Government Employees' Retirement System of the Virgin Islands

ANNUAL OVERVIEW OF OPERATIONS

### **FISCAL YEAR**





Contributing today for a better tomorrow

Presented to

Committee on Finance

33<sup>rd</sup> Legislature of the Virgin Islands of the United States

Earl B. Ottley Legislative Hall Tuesday, August 11, 2020 St. Thomas, U.S. Virgin Islands

# GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM OVERVIEW OF OPERATIONS

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#### INTRODUCTION

Good afternoon Honorable Senator Kurt A. Vialet, Chairman, Committee on Finance, distinguished Committee members, other distinguished senators present in the chambers, and good afternoon to the listening and viewing audience. I am, Austin L. Nibbs, Administrator of the Government Employees' Retirement System of the Virgin Islands (GERS). I am pleased to appear before this Committee to present the System's Annual Overview of Operations. As you know, the System is not required to submit a budget to the Legislature for approval. The Board of Trustees is responsible for the approval of the annual budget of the GERS. Therefore, our presentation is an overview of the operations of GERS. At this time, I would like to acknowledge members of my senior management team present in the chambers and participating remotely. Before we begin, I would also like to thank the employees of the GERS for stepping up to the challenges during these uncertain times and continue to provide our members with quality service although working remotely.

Since my first appearance before the Committee on Finance in 2008, I have always highlighted the deteriorating condition of the System. We are before the Committee on Finance in 2020 with the same message. Based on the current funding of the System, the System will become insolvent by 2024 or sooner depending on market conditions or if nothing is done to fund the System on an actuarial reserve basis. As of June 30, 2020, the market value of the System liquid assets was \$484.2 million. Of the \$137.8 million shown as withdrawals, \$90 million was used to meet obligations to the retirees through June 30, 2020. See EXHIBIT D. We emphasize again, if the Plan Sponsor and the Legislature do not find additional funding sources, based on the current withdrawals from the portfolio, the liquid assets will be depleted in the next 3 – 4 years. At which time, the System will be insolvent and will not be able to provide the benefits promised to retirees

and active members.

#### MEMBERSHIP AND ANNUITY PAYMENTS

As of July 31, 2020, the GERS pays benefits to 8,699 retirees and beneficiaries. The average monthly amount that is paid in benefits to the retirees and beneficiaries as of July 31, 2020, is \$21.4 million. The total amount paid in benefits from October 1, 2019 – July 31, 2020, is \$213.5 million. The active membership as of July 31, 2020, is 8,881 (central government 6,148 and semi-autonomous agencies 2,733). There is less than a 1 to 1 ratio between the actives and the retirees.

#### UNFUNDED LIABILITY (EMPLOYER'S NET PENSION LIABILITY) – EXHIBIT A

The October 1, 2019 Actuarial Valuation Report has not been completed. The information that is presented below represents the data from the October 1, 2018 Actuarial Valuation Report. For this period, GERS had a Total Actuarial Accrued Liability of \$3.70 billion. Plan Assets totaled \$768.8 million and the Unfunded Liability was \$2.93 billion. This resulted in a funded ratio of 21 percent on an ongoing actuarial basis.

The GERS is projected to fully deplete its assets no later than 2024. For the *GASB* required disclosures for accounting purposes, the discount rate is 4.25 percent (not the 7.0 percent used to develop long-term funding numbers in the presentation above), because the plan is projected to become insolvent soon. This measure results in a Total Actuarial Accrued Liability of \$4.94 billion and a net Pension Liability (Unfunded Liability) of \$4.17 billion. This results in a funded ratio of 16 percent. The GERS will provide a copy of the October 1, 2019 Actuarial Valuation Report to the Legislature when the valuation is completed.

## TOTAL CONTRIBUTIONS RECEIVED/BENEFIT PAYMENTS AND EXPENSES – EXHIBIT B

Beginning in 1996, there was an imbalance between contributions collected, benefit payments, and expenses resulting in a variance of \$1.6 million. Each year thereafter, contributions collected have been less than the benefit payments and expenses. In fiscal year 2019, there was a shortfall of \$151.1 million. For the nine months of fiscal year 2020, the shortfall is \$109.6 million. Annual shortfalls between contributions collected and benefit payments and expenses from 2000 through September 30, 2019 have caused the System to withdraw approximately \$1.8 billion from the portfolio to fund the benefit payments and expenses.

### ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTIONS (ADEC) DUE - EXHIBIT C

The ADEC now referred to as ADC (Actuarially Determined Contribution) is \$277.5 million or 69 percent of pay for the October 1, 2018 actuarial valuation period. At the employer rate at that time of 20.5 percent of pay, there is a projected deficit of 48.1 percent of pay between the ADC and the projected employer contributions. The schedule of the ADC (EXHIBIT C) from 1991 to 2019 shows that the Plan Sponsors owe the System approximately \$1.98 billion (net of 6 percent loss investment).

In September 2016, the GERS filed a Motion to Show Cause, stemming from the GVI's failure and refusal to comply with the Consent Judgment entered on December 10, 1984, as modified on April 22, 1994. In an April 3, 2020 Order, former District Court Judge Gomez ruled that the ADC was not part of the Consent Judgment. On April 8, 2020, the Board of Trustees voted to proceed with an appeal of the ADC portion of the decision to the U.S. Court of Appeals for the Third Circuit and to initiate a separate enforcement action in the V.I. Superior Court to enforce the provisions of 3 VIC 718(f) and 3 VIC 718a. The GERS filed its Notice of Cross Appeal on April 8, 2020.

#### PRIOR YEARS MISSING EMPLOYER CONTRIBUTIONS

Also, in the April 3, 2020 Order, former District Court Judge Curtis Gomez found the following:

1). The Government breached the Consent Decree by not paying fixed rate employer contributions required under 3 V.I.C. §718(g) in the amount of \$13, 860, 879 for the period of

January 1, 1991 through December 31, 2009.

2). The Government breached the Consent Decree by not paying fixed rate employer contributions required under 3 V.I.C. §718(g) in the amount of \$5,000,000 for the period of January 1, 2010 through December 31, 2018.

3). The Government is liable for statutory interest and penalties in the amount of \$6,121,273 for the period of 2010-2018 and \$43,161,354 for the 1991-2009 period.

The Court Order required the GVI to pay GERS \$63,143,506 in seven (7) equal installment payments beginning in May 2020. This sum was consistent with GERS's and RSM's (court appointed consultant) findings.

The GVI filed a Notice of Appeal on April 7, 2020. The Third Circuit Court of Appeals ordered an expedited schedule. The Appeal has been fully briefed and the parties are awaiting a date for oral arguments. It should be noted that the St. Croix Government Retirees Inc. (SCGR) and Government Retirees United for Fairness Inc. (GRUFF) filed an Amicus Brief in support of the GERS.

## DIRECT CONTRIBUTION DUE FROM CENTRAL GOVERNMENT (Act Nos. 7261 and 8244)

1). Act No. 7261 calls for appropriating in the fiscal year ending September 30, 2013, and all subsequent fiscal years, the sum of \$7,000,000 from the Internal Revenue Matching Fund to the GERS as a direct contribution. I am pleased to report that GERS has received \$42 million from the Internal Revenue Matching Fund under Act No. 7261.

2). Act No. 8244 provided an appropriation from the Internal Revenue Matching Fund for the fiscal year October 1, 2019 to September 30, 2020, to the GERS as a contribution to outstanding employer contributions in the amount of \$6 million and \$4 million as a direct contribution.

On February 5, 2020, former District Court Judge Curtis Gomez ordered the Government of the Virgin Islands to pay \$5.0 million to the GERS by March 5, 2020, for outstanding employer contributions for the period January 1, 2010 through December 31, 2018. On March 3, 2020, the GERS received \$5 million in its account from the Internal Revenue Matching Fund from the central government. Therefore, there is \$5 million (\$1 million for outstanding employer contributions and \$4 million as a direct contribution) remaining to be paid to the GERS from the Internal Revenue Matching Fund for the fiscal year October 1, 2019 to September 30, 2020 under Act No. 8244.

# ASSETS (INCLUDING INVESTMENTS)

The assets of the GERS include the investment portfolio, which is comprised of cash and cash equivalents, equity, fixed income, private equity and other alternative investments, such as real estate, local investments, and member loans.

#### PORTFOLIO PERFORMANCE - EXHIBITS D and E

The System terminated all its active equity (stock) managers and continues its commitment to a disciplined investment strategy using the Dynamic Asset Allocation investment strategy. Its investment portfolio is now managed by 1 active fixed income (bonds) manager, 1 index (equity and fixed income) manager, and 1 private equity (non-local) manager.

The market value of the portfolio as of June 30, 2020, was \$484.2 million which represents a decrease from \$55.8 million from September 30, 2019. To meet obligations to the retirees for benefit payments, \$90 million was withdrawn from the Fund. The Fund earned income of \$10.8 million and had a gain of \$25.6 million. Note that the June 30, 2020 market value of \$484.2

million excludes the member loans program - \$39.5 million, an Alternative Investment Program loan - \$3 million, the office complexes - \$7 million, the vacant land on St. Croix and St.

Thomas - \$7 million, and Havensight Mall - \$41 million. Therefore, the *total* market value of the System's assets as of June 30, 2020 is approximately \$581.7 million. The System's aggregate assets performance as of June 30, 2020 fiscal year-to-date was 5.10 percent, which exceeded the performance of many of its peers during this period. The plan returned 4.1 percent for the quarter, and over the one-year period was 6.6 percent. Since inception, the plan has returned 8.8 percent, Total Equity has returned 11.5 percent and Total Fixed Income (bonds) has returned 7.3 percent.

Over the years, there has been a misconception that the Board has made bad investments. This is so far from the truth. Over the past 20 years, the market rates of return have been positive 16 out of 20 years (See EXHIBIT F). In many of the years, the returns were well above the assumed rate of return of 7 percent or 8 percent, and as high as:

2003 - 17.6 percent

2004 - 10.6 percent

2005 - 11.8 percent

2007 - 14.1 percent

2012 - 14.5 percent

2013 - 9.1 percent

2017 - 11.2 percent

The negative returns were a result of market conditions in 2001 and 2002, 2008 and 2015. When compared to its peers of the same size, to include the value of its assets and its portfolio, GERS's performance is in line with or above that of its peers.

#### **ALTERNATIVE INVESTMENT PROGRAM**

Title 3, Section 12, Chapter 27of the Virgin Islands Code gives the Board of Trustees the authorization to invest in an Alternative Investment Program (AIP). Alternative investments are private market (non-publicly traded) investments in domestic and international venture capital and special equity; simply any investments other than the traditional equity and bonds.

The AIP was designed to enhance the total Fund performance by generating a long-term rate of return greater than the Fund's assumed actuarial rate of 7.0 percent. On January 23, 2014, the Board approved a rate of no less than 10 percent effective January 1, 2014, for all alternative *local* investments. Shortly thereafter, the Board suspended the AIP. To date, GERS has invested in three types of alternative investments, private equity, real estate, special situations (local investments), and member loans.

#### At July 31, 2020, the portfolio for Alternative Investment Program consisted of:

#### **Private Equity**

Mesirow Financial Private Equity Fund (Limited Partnership)

#### **Real Estate**

- GERS Complexes on St. Thomas and St. Croix
- Undeveloped Land (Estates Hoffman/Nullyberg on St. Thomas and Estate Coakley Bay on St. Croix)
- Havensight Shopping Mall St. Thomas

#### Member Loans (Personal and Mortgages) – Territory-wide

#### **ACTUARIAL VALUATION**

Title 3, Chapter 27, Section 718 (a) of the Virgin Islands Code mandates that the Government Employees' Retirement System of the Virgin Islands be financed on an "actuarial reserve basis".

An "actuarial reserve basis" generally means that the retirement benefits are funded during employee's active years of employment so that by the time they retire, the benefits would have been fully funded in advance of their retirement date. The actuarial valuation, which is conducted by the System's Actuary, determines the contribution rate necessary to meet the cost of benefits being accrued and a corresponding amount to pay down a portion of the unfunded liabilities. An actuarial valuation is performed to calculate the ADC and is based on the assumptions and methods adopted by the Board. For many years, the actual amounts contributed by the plan sponsors have not been based on the required ADC amounts. The amounts that were contributed by the Plan Sponsor have been significantly less than the required ADC. The October 1, 2019, actuarial valuation has not been completed. It is expected that a report will be presented to the Board and issued by the end of September 2020. The Legislature will receive a copy of the report and it will be made public shortly thereafter.

#### ANNUAL FINANCIAL AUDIT

The System's fiscal year ending September 30, 2019 annual certified financial audit is expected to be issued by the end of August 2020. The Legislature will receive a copy of the report and it will be made public shortly thereafter.

#### MAJOR ACCOMPLISHMENTS FOR FISCAL YEAR TO DATE 2020

#### **Organizational Development**

- ✓ Held cross agency/functional unit team meetings
- ✓ Continued cross training throughout the agency to leverage internal talent
- ✓ Held employee relations activities to boost morale
- ✓ Negotiated with two (2) bargaining units and adjustments paid to staff

#### **Stakeholder Engagement**

- ✓ Held two Townhall Meetings
- ✓ Held territory-wide HR Officers' Meeting
- ✓ Streaming all board meetings on our YouTube channel live
- ✓ Newsletters via constant contact
- ✓ Meetings held with the Legislature / Governor re: GERS Status

✓ Opened a "new" customer service unit

#### **Technological and Infrastructure Advancement**

- ✓ Began implementing cloud-based back-up and V3 migration
- √ Began server infrastructure upgrade
- ✓ Upgraded of the accounting software

#### Financial/Fiscal Sustainability and Growth

- ✓ Received funding from FEMA for 2017 storm damage at GERS
- ✓ Successfully litigated Court Case
- ✓ Aggressively seeking funding/solutions for the solvency of the GERS
- ✓ Transitioned Havensight Mall management to GERS

#### **Operational Efficiency and Excellence**

- ✓ Redesigned process for retirement including enforcement of 718k
- ✓ Issued 2019 Annual Benefits Statement
- ✓ Retirees now receiving paper checks less than 2%
- ✓ Refunds being issued within an average of 90 days
- ✓ Retirees without any issues are receiving initial annuities within an average of 60 90 days

#### MAJOR GOALS FOR FISCAL YEARS 2020 AND 2021

#### **UPCOMING FY 2020 GOALS**

- √ Tier II Annual Benefits Statement
- ✓ Reduce the number of pending software issues
- ✓ Complete 50% of the capital projects

#### FISCAL YEAR 2021 GOALS

- ✓ To complete repairs and renovations to Havensight Mall due to Hurricanes Irma and Maria
- ✓ Complete Capital Projects to include replacement of A/C system and Roof at the St. Thomas complex
- ✓ Complete V3 migration to cloud-based
- ✓ Continue to increase employee engagement and morale.
- ✓ Increase Cyber Security
- ✓ Streamline and automate processes
- ✓ Initiate engagement with retirees to educate on the management of their finances before and after insolvency

#### **CONCLUSION**

Mr. Chairman, on May 13, 2020, the GERS Board of Trustees forwarded a letter to the Governor and the President of the 33<sup>rd</sup> Legislature and copied all senators. The purpose of the letter

was to advise the Governor and the Legislature pursuant to 3 VIC section 715 (b) (8) which authorizes the GERS Board to recommend to the Governor and Legislature, not less than biannually, an adjustment in benefits for all annuitants and pensioners based on a review of cost-of-living and related economic factors and consistent with actuarial projections on the solvency of the System. Along with the letter, the Board forwarded:

- Pension Reform Taskforce Report dated May 13, 2013
- Mercer Consulting Report dated October 26, 2016
- Congressional Research Service Economic Report related to the Virgin Islands dated June 20, 2018
- GERS White Paper published August 2019
- Segal Consulting presentation dated April 23, 2020

#### The Board recommended that:

- 1). The Plan Sponsor immediately fund the System on an actuarial basis to satisfy the Actuarially Determined Contribution of \$195,000,000 for fiscal year ended September 30, 2019.
- 2). In absence of compliance with the ADC funding requirement recommended in 1 above, a 42 percent reduction in all benefits payments beginning January 1, 2021.

The Board has not received a response from the Governor or the President of the Legislature.

Also, we are aware that the Governor by Executive Order on June 23, 2020, which established a 12 member Advisory GERS Funding Task Force to create a funding plan for the Government Employees' Retirement System. The Executive Order further states that once all Task Force members were appointed by the Governor; the group will have four months from the date of composition to present an initial GERS Funding Plan to the Governor. We are not aware that all Task Force members were appointed.

I would be remiss if I did not make another plea to the 33<sup>rd</sup> Legislature on behalf of the retirees and active members of the GERS, and the Territory to make funding the GERS the No.1 priority.

This concludes our presentation. We are available to respond to questions that you may have.

### **EXHIBIT A**

## Valuation Results as of October 1, 2018

Unfunded Liability

	October 1, 2017	October 1, 2018
Actuarial Accrued Liability (AAL)	\$3.67 Billion	\$3.70 Billion
Actuarial Value of Assets	\$o.85 Billion	\$0.77 Billion
Unfunded Actuarial Accrued Liability	\$2.82 Billion	\$2.93 Billion
Funded Percentage	23.1%	20.8%
Total Actuarially Determined Employer Contribution (ADEC)	\$267.7 Million	\$277.5 Million



# **EXHIBIT B**

#### GERS CONTRIBUTIONS VS BENEFIT PAYMENTS

FISCAL YEA	AR	<b>Total Contributions*</b>	Benefit Payments & Expenses*	Variance*
1994		61.7	46.7	15.0
1995		74.9	64.6	10.3
1996		71.7	73.3	(1.6)
1997		74.3	80.0	(5.7)
1998		71.9	91.6	(19.7)
1999		71.7	95.4	(23.7)
2000		70.2	103.7	(33.5)
2001		69.1	121.2	(52.1)
2002		80.1	133.0	(52.9)
2003		82.1	138.0	(55.9)
2004		84.9	142.6	(57.7)
2005		81.9	153.0	(71.1)
2006		99.3	161.0	(61.7)
2007		96.6	170.5	(73.9)
2008		112.8	184.7	(71.9)
2009		116.8	187.0	(70.2)
2010		117.1	208.3	(91.2)
2011		123.8	223.0	(99.2)
2012		104.4	251.5	(147.1)
2013		98.5	260.1	(161.6)
2014		102.3	265.9	(163.6)
2015		108.5	266.5	(158.0)
2016		127.8	274.2	(146.4)
2017		132.7	274.5	(141.8)
2018		141.2	279.8	(138.6)
2019		135.1	286.2	(151.1)
2020	Unaudited 9 months	107.0	216.6	(109.6)

### \*Millions

# **EXHIBIT C**

		Actuarially Determin	ned Contributions (AD	C)
Audited Plan Year Ended September 30,	Actuarially Determined Contributions	Contributions Received	Contributions Due	% Contributed
1991	48,659,324	38,169,889	10,489,435	78.44%
1992	48,123,177	34,850,312	13,272,865	72.42%
1993	47,181,730	38,632,619	8,549,111	81.88%
1994	46,856,812	39,353,600	7,503,212	83.99%
1995	55,089,820	50,944,748	4,145,072	92.48%
1996	58,128,608	46,075,378	12,053,230	79.26%
1997	58,251,171	47,703,717	10,547,454	81.89%
1998	62,578,121	45,984,661	16,593,460	73.48%
1999	62,237,129	45,148,387	17,088,742	72.54%
2000	64,992,493	44,078,554	20,913,939	67.82%
2001	64,179,332	43,387,158	20,792,174	67.60%
2002	95,186,021	50,594,531	44,591,490	53.15%
2003	117,124,599	51,588,235	65,536,364	44.05%
2004	108,358,399	54,084,454	54,273,945	49.91%
2005	120,184,848	51,542,030	68,642,818	42.89%
2006	131,059,471	65,061,430	65,998,041	49.64%
2007	137,797,268	60,778,382	77,018,886	44.11%
2008	138,488,871	75,871,146	62,617,725	54.79%
2009	147,490,851	80,177,004	67,313,847	54.36%
2010	157,817,709	77,004,630	80,813,079	48.79%
2011	162,841,336	80,849,762	81,991,574	49.65%
2012	178,644,349	66,677,155	111,967,194	37.32%
2013	172,439,842	64,431,322	108,008,520	37.36%
2014	189,715,251	68,298,617	121,416,634	36.00%
2015	200,089,791	72,287,934	127,801,857	36.13%
2016	247,158,137	86,346,838	160,811,299	34.94%
2017	250,574,023	84,802,335	165,771,688	33.84%
2018	277,523,563	96,748,000	180,775,563	34.86%
2019	287,300,000	* 85,881,945	201,418,055	29.89%
	\$ 3,736,072,046	\$ 1,747,354,773	\$ 1,988,717,273	
= Projected		C0/ 1 1	¢ 440.222.022	
		6% Loss Investments Balance Due	\$ 119,323,036 \$ 2,108,040,309	





### Employees' Retirement System of the Government of the Virgin Islands

Cash Flow Analysis | As of June 30, 2020

		Fiscal YTD				
	Beginning Market Value	Contributions	Withdrawals	Net Investment Change	Ending Market Value	Period Return
BlackRock Russell 1000 Growth Index	\$25,489,592	\$0	-\$26,911,736	\$1,422,144		
BlackRock Russell 1000 Index	\$47,909,024	\$0	\$0	\$2,851,522	\$50,760,546	5.95%
BlackRock Russell 1000 Value Index	\$19,297,171	\$0	-\$18,673,508	-\$623,662		
BlackRock TIPS	\$47,793,801	\$0	\$0	\$3,243,963	\$51,037,764	6.79%
BlackRock U.S. Debt Index	\$204,409,873	\$0	\$0	\$13,093,007	\$217,502,880	6.41%
Cash	\$101,976,503	\$56,419,814	-\$90,172,816	\$1,102,805	\$69,326,307	1.26%
Mesirow Financial Private Equity Partnership Fund IV, L.P.	\$6,462,647	\$0	-\$956,010	-\$363,782	\$5,142,855	-6.15%
Mesirow Financial Private Equity Partnership Fund V, L.P.	\$8,098,873	\$0	-\$1,024,281	-\$332,982	\$6,741,610	-4.52%
Pugh Core Fixed Income	\$78,532,343	\$0	-\$83,941	\$5,199,058	\$83,647,461	6.51%
Total	\$539,969,828	\$56,419,814	-\$137,822,291	\$25,592,072	\$484,159,422	5.10%



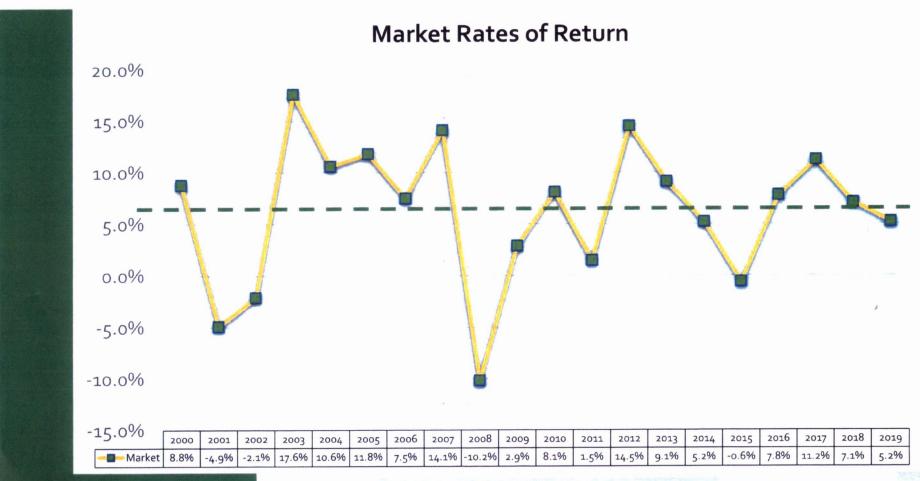
### Employees' Retirement System of the Government of the Virgin Islands

Total Retirement System Aggregate | As of June 30, 2020

	Asset Class Performance Summary										
	Market Value (\$)	% of Portfolio	QTD (%)	YTD (%)	Fiscal YTD (%)	1 Yr (%)	3 Yrs (%)	5 Yrs (%)	10 Yrs (%)	S.I. (%)	S.I. Date
Total Retirement System Aggregate	484,159,422	100.0	4.1	3.1	5.1	6.6	6.9	6.3	8.0	8.8	Jul-81
Domestic Equity Assets	50,760,546	10.5	21.8	-3.8	5.1	6.5	11.4	10.7	13.8	11.5	Jul-81
Russell 3000			22.0	-3.5	5.3	6.5	10.0	10.0	13.7	11.0	Jul-81
Domestic Fixed Income Assets	352,188,104	72.7	3.4	6.2	6.5	8.8	5.4	4.3	3.8	7.3	Jul-81
BBgBarc US Aggregate TR			2.9	6.1	6.3	8.7	5.3	4.3	3.8	7.8	Jul-81
Alternative Investment Assets	11,884,465	2.5									
Cash	69,326,307	14.3									

## **EXHIBIT F**

## Investments



Aver	age Market Rate of R	eturn
Period	Time-Weighted	Dollar-Weighted
<b>Current Assumption</b>	7.0%	7.0%
2000-2019	6.3%	6.0%
2000-2009	5.6%	5.2%
2010-2019	6.9% -	6.6%

