, and other relevant factors as necessary.

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file # B01281675 \$ 120.00

Participant data collected will be stored for record-keeping purposes. Records will be stored for at least five years.. Participant data may be used as inputs into URS' calculators as necessary. Calculators may include the URS Retirement Benefit Estimate Calculator, the URS Savings Plans Future Values Calculator, and the Social Security Quick Calculator¹, among others.

An individual participant's data/situation will be compared to standard participant age-based profiles. Each age-based profile includes a standard asset allocation model, which will serve as a *starting point* for a particular participant's investment education and advice. The advice will then be adjusted as necessary to fit the individual participant's unique situation and circumstances, based on the data supplied by the participant.

Over time, a participant's circumstances may change, resulting in a need to adjust their investment advice. On a systematic basis, URS will notify participants to contact URS annually or as necessary, to allow for updates and revisions to the participant's investment plan.

URS Investment Advice may include a standard asset allocation, URS' DB and DC benefits, investment offerings, and elections. Investment advice will *not* be offered regarding non-URS retirement account resources. For example, Investment Advice may include a strategic discussion of the pros and cons of a Roth versus a non-Roth account for tax benefits, as well as Roth conversions.

There are a myriad of factors unique to any participant's situation and circumstances that will influence the participant's investment decisions. Participants always control and are responsible for the final decision regarding their investment choices and asset allocations in URS DC plans. URS employees will serve participants strictly in an educational and advisory capacity, with the goal of providing prudent, reasonable advice in the best interests of the participant.

The investment advice may be delivered in person, over the phone, via video conferencing, or by other electronic means. A participant will leave a session with investment advice tailored to his/her situation and circumstances. Investment advice will only be offered to URS participants.

As a corollary to investment advice for URS DC plans, URS will also make contribution saving rate calculations as necessary for a participant. These calculations will be based on the supplied participant data as described earlier in conjunction with a participant's specific investment advice. From a participant's perspective, this investment advice service will assist in answering both "How should I invest my assets?" and "How much should I save for retirement?"

URS Pension Plan Options

Participants in the DB plans have a variety of payout options available to them at retirement. These options allow participants to reduce their pension benefit to potentially cover a spouse with a lifetime benefit, depending on the participant's pension system. To assist participants in making their decision at the time of retirement, URS employees will provide advice regarding the selection of a payout option.

¹ <http://www.socialsecurity.gov/OACT/quickcalc/index.html>

At retirement, participants also have the option of selecting a 12- or 24-month lump sum payment. As this is a one-time, irrevocable decision that can impact the dollar amount of a participant's ongoing pension payment, URS may also provide advice regarding this partial lump-sum option.

Tier 2 Plan Election

Participants initially entering full-time employment with a URS participating employer on or after July 1, 2011, choose between two URS retirement plan options. These Tier 2 participants must make an election within their first year of employment to participate in either the Hybrid Retirement System or the Defined Contribution Plan. The election is irrevocable and transfers with them to future participating employers.

URS will provide advice to assist new participants with this election. Variables that can impact this decision may include a participant's age, marital status, willingness to contribute to a plan, planned tenure in government service, flexibility to name beneficiaries, desire for lifetime income, ability to access plan money, investment experience, willingness and competency in making investment decisions, and other possible factors.

URS Benefits and Investment Advice Education and Training

URS employees that will provide investment advice will be required to study for and pass the Series 65 Advisor exam. In addition, URS employees will be encouraged to work towards advanced designations, such as Certified Financial Planner®, Certified Retirement Counselor®, Retirement Income Certified Professional®, etc. URS employees will be encouraged to maintain a designation's requisite continuing education requirements, including attendance at appropriate conferences and training events.

Additional training for URS employees will cover several topics with a primary focus on integrating DC and DB plan investment education and advice with a participant's overall retirement readiness. The initial training will be developed and delivered by a trainer with a CFP® designation or with advanced industry knowledge and experience. Key topics may include the following: principles of investing, investor behavior and education, risk tolerance and capacity, retirement saving guidelines, investment mathematics, tax basics, retirement readiness, member statistics, and education materials. Every year, URS employees will complete annual update training on all investment advice topics.

Supervisory Process

URS management, legal counsel, and the compliance department will be involved in overseeing the investment advice process. Printed and electronic investment advice materials provided to participants will be pre-approved by the legal and compliance departments. Investment advice will be subject to a review process that will include an examination of investment advice documentation/record-keeping (such as participant data) and as applicable: investment advice given to a participant, pension payout option recommendations, partial lump-sum recommendations, and Tier 2 election recommendations.

URS managers will also supervise all training activities, to ensure compliance with the investment advice process. URS managers will conduct regular reviews of URS employees on at least an annual basis.

URS Employee Compensation

URS employee compensation will not be related to any investment advice provided to participants. URS employees receive only salaries; no commissions are earned by URS employees on any URS investment products. Whether a participant accepts or rejects investment advice will have no impact on URS employee compensation.

URS employees will not refer URS participants to an employee's personal or "outside" financial advisory business. URS participant/employee interaction will be limited to URS-specific transactions, such as the investment advice process described in this proposal.

Conclusion

URS employees will be engaged in investment advice to its DB and DC plan participants regarding URS' retirement plans and investment options. As proposed, URS employees will not be engaged in the business of advising non-URS participants, nor will URS hold itself out as a registered investment advisor, nor will URS employees provide advice on non-URS investment products. URS employees will receive initial and ongoing training and remain subject to adequate supervision. Accordingly, URS should not be required to license with the Division as a registered investment advisor, in order to provide investment advice to URS participants in the manner and for the purpose outlined above.

Sincerely,



Dan Andersen
URS Executive Director