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Reply to: Tallahassee

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**LOCAL GOVERNMENT SURPLUS FUNDS TRUST FUND –
STATUTORY COMPLIANCE REVIEW**

The Local Government Surplus Funds Trust Fund (Trust Fund or Fund) was created in 1977 and is governed by Part IV of Chapter 218, Florida Statutes, titled Investment of Local Government Surplus Funds. Although this name does not appear in the statute or rules, the Fund has historically been referred to as the Local Government Investment Pool (LGIP). In Chapter 2008-59, Laws of Florida, effective May 28, 2008, the legislature mandated changes in the operation of the Fund and, at section 218.405(3), required a two part annual certification:

(3) The trustees shall annually certify to the Joint Legislative Auditing Committee that the trust fund is in compliance with the requirements of this part and that the trustees have conducted a review of the trust fund and determined that the management of the trust fund is in accord with best investment practices. (Emphasis added.)

SCOPE OF REVIEW

This review addresses the first part of the annual certification, underlined above, and examines whether the Trust Fund is “in compliance with the requirements of this part.” “This part” refers to Part IV of Chapter 218, Florida Statutes, which includes sections 218.40 – 218.422, Florida Statutes. The Trust Fund to be certified is defined at section 218.403(9) as follows:

(9) “Trust fund” means the pooled investment fund created by s. 218.405 and known as the Local Government Surplus Fund Trust Fund.

The scope of this review will be sections 218.40 – 218.412, Florida Statutes, which control the operation of the Local Government Surplus Fund Trust Fund (Trust Fund), and the substantive requirements of the statute will be addressed in the order they appear. The time period covered by this review is May 28, 2008 through May 29, 2009.

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PURPOSE

The purpose of Part IV of Chapter 218 is set out at section 218.401, Florida Statutes:

218.401. Purpose.

It is the intent of this part to promote, through state assistance, the maximization of net interest earnings on invested surplus funds of local units of government, based on the principals of investor protection, mandated transparency, and proper governance, with the goal of reducing the need for imposing additional taxes.

CREATION, OBJECTIVES

The Trust Fund is created at section 218.405, Florida Statutes.

218.405 Local Government Surplus Funds Trust Fund; creation; objectives; certification; interest; rulemaking.

(1) There is hereby created a Local Government Surplus Funds Trust Fund to be administered by the board and to be composed of local government surplus funds deposited therein by units of local government under the procedures established in this part. The board may contract with a professional money management firm to manage the trust fund.

The State Board of Administration (Board) has contracted with a professional money management firm, Federated Investors, to manage the Trust Fund.

(2) The primary objectives, in priority order, of investment activities shall be safety, liquidity, and competitive returns with minimization of risks.

(3) (Certification requirement, cited above)

(4) The board may adopt rules to administer the provisions of this section.

The Board has adopted rules to govern the administration of the Trust Fund, which are found at Chapter 19-7, Florida Administrative Code, and are appended to this certification as Exhibit A. The majority of these rules were enacted in 1982, with the most recent amendments occurring in 2002. There is a second grant of rulemaking authority at section 218.412, Florida

Statutes (see below). Both sections 218.405(4) and 218.412 make rulemaking to administer the Trust Fund permissive rather than mandatory.

The Board is currently in the process of drafting amendments to Chapter 19-7 to, among other things, adopt the Trust Fund Investment Policy Guidelines as a rule.

HOW THE TRUST FUND INTERACTS WITH LOCAL GOVERNMENT AUTHORITIES

Section 218.407 sets out the requirements that must be met before a unit of local government may deposit surplus funds in the Trust Fund.

218.407—Local government investment authority.

- (1) Prior to any determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the trust fund, the board or a professional money management firm must provide to the governing body enrollment materials, including a trust fund profile containing impartial educational information describing the administration and investment policy of the trust fund, including, but not limited to:
 - (a) All rights and conditions of participation, including potential restrictions on withdrawals.
 - (b) The historical performance, investment holdings, credit quality, and average maturity of the trust fund investments.
 - (c) The applicable administrative rules.
 - (d) The rate determination processes for any deposit or withdrawal.
 - (e) Any fees, charges, penalties, and deductions that apply to the account.
 - (f) The most recently published financial statements or independent audits, if available, prepared under generally accepted accounting principles.
 - (g) A disclosure statement for signature by the appropriate local government official.

The Board, with Federated Investors, has created enrollment materials which include a Trust Fund profile and education information which appear to be impartial and to accurately describe the administration and investment policies of the Trust Fund and which meet the specific requirements of the above section.

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All materials are provided at the Board's web site: www.sbafla.com at the Local Government Investment Pool heading, and any amendments to the educational materials are noticed on the website.

The Local Government Investment Pool New Participant Enrollment Guide, found at the website, at pages six and seven (items one through eight), tracks the specific statutory requirements set out in section 218.407(1), correlated to the statutory language, and provides the required information. When those items refer to materials posted on the website, this review has confirmed that the materials do in fact appear there at this time. A list of the time each monthly report, from May 28, 2008 to the present, was posted to the website is attached hereto as Exhibit B.

(2) Upon review of the enrollment materials and upon determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the trust fund, a resolution by the governing body and the signed acceptance of the disclosure statement by the local government official, who may be the chief financial or administrative officer of the local government, shall be filed with the board and, if appropriate, a copy shall be provided to a professional money management firm authorizing investment of its surplus funds in the trust fund established by this part. The resolution shall name:

- (a) The local government official, who may be the chief financial or administrative officer of the local government, or
- (b) An independent trustee holding funds on behalf of the unit of local government, responsible for deposit and withdrawal of such funds.

Attached Exhibit C lists all open accounts now in the Trust Fund, the inception date of each, and indicates, based on staff review, the following:

- Whether a resolution by the governing body authorizing investment of the local government surplus funds in the Trust Fund is on file.

The requirement that a resolution by the governing body of the local government be filed with the Board predates the 2008 statutory amendments. A total of 19 accounts were found to have no resolution on file, and resolutions are being requested from those participants. (Exhibit C, note *).

A number of accounts were opened with a letter rather than a resolution, because the entity did not have a governing body. (Exhibit C, note **). Pursuant to 218.405, a "[u]nit of local

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government,” defined in section 218.403(11) to include both governmental entities and the officers thereof, may make deposits in the Trust Fund. Section 218.407 requires a determination by the governing body that it is in the interest of the unit of local government to deposit surplus funds in the Trust Fund, and a resolution to that effect. Officers such as tax collectors are specifically included in the definition of “unit of local government,” and therefore are qualified to be Fund participants, but have no legislative power to pass resolutions. A common sense reading of these potentially conflicting provisions and all of Part IV of Chapter 218 in pari materia suggests that such officers may authorize investment in the Fund by documentation other than a resolution (such as the authorizing letters currently on file), signifying acceptance of the terms of participation in the Fund.

The resolution is required to name the local government official or the independent trustee responsible for deposit and withdrawal of funds. The resolutions and letters on file identify the responsible local official by title rather than by individual name.

- Whether the disclosure statement required by section 218.407(1)(g) has been provided for signature by the appropriate local government official, and whether a signed acceptance of this disclosure statement is on file:

Although the contents of this disclosure statement are not specified by the statute, because it is the last in the statutory list of items required to be provided by the Board to potential participants, it appears to be a statement that the specified materials have been received and therefore “disclosed” to the local government. The New Participant Enrollment Guide includes a form Disclosure Statement which acknowledges receipt and review of all pertinent enrollment materials. The disclosure acceptance statement requirement was added by the 2008 statutory changes.

Six accounts were opened after the date the new legislation took effect by entities already participating in the Trust Fund and do not have disclosure acceptance statements on file. Exhibit C, note (1).

Two accounts were opened in September, 2008 by entities not already participating in the Trust Fund, after the date the new legislation took effect but before new enrollment materials, including the disclosure form, were developed. Exhibit C, note (2).

Only one new participant has enrolled since the 2008 amendments added this disclosure statement requirement and the disclosure form was developed, and the form is on file for this participant. Exhibit C.

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In the absence of any indication to the contrary, statutes are presumed to act prospectively rather than retrospectively. The statutory requirement of a filed, signed "acceptance of the disclosure statement" generally would not apply to participants qualified before May 28, 2008, but would apply to the two accounts opened in September, 2008 by new participants.

There is another interpretation that suggests that any participant depositing moneys into the Trust Fund after May 28, 2008, was required to have submitted all the items specified by newly amended section 218.407. Section 218.409(1) was amended at the same time to add the underlined words to this sentence: "Upon receipt of the items specified in s.218.407 resolution from the local governing body, the State board or a professional money management firm of Administration shall accept all wire transfers of funds into the trust fund." This arguably creates the inference that transfers of funds should not have been accepted after May 28, 2008 without the disclosure acceptance statement. However, all participants have had notice of and access to the revised statute and all the material specified by section 218.407 through posting to the Fund's website, and therefore had actual or putative knowledge of the materials required to be disclosed. It would have been both illogical and impractical for the Fund to have refused deposits from existing participants with resolutions on file, based on lack of an executed disclosure statement, beginning on the May 28, 2008 effective date of the statutory amendments. Under the most cautious reading of the statute, however, a signed acceptance of disclosure would be required from each Fund participant that transferred additional money to the Trust Fund after May 28, 2008, and from all participants from which additional future deposits are anticipated.

The 2008 amendments also added at section 218.407(2), a requirement that "if appropriate, a copy [of the signed disclosure statement] shall be provided to a professional money management firm." Since the ability of the Board to use a professional money management firm to invest the moneys of the Fund was added at the same time, a strict reading of the words "if appropriate" appears to require a copy of the disclosure statement be provided to the outside management firm, if one is being used by the Board. Under this reading, for any participant submitting a signed disclosure statement, this statement would be provided to the money manager. Staff is of the opinion that Federated is serving as an investment manager of a pooled fund, and not managing individual investment accounts. For that reason, staff does not deem it appropriate to send participant account information to Federated. This is also a plausible reading of this part of the statute.

(3) The board or a professional money management firm shall, upon the filing of the resolution, invest the moneys in the trust fund in the same manner and subject to the same restrictions as are set forth in s.215.47. All units of local government that qualify to be participants

in the trust fund shall have surplus funds deposited into a pooled investment account.

The cross-referenced statute cited above details the types of investments permitted for all Board funds, including the fund here reviewed. This Trust Fund also must be invested in accordance with the LGIP Investment Policy Guidelines pursuant to section 218.409(2)(a). Part two of the certification required by section 218.405(3), being conducted by Ennis Knupp & Associates, will determine if the Trust Fund is in accord with best investment practices.

ADMINISTRATION OF THE TRUST FUND, ADVISORY COUNCIL

218.409 Administration of the trust fund; creation of advisory council.—

(1) Upon receipt of the items specified in s. 218.407 from the local governing body, the board or a professional money management firm shall accept all wire transfers of funds into the trust fund. The board or a professional money management firm shall also wire-transfer invested local government funds to the local government upon request of the local government official named in the resolution.

Staff confirms that funds may be transferred between the local governing bodies and the Board by wire-transfer, upon request of the local government official named in the resolution. A clearing account maintained by Bank of America, which is a qualified public depository, accepts money transmitted to the Board and transfers to BNY Mellon, as the custodian, as discussed further below. (See also the discussion of this section above.)

(2)(a) The trustees shall ensure that the board or a professional money management firm administers the trust fund on behalf of the participants. The board or a professional money management firm shall have the power to invest such funds in accordance with a written investment policy. The investment policy shall be updated annually to conform to best investment practices. The standard of prudence to be used by investment officials shall be the fiduciary standards as set forth in s. 215.47(9), which shall be applied in the context of managing an overall portfolio. Portfolio managers acting in accordance with written procedures and an investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are

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reported in a timely fashion and the liquidity and the sale of securities are carried out in accordance with the terms of this part.

The Board administers the Trust Fund on behalf of the participants and handles accounting, statements, monthly reporting and compiling and maintaining enrollment materials. Federated Investors, Inc., a professional money management firm contracted by the Board, invests the Trust Fund funds in accordance with the written Investment Policy Guidelines, interacts with participants to answer inquiries and facilitates Standard and Poor's ratings. BNY Mellon acts as custodian of all assets of the Fund and processes all trades made by Federated. BNY Mellon also does valuation and pricing for the Fund, on a daily basis.

Part two of the certification required by section 218.405(3), being conducted by Ennis Knupp & Associates, will determine if the Investment Policy Guidelines conform to best investment practices and if Federated Investors has invested the funds in accordance with those Guidelines, as required above.

(b) Officers and employees involved in the investment process shall refrain from personal business activity that could conflict with the proper execution and management of the investment program or that could impair their ability to make impartial decisions. Employees and investment officials shall disclose any material interests in financial institutions with which they conduct business on behalf of the trust fund. They shall further disclose any personal financial or investment positions that could be related to the performance of the investment portfolio. Employees and officers shall refrain from undertaking personal investment transactions with the same individual with whom business is conducted on behalf of the board.

The Board Inspector General provides, and all Board employees are required to complete, annual training sessions to assure that Board officers and employees involved in the investment process are not engaged in personal business activity that could conflict with the Trust Fund program or impair their ability to make impartial decisions. The training module for these annual sessions is attached as Exhibit D. Employees and investment officials are required to disclose material interests in financial institutions with which they also conduct Trust Fund business, and any personal financial or investment positions that could be related to performance of the Trust Fund portfolio. The Board Ethics Policy, last updated September 11, 2008, is attached as Exhibit E.

Staff confirms that there have been no disclosures to date under the above provisions. Since the Fund is now invested by a professional management firm, the Board has developed a

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process and document to be used by Federated Investments to certify that it is in compliance with statutory ethics requirements. Exhibit F is the executed 2008 certificate. This certification will be required annually. Federated Investments has represented to Board staff that no disclosures have been made to date pursuant to the applicable ethics requirements.

(c) The board or a professional money management firm and all employees have an affirmative duty to immediately disclose any material impact to the trust fund to the participants. To ensure such disclosure, a system of internal controls shall be established by the board, which shall be documented in writing as part of the investment policy. The controls shall be designed to prevent the loss of public funds arising from fraud, employee error, and misrepresentation by third parties, unanticipated changes in financial markets, or imprudent actions by employees and officers of the board or a professional money management firm. The controls shall also include formal escalation reporting guidelines for all employees. The guidelines shall establish procedures to address material impacts on the trust fund that require reporting and action.

The written Investment Policy Guidelines include a system of internal controls, found at section IX of the 2008 Investment Policy Guidelines, Controls and Escalation Procedures, and require actions by BNY Mellon as the custodian, by Federated Investments as the investment manager and by the nationally recognized statistical rating organization (Standard and Poor's) that performs regular independent surveillance of the Trust Fund.

For approximately two years, the Board intranet home page has included an employee toll-free fraud hotline number, highlighted in red, which allows all employees to anonymously report any concerns with regard to any aspect of Board functions, including the Trust Fund, and for these to be escalated directly to the Board's Inspector General or other appropriate person for investigation. (See Exhibit G.) In this period of time, no complaints regarding the Trust Fund have been received.

The Investment Policy Guidelines call for the Executive Director of the Board to organize an Investment Oversight Group (IOG) to regularly review and formally escalate exceptions or events that might have a material impact on the Trust Fund. The Investment Oversight Group has been formed and the minutes of its meetings, which have occurred at least monthly as required by the Guidelines, are posted to the Fund website. The controls and escalation procedures mandate immediate disclosure to participants of any material impact on the Fund, and include specific thresholds, based on percentage deviation between the market value and amortized cost of the Fund, at which responsive action must be taken by the custodian, the

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investment manager, the IOG and the Executive Director. The investment manager is required to perform daily compliance monitoring, regular compliance reports and 24 hour notification to the IOG of compliance exceptions. Review of the minutes of the IOG covering the applicable dates (Exhibit H) shows active monitoring of Federated Investors activity in the Fund, review of compliance actions and reporting and routine reviews of monthly compliance reports.

The Guidelines also require the Trustees to review and approve management summaries of material impacts on the Fund and any actions or escalations, along with any required actions thereon. The Local Government Investment Pool and Fund B Monthly Summary Reports, which are provided at the website, constitute these management summaries. (See further discussion on the contents of this Report under section 218.409 (6).) As reflected in the agendas of the meetings of the Board Trustees for the applicable period of time, attached as Exhibit I, the following approvals were requested: quarterly review certification to the Joint Legislative Auditing Committee showing approval of monthly summary reports: October 28, 2008, January 27, 2009 and April 14, 2009.

While the above safeguards assure that the administration of the Trust Fund is in accordance with stringent standards of disclosure designed to prevent the loss of funds from fraud, error, misrepresentation, market changes or imprudent actions by the Board or a money manager, and in some aspects exceed what is required by statute, the statute requires a written reporting guideline directing all employees how to formally escalate such matters. The present Controls and Escalation Procedures of the Investment Policy Guidelines appear to apply expressly only to the Investment Oversight Group. Staff is in the process of clarifying Board policy 10-042, Internal Controls and Fraud, to address the escalation procedure for all employees.

(d) The investment policy shall be reviewed and approved annually by the trustees or when market changes dictate, and in each event the investment policy shall be reviewed by the Investment Advisory Council and by the Participant Local Government Advisory Council.

The Investment Policy Guidelines were approved by the Trustees on July 29, 2008, and after review by the Investment Advisory Council and the Participant Local Government Advisory Council, the Investment Policy Guidelines will be reviewed by the Trustees in July, 2009.

(3) The board or a professional money management firm may purchase such surety or other bonds as may be necessary for its officials in order to protect the trust fund. A reserve fund may be established to fulfill this purpose. However, any reserve must be a portion of the management fee and must be fully disclosed, including its purpose, in

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the enrollment materials at the time a unit of local government considers participation. Further, any change in the amount to be charged for a reserve must have a reasonable notice period to allow any participant to withdraw from the trust fund prior to the new reserve charge being imposed.

No surety or other bonds have been purchased to protect the Trust Fund. A reserve fund already existed before the period of this review and no additions have been made to it since May, 2008. Further reserve funding is under consideration, but has not been implemented.

(4) The board or a professional money management firm shall purchase investments for a pooled investment account in which all participants share pro rata in the capital gain, income, or losses, subject to any penalties for early withdrawal. Any provisions for penalties, including their purpose, must be disclosed in the enrollment materials. Any change in the amount to be charged for a penalty must have a reasonable notice period to allow any participant to withdraw from the trust fund prior to the new penalty charge being imposed. A system shall be developed by the board, and disclosed in the enrollment materials, subject to annual approval by the trustees, to keep account balances current and to apportion pooled investment earnings to individual accounts.

All participants in the Trust Fund share pro rata in all capital gain, income or losses, as set out in the Description of Investment Pool Apportionment Subsystem, posted to the website as part of the enrollment materials. This system is designed to keep account balances current and to apportion pooled investment earnings to individual accounts. According to staff, penalties for early withdrawal, in the form of a 2% redemption fee, existed until December of 2008, but were eliminated going forward from that time. Any changes to enrollment material contents required in sections 218.40-415, Florida Statutes, are noticed to Fund participants no less than 45 days prior to the effective date of the change, pursuant to section VI of the New Participant Enrollment Guide.

(5) The board shall keep a separate account, designated by name and number of each participating local government. A maximum number of accounts allowed for each participant may be established by the board. Individual transactions and totals of all investments, or the share belonging to each participant, shall be recorded in the accounts.

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Separate accounts are kept for each participant, with a maximum number of ten accounts for each participant.

(6)(a) The board or a professional money management firm shall provide a report, at a minimum monthly or upon the occurrence of a material event, to every participant having a beneficial interest in the trust fund, the board's executive director, the trustees, the Joint Legislative Auditing Committee, the Investment Advisory Council, and the Participant Local Government Advisory Council. The report shall include:

1. Reports of any material impacts on the trust fund and any actions or escalations taken by staff to address such impacts. The trustees shall provide quarterly a report to the Joint Legislative Auditing Committee that the trustees have reviewed and approved the monthly reports and actions taken, if any, to address any impacts.

2. A management summary that provides an analysis of the status of the current investment portfolio and the individual transactions executed over the last month. This management summary shall be prepared in a manner that will allow anyone to ascertain whether investment activities during the reporting period have conformed to investment policies. Such reporting shall be in conformance with best market practices. The board or a professional money management firm shall furnish upon request the details of an investment transaction to any participant, the trustees, the Investment Advisory Council, and the Participant Local Government Advisory Council.

A document titled Local Government Investment Pool and Fund B Monthly Summary Report is produced monthly to address the above requirements and made available at the Trust Fund website. Exhibit B sets out the date each monthly report, from June, 2008 through March, 2009, was posted to the website and includes as an example the April, 2009 Report.

The record of the quarterly report of the Trustees to the Joint Legislative Auditing Committee showing that the Trustees have reviewed and approved the monthly reports and taken responsive action, per section 218.409(6)(a) 1, is found at Exhibit I.

(b) The market value of the portfolio shall be calculated daily. Withdrawals from the trust fund shall be based on a process that is transparent to participants and will ensure that advantages or disadvantages do not occur to parties making deposits or withdrawals on any particular day. A statement of the market value and amortized

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cost of the portfolio shall be issued to participants in conjunction with any deposits or withdrawals. In addition, this information shall be reported monthly with the items in paragraph (a) to participants, the trustees, the Investment Advisory Council, and the Participant Local Government Advisory Council.

The market value of the Fund portfolio is calculated daily by BNY Mellon and posted on the website. The Information Statement and Operating Procedures, posted to the website with the enrollment materials, states at Section VII that withdrawals may be made by wire transfer according to established procedures. These procedures allow any participant to log into the website between 2pm and 11am to enter transactions. This process is transparent and appears to ensure, to the extent possible, that disadvantages do not occur to parties making deposits or withdrawals on particular days, as each participant has equal access to the transaction system. A statement of the market value and amortized cost of the portfolio is available at all times to participants on the website, and participants receive monthly individual account statements.

The review of the investment portfolio, in terms of value and price volatility, shall be performed with practices consistent with the GFOA Recommended Practice on "Mark-to-Market Practices for State and Local Government Investment Portfolios and Investment Pools." In defining market value, consideration shall be given to GASB Statement 31.

Compliance with the above part of section 218.409(6)(b) will be determined in part two of the annual certification, conducted by Ennis Knupp & Associates.

Additional reporting may be made to pool participants through regular and frequent ongoing multimedia educational materials and communications, including, but not limited to, historical performance, investment holdings, amortized cost and market value of the trust fund, credit quality, and average maturity of the trust fund investments.

Additional materials are available on the Trust Fund website, are provided through the monthly reports, and are available at periodic Federated and Board conference call meetings open to all participants. At these meetings, participants are able to talk with representatives of Federated, the Board Executive Director and Board staff representing various areas of expertise. In addition, Federated attends a number of participant association meetings to provide information about the Fund.

(7) Costs incurred in carrying out the provisions of this part shall be deducted from the interest earnings accruing to the trust fund. Such deductions shall be prorated among the participant local governments in the percentage that each participant's deposits bear to the total trust fund. The remaining interest earned shall be distributed monthly to participants according to the amount invested. Except for costs, the board or a professional money management firm may not transfer the interest or use the interest for any other purpose, including, but not limited to, making up investment losses.

Cost amounts are shown in the monthly reports. The Monthly Summary Report for March, 2009, states at page 5: "In prior editions of this report, the Fee amount shown included only the SBA's administrative charge. Investment management and custodial/bank fees were excluded from earnings. From this point forward, the Fee amount will be comprehensive, and Gross Earnings will be prior to deductions for any fees." Beginning with the March, 2009 monthly report, and going forward, the "Fees" entry on the Summary of Cash Flows includes both the SBA administrative fees plus any bank and Federated fees. All fees are then subtracted from gross earnings, which equates to the "interest earnings accruing to the trust fund," as required by statute. This statutory requirement, which was present in the law before the 2008 revisions, is potentially problematic: If fund investment values were to decline sufficiently in a given month, there would be no interest from which to pay costs and fees, and the literal requirements of this provision could not be met. Staff confirms that, after deduction of costs, interest earnings are distributed monthly to participants, and that interest has not been used for any other purpose.

(8)(a) The principal, and any part thereof, of each and every account constituting the trust fund shall be subject to payment at any time from the moneys in the trust fund. However, the executive director may, in good faith, on the occurrence of an event that has a material impact on liquidity or operations of the trust fund, for 48 hours limit contributions to or withdrawals from the trust fund to ensure that the board can invest moneys entrusted to it in exercising its fiduciary responsibility. Such action shall be immediately disclosed to all participants, the trustees, the Joint Legislative Auditing Committee, the Investment Advisory Council, and the Participant Local Government Advisory Council. The trustees shall convene an emergency meeting as soon as practicable from the time the executive director has instituted such measures and review the necessity of those measures. If the trustees agree with such measures, the trustees shall vote to continue the measures for up to an additional 15 days. The trustees must convene and vote to continue any

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such measures prior to the expiration of the time limit set, but in no case may the time limit set by the trustees exceed 15 days.

According to staff, up to December, 2008 participant request for withdrawal of funds from their accounts were restricted to certain varying percentages based upon the amount in their account and were subject to redemption fees. The percentage restriction and the redemption fees were eliminated as of December, 2008 and no longer exist. In the balance of the time period covered by this review, the principal of all accounts in the Trust Fund has been paid at any time requested by a participant and there have been no events causing the Executive Director to limit contributions or withdrawals.

(b) An order to withdraw funds may not be issued upon any account for a larger amount than the share of the particular account to which it applies; and if such order is issued, the responsible official shall be personally liable under his or her bond for the entire overdraft resulting from the payment if made.

In the time period covered by this review, there have been no orders to withdraw funds for a larger amount than the share of a particular account.

(9) The Auditor General shall conduct an annual financial audit of the trust fund, which shall include testing for compliance with the investment policy. The completed audit shall be provided to the participants, the board, the trustees, the Investment Advisory Council, the Participant Local Government Advisory Council, and the Joint Legislative Auditing Committee. As soon as practicable, but no later than 30 days after completion of the audit, the trustees shall report to the Joint Legislative Auditing Committee that the trustees have reviewed the audit of the trust fund and shall certify that any necessary items are being addressed by a corrective action plan that includes target completion dates.

The Auditor General annual financial audit of the Trust Fund was completed in February, 2009, including management response of February 16, 2009, and is posted on the website. The agenda of the Trustees meeting of March 24, 2009 (Exhibit I), requests approval for certification to the Joint Legislative Auditing committee that items noted in the Auditor General's Annual Financial Audit have been or are being addressed by a corrective action plan. The Trustee's minutes of the meeting of March 24, reflect approval of the certification to the Joint Legislative Auditing Committee and that items noted in the Auditor General's Audit have been or are being addressed by a corrective action plan.

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(10)(a) There is created a six-member Participant Local Government Advisory Council for the purposes of regularly reviewing the administration of the trust fund and making recommendations regarding such administration to the trustees. The members of the council shall be appointed by the board and subject to confirmation by the Senate. Members must possess special knowledge, experience, and familiarity obtained through active, long-standing, and material participation in the dealings of the trust fund. Each member shall serve a 4-year term. Any vacancy shall be filled for the remainder of the unexpired term. The council shall annually elect a chair and vice chair from within its membership. A member may not serve consecutive terms as chair or vice chair.

The Participant Local Government Advisory Council (PLGAC) members have been appointed. At an initial meeting on February 25, 2009, a chair and vice chair were elected. Meeting notice, agendas and minutes of Council activities are posted on the Fund website.

(b) The council shall prepare and submit a written biennial report to the board, trustees, the Investment Advisory Council, and the Joint Legislative Auditing Committee that describes the activities and recommendations of the council.

The next meeting of the PLGAC is scheduled for June 18, 2009, with the written biennial report scheduled to be submitted by June, 2010.

AUTHORIZATION TO PROVIDE ASSISTANCE

218.411 Authorization for state technical and advisory assistance.

- (1) The board is authorized, upon request, to assist local governments in investing funds that are temporarily in excess of operating needs by:
- (a) Explaining investment opportunities to such local governments through publication and other appropriate means.
 - (b) Acquainting such local governments with the state's practice and experience in investing short-term funds.
 - (c) Providing, in cooperation with the Department of Community Affairs, technical assistance to local governments in investment of surplus funds.

(2) The board may establish fees to cover the cost of such services, which shall be paid by the unit of local government requesting such service. Such fees shall be deposited to the credit of the appropriation or appropriations from which the costs of providing the services have been paid or are to be charged.

During the time period covered by this review, the Board has not received a request from any local government to provide the assistance authorized by the above section.

218.412 Rulemaking authority.—

The board may adopt rules as it deems necessary to carry out the provisions of this part for the administration of the trust fund.

As noted above, the Board has adopted rules for the administration of the Fund at Chapter 19-7, Florida Administrative Code, and is in the process of amending those rules.

OTHER SECTIONS OF PART IV, CHAPTER 218, FLORIDA STATUTES

Part IV of Chapter 218, Florida Statutes covers other facets of investment of local government funds, such as local government investment policies (Section 218.415) and the Fund B Surplus Funds Trust Fund (Sections 218.417 through 218.422). Because this review, as mandated by Section 218.405, is of the pooled investment fund created by 218.405 only, these sections are not a part of this review.

Note, however, that a portion of the Monthly Summary Report is devoted to Fund B status and actions. A comprehensive set of questions and answers about Fund B and its underlying collateral was produced on February 12, 2009 and is posted to the website.