

Date February 21, 2025

To Office of the Governor

From Alyssa DaCunha
Benjamin Neaderland

Re Alaska Permanent Fund Corporation – Governance Recommendations

I. Overview

The Office of the Governor engaged WilmerHale to conduct a targeted review of the applicable Alaska Permanent Fund Corporation (“APFC” or “the Fund”) regulations and governance documents to identify gaps and evaluate options for additional guidance or amendments. Recommendations were requested to improve governance processes and to avoid real or perceived conflicts of interest and related issues. The review focused on identifying forward-looking improvements.

As part of this review, WilmerHale analyzed the relevant bylaws, statutes, constitutional provisions, and governance policies. Other materials reviewed included select APFC Board of Trustee meeting minutes and packets, the 2023 Funston Advisory Services LLC report, ethics training materials, the PMP Employee Handbook, and the newly established investment referral tracking log. WilmerHale also examined a sample of other state funds, and industry standards. Throughout the review, WilmerHale provided periodic status updates to the project manager.

The Governor’s Office sought a wide range of views on the matter. WilmerHale interviewed current and recent former members of the Board of Trustees, current and former APFC staff, and members of the Investment Advisory Group. Some of these individuals were interviewed on multiple occasions. Interviewees shared their observations, perspectives, and recommendations related to the Fund’s governance structure.¹

WilmerHale concluded that the APFC staff and Board of Trustees are dedicated to the Fund’s vision of delivering outstanding returns for Alaskans. All trustees and employees demonstrated a clear commitment to upholding ethical standards and a personal commitment to upholding the standards and mission of the APFC. This includes a commitment to ensuring that the APFC operates with the highest ethical standards, and the Fund has put in place a number of updates to existing guidance over the past months. WilmerHale commends the APFC for this work.

¹ Several interviewees discussed how the APFC manages the Earnings Reserve Account (ERA) and raised Trustee Paper #10. We recognize that this is an important issue that is central to the future of the APFC, but providing structural recommendations falls outside the scope of this governance review.

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WilmerHale's review identified a number of additional ways in which the APFC could enhance its governance structure, which would bring the APFC into greater alignment with financial sector best practices and offer more accountability and transparency. Moreover, WilmerHale's review also led to recommendations aimed at improving recruitment, retention, and succession planning as well as developing stronger education and team building programming. These recommendations are outlined below in more detail. Overall, the recommendations are intended to improve the APFC's governance while, at the same time, furthering the APFC's values of integrity, stewardship, and passion.

II. Recommendations

- A. Confidential Compliance Reporting Mechanism.** Following initial discussions with key individuals in the fall, WilmerHale recommended that an anonymous confidential reporting mechanism be implemented to bring APFC's compliance function into line with the practices of large financial institutions. WilmerHale understands that, since that time, a vendor has been selected to manage and implement a reporting system. WilmerHale recommends that the APFC ask that the vendor share complaints within a certain timeframe, such as within 5 days of receiving the complaint. Internally, at the APFC, WilmerHale recommends that complaints be addressed within a certain window, such as within 30 or 60 days (with the option to extend that period as necessary).

The reporting process and requirements should be memorialized in writing so staff and trustees can reference how the mechanism works. Instructions should articulate what information needs to be detailed in the complaint and how to submit the complaint to the vendor. If the vendor offers training on how the system operates, the APFC should require that all staff and trustees participate in the training. Staff and trustees should be encouraged to use this mechanism to raise concerns and questions.

- B. Questionnaires and Attestations.** To enhance the current compliance function, the APFC may wish to develop annual staff and trustee questionnaires that focus on conflicts of interest. These questionnaires could ask individuals to identify business, financial, and personal interests or relationships to ensure appropriate disclosure and recusal where necessary. Attestations would be an opportunity for staff and trustees to confirm awareness of and compliance with APFC policies surrounding appropriate channels for and uses of APFC business communications. An annual cadence for questionnaires and attestations is a good way to remind staff and trustees of their responsibilities. Through this process, individuals may also be prompted to raise compliance related questions, particularly if something has changed since the prior year's attestation or questionnaire was completed.

- C. Investment Referrals from Trustees.** Trustees and staff indicated that there is a general, unwritten practice that every investment referral from a trustee results in a response from an investment team member. In practice, it is highly unlikely that a referral from a trustee (that was not already under consideration by the investment team) will turn into an investment opportunity. Given the maturity of the Fund and the rigorous process in place for identifying investments, staff are generally already being made aware of the best opportunities. But receiving a referral via a

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trustee creates pressure for staff to consider these investment referrals even though the Fund is unlikely to invest in them. Going forward, the APFC may wish to further refine how it approaches referrals from trustees. Two options may include:

1. Implementing a rule that there will be no investment referrals from trustees. The Fund's investment philosophy is to focus on the highest quality opportunities, and leading managers know how to reach the staff to discuss those opportunities. The investment staff's professional judgment should be relied on when considering which investment opportunities to pursue.

Since the trustee referral meetings require investment staff time, a "no trustee referral" policy would instead allow staff to focus on isolating the top investment opportunities that the APFC will pursue. Moreover, the trustee referral meetings generally do not lead to any further action, which can turn into frustration on the part of the referee and the referring trustee. Trustees may also become invested in particular referred proposals, which is not their role. By eliminating trustee referrals, these issues would be removed.

Because this would be a bright line rule for trustees, it would take away ambiguity or expectation of action on the part of individuals or organizations who approach trustees. This simple rule on referrals would also help eliminate perceived or real conflicts of interest.

2. Alternatively, trustees could continue to refer investment opportunities, but staff would be directed that they should apply their professional judgement in determining whether to take further action on the referral. The Board of Trustee's Communications Policy would be updated to reflect this understanding that simply because a referral may come in from a trustee, it does not need to be treated differently than a referral that comes to the staff through other channels. This new policy would alleviate any pressure that staff may feel when they receive a trustee referral. It will also remind trustees to trust the staff in evaluating investment opportunities and in evaluating whether a meeting with a referral is necessary.

D. Further Specificity in the Board Communications Policy. The Board Communications Policy should include greater specificity on what is required of staff when they report communications with a trustee, service provider, or prospective investment manager to the Executive Director. Section 3 of the policy currently states, in part, "APFC Staff are required to report all communications with Trustees regarding the management and operations of APFC to the Executive Director." Similarly, Section 5 of the policy states, in part, "APFC Staff are required to report all communications with Trustees under this Section of the Communications Policy to the Executive Director." Moreover, Section 9 states, "Trustees should refer any investment opportunities or proposals they receive from a service provider or prospective investment manager which may be of relevance to the APFC directly to the Executive Director. The Executive Director will document all investment referrals from a Trustee and any action taken regarding such

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referrals and provide the Board with a report of such referrals at the next regularly scheduled meeting.”

The Policy should be updated to include instructions on specifically what content should be reported, how soon the communication should be reported, and the method of reporting, such as by email or through a portal. The ambiguity in the existing policy allows for a patchwork of either hallway conversations, emails, or other forms of communication to the Executive Director, which can generate an incomplete record and inconsistent levels of information being recorded regarding different communications.

E. Recruitment, Retention, and Succession Planning.

1. Staff. Hiring and retaining talented staff is important for the Fund to succeed in its mission. The financial sector is highly competitive, and a state entity like the Fund is not able to move as nimbly as entities in the private sector in acquiring and retaining talent, which can lead to losing out on top candidates. APFC’s private sector competitors can offer lucrative salaries, bonuses, and a quick hiring timeline. In addition to the financial constraints by nature of being a state entity, geography makes recruiting top investment talent to the APFC challenging.

When the APFC looks to fill future open positions, the APFC could consider creating more roles that are permitted to work remotely. This would expand the talent recruitment pool to include individuals who reside and work outside of Alaska. The APFC currently has a few team members who work outside of the state and visit the state as needed, but perhaps this number could be expanded to attract top talent.

The recent change to create an incentive compensation package for both investment and operations staff will also be beneficial to recruitment and retention efforts. Remaining sensitive to these types of issues will be advantageous for recruiting and retaining talent as well as for succession planning.

2. Board of Trustees. For future appointments to the Board of Trustees, consideration should be given to expanding the search criteria to include individuals who have the requisite finance, investment, or other business management experience and education both residing in Alaska and outside of the state. Such an approach would be consistent with governing statutes. Alaska Statute Sec. 37.13.050 states, “(a) The Board of Trustees of the Alaska Permanent Fund Corporation consists of six members appointed by the governor. Two of the members must be heads of principal departments of state government, one of whom shall be the commissioner of revenue. Four members shall be appointed by the governor from the public and may not hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of either the United States or of this state. (b) The four public members of the board must have recognized competence and wide experience in finance, investments, or other business management-related fields.”

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An expanded geographic scope may provide a broader field of candidates for consideration who have relevant expertise.

- F. Detailed Orientation and Written Guidance for Trustees.** Understanding the nuances of fiduciary duties in the context of an entity like the Fund can be complicated. More detailed orientation sessions and real-world guidance should be developed for the trustees on this topic. The guidance could come in the form of a question-and-answer document or through illustrations of specific examples of conflicts that may arise in the APFC context. Given the complexity of the Fund's operations and the nuanced determinations that may be required to identify a conflict, providing trustees with more detailed guidance will help educate and inform trustees and allow for the avoidance of doubt in identifying issues that will require further discussion.

When a new trustee joins the Board, all the trustees should go through the fiduciary duty training again as a group. This will remind the trustees of the content covered as well as instill a sense of shared responsibility. Existing trustees may also benefit from hearing the questions and perspectives of new trustees in the course of these training sessions.

Given the unique nature of the Fund, orientation training should also include a discussion on what it means to be an APFC trustee as opposed to a trustee on another state board. Several trustees currently serve on or have served on other Alaskan state boards, which carry different responsibilities when compared with serving on the APFC's board. While the orientation materials require more detail, they still need to be manageable in length.

- G. Continuing Education.** In addition to bolstering the orientation curriculum, a robust continuing education program is critical to the success of the Fund. Such a program should remind trustees and staff about important topics long after the initial orientation program concludes. In addition to keeping staff and trustees up to date on developments in asset classes in which the Fund invests, continuing education should focus on topics, such as what it means to be a fiduciary, how to report compliance related issues, and how to identify and address a real or perceived conflict of interest in the APFC setting. There should also be ongoing leadership training, which will help prepare junior professional staff to grow into more senior roles at the Fund and ease succession planning.

- H. Investment Advisory Group (IAG).** The IAG is a helpful resource for the Board of Trustees. Each IAG member brings a diverse set of experiences and opinions to the table. To enhance the IAG's contributions, it would be helpful if the Executive Director could confer with the Board of Trustees to select which topics would be most valuable or insightful for the IAG members to present on each year.² Given how integral the IAG is to the Fund, structured consideration about succession planning and recruitment for these positions would also be beneficial.

- I. Relationship Building.** Given the size of the organization, there is a premium on developing strong and effective interpersonal dynamics within and between the Board of Trustees and the senior staff. While some relationships may develop naturally, other relationships need to be

² The IAG charter states, "At the request of the Board, IAG members may be invited to attend a special board meeting or committee meeting and be requested to present on topics that are to be discussed at the such meetings."

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cultivated through more intentional efforts. It is our observation that, over the past five years, there have been instances where stronger relationships between and among trustees and senior Fund staff could have created a higher level of trust, which is beneficial in resolving challenges that inevitably arise in such an organization.

Creating additional opportunities to build relationships both between and among senior APFC staff and trustees will likely benefit the APFC's long-term functioning. For example, a trustee/APFC senior staff dinner could be incorporated into the orientation program or as an annual event.

- J. Educating the Public on a Trustee's Role.** There is a perception among some in the public that APFC trustees can and do make individual investment decisions for the Fund. In fact, under the governance structure of the Fund, it is the professional investment staff that make individual investment decisions, while the trustees advise broadly on asset allocation, governance policies, the Executive Director evaluation process, and other matters. There are ways to more clearly convey the roles and responsibilities within the Fund to the public. For example, each time a new trustee is appointed, the accompanying press release could describe what the trustee's role includes, and public-facing fund materials should delineate the role of trustees versus that of the professional investment staff.

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APPENDIX A

The state contract’s “Amended Appendix C” outlined the following as the “Scope of Services:”

“At the request of the Governor, the contractor’s services shall provide a review of the framework of the Permanent Fund Corporation and the Board composition, expertise, diversity and succession planning to assess and evaluate the strengths, weaknesses, opportunities, and concerns to make informed strategic decisions including but not limited to the following:

Governance Review: Conduct a targeted review of the applicable regulations and governance documents to identify gaps and evaluate options for additional guidance or amendments to policies and bylaws. Provide recommendations and options for improving governance processes and avoiding perceived conflicts of interest and related issues. This review would include interviews with key members of the board and staff and identification of potential additional areas for further review.

Provide periodic updates on the status of the comprehensive review as requested by the project manager.

Second Phase Governance Review: In the course of the targeted review of the applicable regulations and governance documents outlined in contract 250000139, WilmerHale identified a number of areas for further review. In the second phase of the governance review, WilmerHale will build on the work completed during contract 250000139 to conduct further research and interviews in these areas for purposes of providing fulsome recommendations on options for improving governance processes and avoiding perceived conflicts of interest and related issues.

The State of Alaska affirms that any correspondence, communications, and related documents are covered by one or all of the following privileges: the attorney-client communication privilege, attorney work product, and the executive privilege. The State will assert the appropriate privileges if a request under the Alaska Public Records Act is received.”