**R628. Money Management Council, Administration.**

**R628-23. Requirements for the Use of Investment Advisers by Public Treasurers.**

**R628-23-1. Authority.**

This rule is issued pursuant to Subsection 51-7-18(2)(b).

**R628-23-2. Scope.**

This rule establishes basic requirements for public treasurers when using investment advisers.

**R628-23-3. Purpose.**

The purpose of this rule is to outline requirements for public treasurers who are considering utilizing investment advisers to invest public funds.

**R628-23-4. Definitions.**

(1) The following terms are defined in Section 51-7-3 of Title 51, Chapter 7, Utah Money Management Act (the Act), and when used in this rule, have the same meaning as in the Act:

(a) "Certified investment adviser";

(b) "Council":

(c) "Director"; and

(d) "Investment adviser representative".

(2) For purposes of this rule:

"Investment adviser" means either a federal covered adviser as defined in Section 61-1-13 or an investment adviser as defined in Section 61-1-13.

**R628-23-5. General Rule.**

(1) A public treasurer may use an investment adviser to conduct investment transactions on behalf of the public treasurer as permitted by statute, rules of the Council, and local ordinance or policy.

(2) A public treasurer using an investment adviser to conduct investment transactions on behalf of the public treasurer is responsible for full compliance with the Act and rules of the Council.

(3) Due diligence in the selection of an investment adviser and in monitoring compliance with the Act and Rules of the Council and the performance of investment advisers is the responsibility of the public treasurer. The Council advises public treasurers that reliance on certification by the Director may not be sufficient to fully satisfy prudent and reasonable due diligence.

(4) The public treasurer shall assure compliance with the following minimum standards:

(a) A public treasurer may use a Certified investment adviser properly designated pursuant to Rule R628-15.

(b) A public treasurer's use of a Certified investment adviser shall be governed by a written investment advisory services agreement between the public treasurer and the Certified investment adviser. Terms of the agreement shall conform to the requirements of Rule R628-15, and shall be adopted pursuant to all procurement requirements of statute and local ordinance or policy.

(c) Before entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request, and the investment adviser shall furnish, the SEC Form ADV Part II for review and consideration by the public treasurer.

(d) Every investment transaction and activity of the public treasurer and the Certified investment adviser must be in full compliance with the Money Management Act and Rules of the Council particularly those requirements governing criteria for investments, safekeeping, and purchasing only the types of securities listed in Sections 51-7-11., 51-7-12. and 51-7-13. as applicable.

(e) Before entering into an investment advisory services agreement with a Certified investment adviser, the public treasurer shall request, and the investment adviser shall furnish, a clear and concise explanation of the investment adviser's program, objectives, management approach and strategies used to add value to the portfolio and return, including the methods and securities to be employed.

(5) If selection of a Certified investment adviser to provide investment advisory services to a public treasurer is based upon the investment adviser's representation of special skills or expertise, the investment advisory services agreement shall require the Certified investment adviser to act with the degree of care, skill, prudence, and diligence that a person having special skills or expertise acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

(6) The public treasurer is advised to review and consider standards of practice recommended by other sources, such as the Government Finance Officers Association, in the selection and management of investment adviser services.

**R628-23-6. Reporting to the Council.**

When a public treasurer has contracted with an investment adviser for the management of public funds, the public treasurer shall provide the detail of those investments to the Council, pursuant to Section 51-7-18.2.

**KEY: securities, investment advisers, public funds**

**Date of Last Change: June 21, 2024**

**Authorizing, and Implemented or Interpreted Law: 51-7-18(2)(b); 61-1-13**