

Utah Money Management Council

350 N. State Street, Suite 180
P. O. Box 142315
Salt Lake City, Utah 84114-2315
(801) 538-1883 (801) 538-1465 Fax
mmcouncil@utah.gov



MONEY MANAGEMENT COUNCIL MEETING
THURSDAY OCTOBER 16, 2014
AT THE UTAH STATE TREASURER'S OFFICE
350 NORTH STATE STREET
SUITE 180
3:00 PM

A G E N D A

1. APPROVAL OF THE MINUTES OF THE SEPTEMBER 18, 2014 MEETING
2. MONTHLY REPORTS
 - A) Division of Securities
 - B) Department of Financial Institutions
 - C) Deposit and Investment report update
 - i) New reports with questions
3. DISCUSSION ON POSSIBLE AMENDMENTS TO THE ACT
4. OTHER BUSINESS AS NEEDED
5. SCHEDULE NEXT MEETING
6. DISCUSSION ON UPMA RESPONSE-CLOSED MEETING
7. RE-OPEN FOR POSSIBLE ACTION ON UPMA RESPONSE
8. ADJOURN MEETING

In compliance with the Americans with Disabilities Act, individuals needing special accommodations during this meeting should notify Kathy Wilkey, Administrative Assistant, at Room 180 State Capitol Building, (801) 538-1468.

Mark D. Watkins, Chair
US Bank
170 South Main St., Ste 600
Salt Lake City, UT 84101
Phone (801) 534-6209
mark.d.watkins@usbank.com

Kirt Slauch, Vice Chair
Key Bank
36 S. State Street, Ste 2500
Salt Lake City UT 84111
Phone (801) 297-5717
kirt_w_slauch@keybank.com

John B. Bond
Weber County
2380 Washington Blvd., Ste 350
Ogden, UT 84401
Phone (801) 399-8007
jbond@co.weber.ut.us

Douglas L. DeFries
Bank of Utah
2605 Washington Blvd.
Ogden, UT 84401
Phone (801) 409-5175
ddefries@bankofutah.com

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Salt Lake City
451 S State Street, Rm 228
Salt Lake City, Utah 84111
Phone: 801-535-6565
marina.scott@slcgov.com

STATE MONEY MANAGEMENT COUNCIL-MINUTES
THURSDAY SEPTEMBER 18, 2014

The regular meeting of the State Money Management Council was held in the Offices of the Utah State Treasurer, 350 North State Street, Suite 180, at 3:00 p.m., Thursday September 18, 2014. In attendance were:

Mark Watkins, Chair
Kirt Slauch, Vice Chair
John Bond
Marina Scott
Doug DeFries
Ann Pedroza, Staff
David Damschen, Deputy State Treasurer
Michael Green, Attorney General's Office
Tom Bay, Department of Financial Institutions
Scott Burnett, Zions Wealth Advisors
Marcus Nield, InCapital
Charlotte Carlsen, Zions Wealth Advisors
Greg Aiken, Zions Wealth Advisors

Minutes of August Meeting

The minutes of the August 21, 2014 meeting were approved unanimously.

Monthly Reports

Securities Division:

Ms. Black was not in attendance and sent up the Certified Dealers list noting that RBC Capital Markets is deleting 2 agents. There were no changes to the Certified Investment Advisers list. Council reviewed the lists briefly.

Financial Institutions' Report:

Mr. Bay provided the October 1, 2014 quarterly certification of public funds allotments for Qualified Depositories. He informed the Council that Celtic Bank has opted to no longer hold public funds and is off the list. Mr. Bay then informed the Council that EnerBank has requested to become certified. This institution has been in operation since 2002 in Salt Lake City and specializes in financing for home improvements to individuals through dealers. They have \$837 million in total assets and their Tier1 capital ratio is 11.9% with strong earnings. Council voted unanimously to add EnerBank as a qualified depository.

Mr. Bay then reviewed the monthly report as of August month end noting that there one institution is above 50% usage of their allotment. Gunnison Valley Bank's allotment usage is at 55%. Mr. Bay informed the Council that Education First Credit Union's report from last month was incorrect and the numbers reflect the correct usage.

Late Deposit and Investment Report Update:

Ms. Pedroza noted for the Council that there are 60 reports that have not been filed for the June 2014 reporting period.

Reports with questions:

Ms. Pedroza briefly noted to the Council updates on the three entities that were discussed in the last meeting.

Ranches Academy: Is trying to find someone who can provide the information on the contract.

Lakeview Academy: Was made whole on the three CD's that were not qualified banks, and they received interest.

Tuachan High School: Received their principal back on their investment. Council discussed this and asked that the high school be informed that they should be reimbursed interest at the PTIF rate for the months that the funds were in the annuity.

Formal Enforcement Actions:

Mr. Damschen noted to the Council that the enforcement action on Holladay Bank and Trust has been terminated. Council discussed this briefly and Mr. DeFries motioned to increase the uninsured allotment for Holladay Bank to the full amount. The Council approved the motion unanimously.

Acceptance of Reports:

It was motioned and seconded, and all of the above reports were accepted unanimously.

Discussion on Possible Amendments to the Act

Mr. Damschen noted to the Council that §51-7-9.5 needs to be deleted from the Act. Council discussed this briefly. Mr. Damschen then informed the Council that Mr. Ellis suggested that the Council look at placing limits on the length of maturities of agency securities. Council discussed this at length with input from brokers and advisers in attendance. It was noted by Mr. Nield that if a limit is set, generally those investing will go out to that limit. Council then discussed the possibility of reporting consistency at length. Council then discussed exemptions to the limitation on maturity that might be listed in the Act. It was noted that exemptions known about such as bond escrows and bond proceeds could be noted in the changes and all others could be subject to Council approval. Council tentatively agreed that five years would be the better limit. Council then asked that language be drafted and brought to the next meeting.

Discussion on UPMA

Mr. Damschen briefly reviewed for the Council the issues with the UPMA and noted that the SEC, Securities Division and the Department of Financial Institutions felt there was not enough information to pursue action on this issue. Mr. Damschen noted the options Council could take to deal with the issue. Council then reviewed a draft of a letter to send out to UPMA requesting that they cease and desist in contacting public entities. (See draft in minutes). After further discussion Ms. Scott motioned to approve the letter and the motion passed unanimously.

Other Business

No other business.

Schedule Next Meeting

The Council then scheduled the next meeting for October 16, 2014 at 3:00 p.m. in the offices of the State Treasurer at 350 North State Street, Room 180. With no other business before the Council, they adjourned at 4:41 p.m.

DRAFT



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce
Division of Securities

FRANCINE A. GIANI
Executive Director

KEITH WOODWELL
Director, Division of Securities

TO:	Money Management Council
FROM:	Michele Black, Division of Securities
RE:	Additions to the Certified Investment Adviser List
DATE:	October 16, 2014

The following agents and firms have been added to the existing list for conducting investment transactions with public treasures pursuant to rule 15 of the State Money Management Council.

Zions Capital Advisors, Inc.

Investment Adviser

Representatives: Christopher M. Beesley
Charlotte Carlsen
Tami Tingey



GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
Department of Commerce
Division of Securities

FRANCINE A. GIANI
Executive Director

KEITH WOODWELL
Director, Division of Securities

TO:	Money Management Council
FROM:	Michele Black, Division of Securities
RE:	Current List Certified Dealer
DATE:	October 16, 2014

The following is the list of Certified Dealers and Agent(s) effective **October 16, 2014**:

Ameriprise Financial Services, Inc.

Agents:	Rex Baxter	7730 Union Park Avenue, Suite 300	
		Midvale, UT 84047	
	Quin Gardner	"	"
	Kim Isaacson	"	"
	Daniel S. Nelsen	"	"
	Bruce R. Wingrove	"	"

Amherst Pierpont Securities LLC

Agents:	Jamison Yardley	299 South Main Street, Suite 1300	
		Salt Lake City, UT 84111	

Barclays Capital Inc.

Agents:	Peter Bjurstein	555 California Street, 30th Floor	
		San Francisco, CA 94104	

BNP Paribas Securities Corp.

Agents:	Grant Gould	500 Capital Mall	
		Sacramento, CA 95814	
	Amit Ashok Jogal	2527 Camino Ramon	
		San Ramon, CA 94583	
	Alexandra Maria Linden	"	"
	Paul Thomas Montaquila	"	"
	Anthony Hoan Pham	"	"
	Kari Prichard	"	"
	W. Hampton B. Smith Jr.	787 7 th Avenue	
		New York, NY 10019	
	Dominic Aaron Wallace	2527 Camino Ramon	
		San Ramon, CA 94583	

DA Davidson & Co.

Agents:	Hank Jenkins	1600 Broadway, Suite 1100 Denver, CO 80202
	John Pedersen	7730 Union Park Avenue Suite 220 Midvale, UT 84047
	Traci Salinas	“ “

George K. Baum & Company

Agents:	Susan P. Gardner	4801 Main Street, Suite 500 Kansas City, MO 64112
	Joseph C. Higginbottom	1400 Wewatta Street, Suite 800 Denver, CO 80202
	Frederic H. Jones	15 West South Temple, #1090 Salt Lake City, UT 84101
	Stephen L. Strong	“ ”
	Brett C. Turnbull	4801 Main Street, Suite 500 Kansas City, MO 64112

Goldman Sachs & Co.

Agents:	Chris Trinkus	200 West Street 5 th Floor New York, NY 10282
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Incapital LLC

Agents:	William H. Money III	299 South Main Street, Suite 1317 Salt Lake City, UT 84111
	Marcus Nield	“ ”

LPL Financial LLC

Agents:	Craig P. Adams	5929 South Fashion Pointe Drive, Suite 204 Ogden, UT 84403
	Stephen H. Beierlein	5929 South Fashion Point Drive Ogden, UT 84403
	Timothy W. Floyd	2104 West Sunset Boulevard St. George, UT 84770
	Chad D. Waddoups	7181 South Campus View Drive West Jordan, UT 84084

Morgan Stanley

Agents:	Cody Adams	60 East South Temple 20 th Floor Salt Lake City, UT 84111
	Paul Barton	6510 S. Millcreek Drive, Suite 100 Holladay, UT 84121

Morgan Stanley cont.

Agents:	Deidre M. Cortney	3033 East 1 st Avenue, Suite 820 Denver, CO 80206
	Johnthomas L. Cumbow	50 North Laura Street, Suite 2000 Jacksonville, FL 32202
	Douglas Felt	60 E. South Temple Salt Lake City, UT 84111
	Phil Fonfara	1101 5 th Avenue San Rafael, CA 94901
	John Hallgren	60 East South Temple Salt Lake City, UT 84111
	Thomas E. Nielson	6510 S. Millrock Drive, Suite 100 Holladay, UT 84121
	John R. Ott	1101 5 th Avenue San Rafael, CA 94901
	Brian Parcell	60 E. South Temple Salt Lake City, UT 84111
	Angela Leach Pizzichini	3033 East 1 st Avenue, Suite 820 Denver, CO 80206
	Joseph A. Ranucci	50 North Laura Street, Suite 2000 Jacksonville, FL 32202
	F. Barton Reuling	6510 S. Millrock Drive, Suite 100 Holladay, UT 84121
	Kenneth Webster	6510 S. Millrock Drive, Suite 100 Holladay, UT 84121

Raymond James & Associates, Inc.

Agents:	Mark McKinnon	2825 East Cottonwood Parkway, Suite 500 Salt Lake City, UT 84124
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RBC Capital Markets, LLC

Agents:	Eric Ajlouny	345 California Street San Francisco, CA 94104
	Eddie Barber Jr.	299 South Main Street, #2000 Salt Lake City, UT 84111
	Scott Chappell	" "
	Walter Hall	345 California, 29 th Floor San Francisco, CA 94104
	Tracy L. Maltby	805 SW Broadway, Suite 1800 Portland, OR 97205

RBC Capital Markets, LLC cont.

Agents: Ronald N. Mason	299 South Main Street, Suite 2000 Salt Lake City, UT 84111
Brent Peterson	805 SW Broadway, Suite 1800 Portland, OR 97205
Patrick Porter	299 South Main Street, Suite 2000 Salt Lake City, UT 84111
John Styrbicki	60 South 6 th Street Minneapolis, MN 55402
Russell Tobler	299 South Main Street, Suite 2000 Salt Lake City, UT 84111
Sam Vetas	“ “
Michael Zetahmeyer	60 South 6 th Street Minneapolis, MN 55402

Robert W. Baird & Co. Incorporated

Agents: Donald Eckstein	4017 Hillsboro Pike Suite 403 Nashville, TN 37215
Dean R. Cottle	222 South Main Street, Suite 1840 Salt Lake City, UT 84101

UBS Financial Services Inc.

Agents: Don M. Bunnell	299 South Main, Suite 2100 Salt Lake City, UT 84111
Barry B. Bowen	“ “
John Doke	100 Crescent Court, Suite 600 Dallas, TX 75201
Matthew J. Hufford	299 South Main, Suite 2100 Salt Lake City, UT 84111
Fred C. Luedke	100 Crescent Court, Suite 600 Dallas, TX 75201
Jim Madden	“ “
Nat Mosley	“ “
Christopher Soutas	299 South Main, Suite 2100 Salt Lake City, UT 84111

Wells Fargo Advisors LLC

Agents: R. Dane Bradshaw	6550 South Millrock Drive #G50 Holladay, UT 84121
Josh G. Burgon	“ “
Daniel Payne	201 South Main Street, Suite 160 Salt Lake City, UT 84101

Wells Fargo Advisors LLC cont.

Agents:	David Payne	"	"
	Timothy Payne	"	"

Wells Fargo Securities LLC

Agents:	Benjamin Byington	299 South Main Street	
		Salt Lake City, UT 84111	
	Thomas Degenaars	"	"
	Brandon Hodge	"	"
	Larry Lundberg	1445 Ross Avenue	
		Dallas, TX 75202	
	Chandos Robertson	299 South Main Street	
		Salt Lake City, UT 84111	
	Ryan Stoker	"	"
	Randy Church	"	"

Zions Bank Capital Markets

Agents:	Jacqueline Davies	One South Main Street, 17 th Floor	
		Salt Lake City, UT 84133	
	Neil Decker	"	"
	Wendy Jones	"	"
	Brad Mayeda	"	"
	Daniel Ricks	"	"
	Ty Roberts	"	"
	Ben Sehy	"	"
	Kathy Sullivan	"	"
	Christopher J. Tyler	"	"

Zions Direct, Inc.

Agents:	Jacqueline Davies	One South Main Street, 17 th Floor	
		Salt Lake City, UT 84133	
	Neil Decker	"	"
	Wendy Jones	"	"
	Brad Mayeda	"	"
	Daniel Ricks	"	"
	Ty Roberts	"	"
	Ben Sehy	"	"
	Kathy Sullivan	"	"
	Christopher J. Tyler	"	"

6/30/14
Late D&I Reports
As of 10/16/14

East Garland Cemetery
Hyde Park Cemetery
Willard Cemetery

Millard Co Drain Dist#4
Millard Co Wtr Conserv Dist
Weber Co Serv Area #5

Utah League of Cities & Towns
Emery County Housing Authority
UAMPS

Aristotle Academy
Freedom Academy
Noah Webster Academy
Open Classroom
Spectrum Academy
Utah Virtual Academy

Carbon S/D
Tintic S/D

Beaver Dam Village SS Dist
Fruitland Water imp
Grand Co SS Rec Dist
Iron Co SS Dist #3
Millard Co SS Dist #8
North Sanpete Ambulance Service
Peoa Recreation SS Dist
Pinon Forest SS Dist
Sevier Co SS Dist #1
Tabby Valley Parks & Rec dist
Thompson SS Dist
White Hills SS Dist

Circleville Town
Cornish Town
Kanosh Town
Leeds Town
Lyman Town

Utah College of AT

Benjamin Drain Dist
Bluff Water Works SS Dist
Box Elder Co SErv Area #2
Bristlecone Wtr Imp Dist
Cache Co Drain Dist #5
Hansel Valley Wtrshd Dist
Iowa String Drain Dist
Lake Shore & Benjamin Drain Dist
Long Valley Sewer Imp Dist
Mapleton Irrigation Co

06/30/2014



TUACAHN HIGH SCHOOL
1100 TUACAHN STE C
IVINS UT 84738-4701

2930 11 23

Page 1 of 1



REPORT OF ANNUITY ACTIVITY

For Period Beginning 04/01/2014 and Ending 06/30/2014

Transactions after 06/30/2014 are not included.

Contract Number	WU00120255
Annuitant(s)	Kent B Brown
Plan Name	Future Max V-V
Line of Business	NQA
Contract Effective Date	04/09/2014
Contract Anniversary Dt	04/09/2015
Current Interest Rate	3.200%
Begin Annuity Value	\$0.00
Begin Net Surr Value	\$0.00
Deposits	\$104,896.62
Interest Earned	\$744.92
Withdrawals	\$0.00
End Annuity Value	\$105,641.54
Loan Balance	N/A
End Net Surr Value	\$104,896.62

Western United and your insurance producer appreciate the opportunity to be of service to you. Please be sure to read the back of this statement carefully as there may be further decisions you need to make regarding your annuity contract. If you have any questions, you may contact your insurance producer if shown below, or the Home Office.

Your Insurance Producer:

Mountain America Insurance Services
Timothy W Floyd
123 S River Rd
St George UT 84790
435.628.5600

929 W Sprague Ave • PO Box 2290 • Spokane WA 99210-2217
509.835.2500 • 800.247.2045 • Fax 509.835.3191 • AnnuityServices@wula.com





May 30, 2014

RESET NOTICE

Company: The Ranches Academy, Inc.
Attention: Stephanie Colson
Loan Number: 990008824

RE: Swap dated October 31, 2012
Notional: USD 1,341,666.73
Our Reference Number: CFAWBC2012103102

Please be advised that the floating interest rate on your transaction was calculated at the following rate:

Index:	1 mo. USD-LIBOR-BBA w/ -1 day lookback
Fixing Date:	May 30, 2014
Index Rate:	0.15100%
Spread:	2.55000%
All In Rate:	2.70100%

Accordingly, we calculate the payment amount due on July 1, 2014 as USD 2,123.19, as detailed below.

<u>Client</u>	<u>Start Date</u>	<u>End Date</u>	<u>Day Count</u>	<u>Notional</u>	<u>Rate</u>	<u>Payment</u>
Rcvs Floating	01-Jun-14	01-Jul-14	30/360	USD 1,341,666.73	2.70100%	USD 3,019.87
Pays Fixed	01-Jun-14	01-Jul-14	30/360	USD 1,341,666.73	4.60000%	<u>USD 5,143.06</u> USD 2,123.19

AmericanWest Bank will debit your DDA #*****2127 USD 2,123.19 on July 1, 2014.

Please include reference number CFAWBC2012103102 when making payments or inquiries. If you have any questions, please contact Conor Ferguson at 509-344-5510.



November 29, 2013

RESET NOTICE

Company: The Ranches Academy, Inc.
Attention: Stephanie Colson
Loan Number: 990008824

RE: Swap dated October 31, 2012
Notional: USD 1,391,666.71
Our Reference Number: CFAWBC2012103102

Please be advised that the floating interest rate on your transaction was calculated at the following rate:

Index: 1 mo. USD-LIBOR-BBA w/ -1 day lookback
Fixing Date: November 29, 2013
Index Rate: 0.16800%
Spread: 2.55000%
All In Rate: 2.71800%

Accordingly, we calculate the payment amount due on January 2, 2014 as USD 2,255.35, as detailed below.

<u>Client</u>	<u>Start Date</u>	<u>End Date</u>	<u>Day Count</u>	<u>Notional</u>	<u>Rate</u>	<u>Payment</u>
Rcvs	01-Dec-13	01-Jan-14	31/360	USD 1,391,666.71	2.71800%	USD 3,257.20
Floating						
Pays Fixed	01-Dec-13	01-Jan-14	31/360	USD 1,391,666.71	4.60000%	<u>USD 5,512.55</u>
						<u>USD 2,255.35</u>

AmericanWest Bank will debit your DDA #*****2127 USD 2,255.35 on January 2, 2014.

Please include reference number CFAWBC2012103102 when making payments or inquiries. If you have any questions, please contact Conor Ferguson at 509-344-5510.

~~[51-7-9.5. State School Fund report.~~

~~———— (1) The state treasurer shall prepare a report at the end of each fiscal year on the State School Fund created in Utah Constitution Article X, Section 5.~~

~~———— (2) The report shall include the following information:~~

~~———— (a) the name of each asset within the fund and the fair market value of each asset as of June 30;~~

~~———— (b) the amount and date of each contribution to the fund during the fiscal year;~~

~~———— (c) a balance sheet for the most recently completed fiscal year and the previous fiscal year;~~

~~———— (d) the fund's internal rate of return for the previous year, three years, and five years;~~

~~———— (e) a summary of the asset allocation policy for the fund;~~

~~———— (f) a description of the fund income, including amounts distributed and amounts retained; and~~

~~———— (g) expenses in dollars and as a percent of fund assets. ———~~

~~(3) The state treasurer shall submit the report to the Education Interim Committee by October 1 of each year.]~~

51-7-11. Authorized deposits or investments of public funds.

(1) (a) Except as provided in Subsections (1)(b) and (1)(c), a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

(b) A public treasurer may designate a certified investment adviser to make trades on behalf of the public treasurer.

(c) A public treasurer may make a deposit in accordance with Section **53B-7-601** in a foreign depository institution as defined in Section **7-1-103**.

(2) The remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested. The public treasurer shall ensure that the weighted average maturity on their portfolio is no more than 2.5 years as described in council rule.

(3) Except as provided in Subsection (4), all public funds shall be deposited or invested in the following assets that meet the criteria of Section **51-7-17**:

(a) negotiable or nonnegotiable deposits of qualified depositories;

(b) qualifying or nonqualifying repurchase agreements and reverse repurchase agreements with qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools;

(v) Federal Agriculture Mortgage Corporation pools; or

(vi) other investments authorized by this section;

(c) qualifying repurchase agreements and reverse repurchase agreements with certified dealers, permitted depositories, or qualified depositories using collateral consisting of:

(i) Government National Mortgage Association mortgage pools;

(ii) Federal Home Loan Mortgage Corporation mortgage pools;

(iii) Federal National Mortgage Corporation mortgage pools;

(iv) Small Business Administration loan pools; or

- (v) other investments authorized by this section;
- (d) commercial paper that is classified as "first tier" by two nationally recognized statistical rating organizations, which has a remaining term to maturity of:
 - (i) 270 days or fewer for paper issued under 15 U.S.C. Sec. 77c(a)(3); or
 - (ii) 365 days or fewer for paper issued under 15 U.S.C. Sec. 77d(2);
- (e) bankers' acceptances that:
 - (i) are eligible for discount at a Federal Reserve bank; and
 - (ii) have a remaining term to maturity of 270 days or fewer;
- (f) fixed rate negotiable deposits issued by a permitted depository that have a remaining term to maturity of 365 days or fewer;

(g) obligations of the United States Treasury, including United States Treasury bills, United States Treasury notes, and United States Treasury bonds whose final maturity may not exceed 3 years from the date of purchase, unless the funds being invested are pledged or otherwise dedicated to the payment of interest and principal of debt service on bond or note issues;

(h) obligations other than mortgage pools and other mortgage derivative products issued by, or fully guaranteed as to principal and interest by, the following agencies or instrumentalities of the United States in which a market is made by a primary reporting government securities dealer, unless the agency or instrumentality has become private and is no longer considered to be a government entity:

- (i) Federal Farm Credit banks;
- (ii) Federal Home Loan banks;
- (iii) Federal National Mortgage Association;
- (iv) Federal Home Loan Mortgage Corporation;
- (v) Federal Agriculture Mortgage Corporation; and
- (vi) Tennessee Valley Authority and;

(A) whose remaining maturity shall not exceed 3 years from the date of purchase, unless the funds being invested are pledged or otherwise dedicated to the payment of interest and principal of debt service on bond or note issues.

- (i) fixed rate corporate obligations that:
 - (i) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;
 - (ii) are senior unsecured or secured obligations of the issuer, excluding covered bonds;
 - (iii) are publicly traded; and
 - (iv) have a remaining term to final maturity of 15 months or less or are subject to a hard put at par value or better, within 365 days;

(j) tax anticipation notes and general obligation bonds of the state or a county, incorporated city or town, school district, or other political subdivision of the state, including bonds offered on a when-issued basis without regard to the limitations in Subsection (7) and;

(i) whose remaining maturity shall not exceed 3 years from the date of purchase, unless the funds being invested are pledged or otherwise dedicated to the payment of interest and principal of debt service on bond or note issue;

(k) bonds, notes, or other evidence of indebtedness of a county, incorporated city or town, school district, or other political subdivision of the state that are payable from assessments or from revenues or earnings specifically pledged for payment of the principal and interest on these obligations, including bonds offered on a when-issued basis without regard to the limitations in Subsection (7); and:

(i) whose remaining maturity shall not exceed 3 years from the date of purchase, unless the funds being invested are pledged or otherwise dedicated to the payment of interest and principal of debt service on bond or note issue;

(l) shares or certificates in a money market mutual fund;

(m) variable rate negotiable deposits that:

(i) are issued by a qualified depository or a permitted depository;

(ii) are repriced at least semiannually; and

(iii) have a remaining term to final maturity not to exceed three years;

(n) variable rate securities that:

(i) (A) are rated "A" or higher or the equivalent of "A" or higher by two nationally recognized statistical rating organizations;

(B) are senior unsecured or secured obligations of the issuer, excluding covered bonds;

(C) are publicly traded;

(D) are repriced at least semiannually; and

(E) have a remaining term to final maturity not to exceed three years or are subject to a hard put at par value or better, within 365 days;

(ii) are not mortgages, mortgage-backed securities, mortgage derivative products, or a security making unscheduled periodic principal payments other than optional redemptions; and

(o) reciprocal deposits made in accordance with Subsection 51-7-17(4).

(4) The following public funds are exempt from the requirements of Subsection (3):

(a) the Employers' Reinsurance Fund created in Section 34A-2-702;

(b) the Uninsured Employers' Fund created in Section 34A-2-704;

(c) a local government other post-employment benefits trust fund under Section 51-7-12.2; and

(d) a nonnegotiable deposit made in accordance with Section 53B-7-601 in a foreign depository institution as defined in Section 7-1-103.

(5) If any of the deposits authorized by Subsection (3)(a) are negotiable or nonnegotiable large time deposits issued in amounts of \$100,000 or more, the interest shall be calculated on the basis of the actual number of days divided by 360 days.

(6) A public treasurer may maintain fully insured deposits in demand accounts in a federally insured nonqualified depository only if a qualified depository is not reasonably convenient to the entity's geographic location.

(7) Except as provided under Subsections (3)(j) and (k), the public treasurer shall ensure that all purchases and sales of securities are settled within:

(a) 15 days of the trade date for outstanding issues; and

(b) 30 days for new issues.

Memorandum

To: Utah State Money Management Council, Mark Watkins Chairman

From: Michael Green, Assistant Attorney General

Date: October 15, 2014

RE: UPMA Compliance with SMMA

Background Information

The State of Utah Money Management Council (UMMC) received an advertisement that indicates that a gold fund offered by UPMA can be used by public treasurers. The UMMC then issued a letter to cease the advertisement. UPMA has responded to that letter. This memorandum addresses the legal arguments contained in UPMA's response.

Discussion:

- 1. The State Money Management Act (SMMA) creates certain requirements for public treasurers to comply with when dealing with public funds.**

The institution that holds public funds must be a qualified depository, registered in the State as a certified dealer or certified investment adviser as defined within the Act, or an issuer of registered securities as described within the Act. The UPMA does not fall within any of these categories.

Moreover, the UPMA does not appear to be an eligible investment as required by the Act: The "Fund" does not appear to be a "Money Market Mutual Fund," as such a fund is defined within the Act, particularly with respect to its conformance with provisions of the Securities and Exchange Commission Rule 2a-7.

Therefore, the UPMA cannot hold public funds or be used by public entities subject to the SMMA.

With this foundation, the arguments and assertions made by Mr. Hilton are addressed:

2. Utah recognizing gold and silver minted by the United States government as legal tender does not remove UPMA's obligation to abide by the SMMA.

UCA 59-1-1501.1 merely states that “specie legal tender” means gold or silver coin that is issued by the United States.” UTAH CODE ANN. 59-1-1501.1 (2012). 1502 indicates that specie legal tender is a legal tender in the state of Utah. *Id.* at 59-1-1502. 31 U.S.C. 5103 simply states that, “United States coins and currency. . . are legal tender for all debts, public charges, taxes and dues.” There is absolutely no statutory indication that “contemplate[ing] the use of specie legal tender”—as the UPMA puts it—removes UPMA from the obligation of UMMA compliance.

3. Legal Tender Services being exempt from financial institution registration has no bearing on the UPMA's compliance with SMMA.

UPMA argues that both UCA 7-5-1(1)(c)(i) and 7-22-101(2)(b) exempt Legal Tender Services (LTS) (which whom UPMA has contracted with) from registration as a financial institution. However, this exemption only applies to the designation of “trust businesses” that are “used in this chapter.” UCA 7-5-1 indicates that “trust business” does not include “money held in a client trust account by an attorney authorized to practice law. . .” UCA 7-22-101(2)(b) indicates that chapter 22 does not apply to “a person other than an escrow agent regulated under this chapter that is exempted from the definition of trust business in subsection 7-5-11.” The exemption of LTS as a financial institution does not entail that the Liquid Gold Money Market Fund complies with the requirements of SMMA. In other words, this exemption expressly applies to Chapter 22, not Chapter 7 of the Title 51 of the Utah Code.

4. Compliance with Title 51-4-1 does not remove UPMA's obligation to abide by the SMMA.

UCA 51-4-1 provides that each agency shall deposit collections of state money and other public funds with the state treasurer or a qualified depository for the credit of the state.

Compliance with this provision does not abrogate the requirements laid out in the SMMA. The SMMA further requires that these investment transactions are themselves conducted through qualified depositories, certified dealers, or directly with issuers of the investment securities. *Id.* at 51-7-11.

5. Although the SMMA expressly allows investment to money market mutual funds, the Liquid Gold Money Market Mutual Fund offered by UPMA does not qualify

The UMMC letter indicated that the fund does not qualify as a money market mutual fund because it fails to satisfy UCA 51-7-3(20)(a), which requires that the investment comply with the diversification, quality and maturity requirements of Rule 2a-7 of the Securities and Exchange Commission applicable to money market mutual funds. The UPMA merely asserts that it satisfies both requirements without providing any argument as to how they meet them.

Indeed, the UPMA concedes that it is not a qualified depository, certified dealer, investment adviser, or issuer of any registered securities. The SMMA expressly states, "a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities." *Id.* at 51-7-11. Because it has not contended that the Liquid Gold Money Market Mutual Fund fits within one of these categories, it is not an eligible investment under the SMMA because it fails to comply with the mandatory language of SMMA.

6. The liquidity of gold is a subsidiary consideration. The primary focus of the fund need be whether the funds were invested in accordance with Section 51-7-11 of the SMMA.

UPMA's letter argues that they complies with UCA 51-7-11(2), which states, "the remaining term to maturity of the investment may not exceed the period of availability of the funds to be invested." However, the stability of this investment could determine whether or not the fund could qualify as a money mutual market fund provided proper certification. At the outset, it does not seem to be a short-term investment vehicle (270 days average), but that is merely speculation.

Assuming, *arguendo*, that gold meets this investment requirement; it is a subsidiary consideration. That would not alter the mandatory restrictions placed on public treasurers in regard to investment transactions. *See id.* at 57-7-11(1)(a). The fact that the investment's maturity does not exceed the period of availability of the funds does not alter the fact that the fund does not satisfy the SMMA. UPMA still fails to conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities.

Conclusion

The statutes cited in UPMA's letter do not expressly supersede the SMMA. The SMMA expressly requires, "a public treasurer shall conduct investment transactions through qualified depositories, certified dealers, or directly with issuers of the investment securities." *Id.* at 51-7-11. The UPMA has not contended, let alone shown, that the Liquid Gold Money Market Mutual Fund falls into one of these categories. Absent compliance with the mandatory language of the SMMA, the fund is not permissible.