

## **Ordinance 15-22**

An Ordinance amending Title 17 of the Mille Lacs Band Statutes (“MLBS”) to establish an Institutional Investment Committee to assist the Secretary-Treasurer in fulfilling her or his oversight responsibilities of all investment-related matters, to include monitoring the performance of the Band’s investment assets.

The District II Representative introduced the following Bill on the 1<sup>st</sup> day of December, 2021.

**IT IS ENACTED BY THE BAND ASSEMBLY OF THE NON-REMOVABLE MILLE LACS BAND OF OJIBWE:**

### **Section 1: Enacting Chapter 3 of Title 17 – Banks and Banking.**

Title 5 is amended by enacting Chapter 3 – Institutional Investment Committee as follows:

## **CHAPTER 3**

### **INSTITUTIONAL INVESTMENT COMMITTEE**

#### **Section**

- 201. Investment Principles.**
- 202. Establishment and Purpose.**
- 203. Definitions.**
- 204. Composition.**
- 205. Duties; Resources and Authority.**
- 206. Chief Investment Officer.**
- 207. Investment Budget.**
- 208. Meetings.**
- 209. Ethical Responsibilities.**
- 210. Limitation of Liability; Indemnification; Insurance.**
- 211. Compensation; Expenses.**

#### **§ 201. Investment Principles.**

The Band hereby establishes the following principles to guide its investment responsibilities:

- (a) The Band is a long-term investor whose primary mission is to provide for the well-being of current and future generations of enrolled Band members and their descendants;

- (b) The Band's Investment Policy Statement is the primary determinant of the investment portfolio's risk and long-term returns;
- (c) Although the Band can sacrifice some short-term liquidity to pursue a greater long-term return, the investment portfolio's net cash flows, ability to provide for the health and well-being of enrolled Band members, and the ability to fund the Band's government are key risk considerations;
- (d) Diversification improves the risk-adjusted return of the Band's investment portfolio;
- (e) There are long-term benefits to the Band managing investment costs;
- (f) Despite variations over time, the equity risk premium is significantly positive over a long-term investment horizon and overall exposure should therefore be managed accordingly;
- (g) The Band benefits significantly when roles and levels of authority between the Institutional Investment Committee and Chief Investment Officer are clearly defined and followed;
- (h) The Institutional Investment Committee delegates implementation of the Investment Policy Statement to the Chief Investment Officer and exercises oversight with respect to the Chief Investment Officer's implementation activities;
- (i) The Institutional Investment Committee ensures that adequate resources are available to the investment staff to perform their statutorily prescribed duties;
- (j) The Chief Investment Officer's key role is implementing the Investment Policy Statement and setting the portfolio's active risk level in a prudent manner to meet or surpass policy benchmarks; and
- (k) Utilizing engagement initiatives to address environmental, social, and governance-related issues can lead to positive portfolio and governance outcomes.

**§ 202. Establishment and Purpose.**

The Institutional Investment Committee shall be established to:

- (a) Assist the Secretary-Treasurer in fulfilling her or his oversight responsibilities of all investment-related matters in accordance with Title 3 of Mille Lacs Band Statutes, to include monitoring the performance of the Band's investment assets;
- (b) Adopt bylaws in accordance with § 205(a)(2) of this chapter no later than September 30, 2022;

- (c) Review, discuss, and assess potential transactions proposed by the Chief Investment Officer, ensuring compliance with the Band’s Investment Policy Statement;
- (d) Review the Band’s Investment Policy Statement at least annually and revise as needed; and
- (e) Review and evaluate the performance of individual investment managers and recommend actions regarding their retention or termination as deemed necessary and appropriate.

**§ 203. Definitions.**

Unless otherwise provided in this section, all words in this chapter shall be construed according to their ordinary meaning. The following terms are defined for purposes of this chapter:

- (a) **“Agenda packet”** means the agenda and all pertinent materials prepared by the Chief Investment Officer to be discussed during the Committee meeting.
- (b) **“Annual Report”** means a document that the Secretary-Treasurer, or a designee thereof, presents to the Band Assembly in executive session once per year, typically in February, detailing the performance of the Band’s investment portfolio during the previous calendar year. The Annual Report is presented on behalf of the Committee.
- (c) **“Band”** means the Non-Removable Mille Lacs Band of Ojibwe.
- (d) **“Band Member Representative”** means the adult Band member serving a four-year term on the Committee pursuant to § 204(b)(3) of this chapter.
- (e) **“Benchmark”** means a standard generally accepted within the investment management industry against which the performance of a security or investment manager can be measured.
- (f) **“Capital”** means financial assets, such as funds held in deposit accounts or funds obtained from special financing sources.
- (g) **“Cash flow”** means the net amount of cash and cash-equivalents being transferred into and out of a company.
- (h) **“Chairperson”** means the Secretary-Treasurer in her or his role as presiding officer of the Committee.
- (i) **“Chief Investment Officer”** means the executive, or other appropriate fiduciary entity, charged under this chapter to manage the Band’s investment portfolio and oversee a team of professionals who have the responsibility of monitoring and managing the Band’s investment activities.

- (j) **“Committee”** means the Institutional Investment Committee established under this chapter.
- (k) **“Committee Secretary”** means the individual appointed in accordance with this chapter to perform secretarial functions for the Committee.
- (l) **“Comprehensive Performance Report”** means a document that the Secretary-Treasurer, or a designee thereof, presents to the Band Assembly in executive session twice per year, typically in February and August, detailing the performance of the Band’s investment portfolio during the preceding six months. The Comprehensive Performance Report is presented on behalf of the Committee.
- (m) **“Conflict of interest”** means, notwithstanding any other definition provided by Band law, a vested interest of a Committee member, which may include money, status, knowledge, relationships, or reputation, which puts into question whether the Committee member’s actions, judgment, or decision-making can be unbiased. The mere ownership by a Committee member of the same publicly traded security or type of security that is owned or proposed for ownership by the Band shall not by itself be considered a conflict of interest.
- (n) **“Directors and Officers Insurance”** means a type of liability insurance that protects the personal assets of Committee members and officers, and their spouses, in the event they are personally sued by employees, vendors, investors, customers, or other parties, for actual or alleged wrongful acts in the execution of duties under this chapter.
- (o) **“Diversification”** means a risk-management strategy that integrates a wide variety of distinct asset types and investment vehicles in an attempt at limiting exposure to any single asset or risk.
- (p) **“Duty of confidentiality”** means the duty of any individual who obtains information about the Band’s investments under this chapter to refrain from sharing that information with others, except with the express consent of the Committee.
- (q) **“Environmental, Social, and Governance Standards”** means a set of standards that the Band, as a socially conscious investor, uses to screen potential investments, taking into account how companies perform as a steward of nature; how companies approach issues of health and safety; how companies manage relationships with employees, suppliers, customers, and communities where the companies operate; and how companies are structured with regard to leadership, executive pay, audits, internal controls, and shareholder rights.
- (r) **“Equity risk premium”** means an excess return that investing in the stock market provides over a comparatively risk-free rate.

- (s) **“Executive session”** means a meeting of the Band Assembly that is conducted in private for the purpose of protecting sensitive information.
- (t) **“Exposure”** means the amount of financial value the Band stands to lose in an investment should the investment fail.
- (u) **“General ledger”** means the Band’s main accounting record for governmental operations.
- (v) **“Investment agreement”** means a contract between the Band and a separate entity which states the rights and responsibilities of each party and sets forth the parameters of a proposed investment, to include required services and fees.
- (w) **“Investment budget”** means the annual operating budget of the Chief Investment Officer and investment staff, including salaries, manager fees, custodial fees, trading costs, and other expenses necessary to carry out their duties.
- (x) **“Investment manager”** means a person or organization that makes investments in security portfolios on behalf of the Band.
- (y) **“Investment Policy Statement”** means a document drafted and approved by the Committee that outlines general rules for the Chief Investment Officer to follow, including specific information on matters such as asset allocation, risk tolerance, and liquidity.
- (z) **“Investment principles”** mean a set of standards established under this chapter that guide the Committee’s investment decision-making process and the development of the Investment Policy Statement.
- (aa) **“Investment professional”** means an adult with an extensive background in the financial industry serving on the Committee pursuant to § 204(b)(4) of this chapter.
- (bb) **“Investment staff”** means qualified professionals hired and supervised by the Chief Investment Officer to implement the Band’s Investment Policy Statement.
- (cc) **“Joint Session of the Band Assembly”** means a meeting with the four members of the Band Assembly and the Chief Executive, convened pursuant to 3 MLBS § 25.
- (dd) **“Liquidity”** means the ease with which an asset or security can be converted into ready cash without affecting its market price.
- (ee) **“Minutes”** means notes that are recorded during Committee meetings, which shall serve as an official record of the proceedings and as evidence of a prudent decision-making process.

- (ff) **“Non-voting member”** means a member of the Committee pursuant to § 204(c) of this chapter who is *not* entitled to vote.
- (gg) **“Other appropriate fiduciary entity”** means any organization specializing in institutional investment management that the Band has appointed to act as Chief Investment Officer in accordance with this chapter.
- (hh) **“Security”** means a fungible, negotiable financial instrument that holds some type of monetary value and represents either an ownership position in a publicly traded company via stock, a creditor relationship with a governmental body or corporation represented by owning that entity’s bond, or rights to ownership as represented by an option.
- (ii) **“Speculation”** means the act of investing funds in such a manner that seeks unusually high returns while accepting a substantial risk of loss or failure.
- (jj) **“Voting member”** means a member of the Committee who is entitled to vote pursuant to § 204(b) of this chapter.

**§ 204. Composition.**

- (a) **Membership.** The Committee shall be composed of a maximum of eight voting members and one non-voting member.
- (b) **Voting members.** The voting members shall consist of:
  - (1) The Secretary-Treasurer, who shall not serve on the Committee beyond the length of her or his elected term as Secretary-Treasurer;
  - (2) The Commissioner of Finance, who shall not serve on the Committee beyond the length of her or his term as Commissioner of Finance;
  - (3) One adult Band member who possesses a Master of Finance or Master of Business Administration degree, or has other appropriate investment or financial background; and
  - (4) A minimum of three and a maximum of five investment professionals possessing diverse financial backgrounds.
- (c) **Non-voting member.** The Chief Executive shall serve on the Committee as a non-voting member.
- (d) **Chairperson.** The Secretary-Treasurer shall serve as Chairperson of the Committee and shall also retain a vote in all matters coming before the Committee. The Chairperson shall:

- (1) Preside over Committee meetings;
  - (2) Ensure that agenda packets have been distributed; and
  - (3) Encourage input and discussion from Committee members during meetings.
- (e) **Vice-Chairperson.** The Secretary-Treasurer may designate a Committee member as Vice-Chairperson who, in the absence of the Secretary-Treasurer, shall act as Chairperson and perform all duties thereto. Whether the Vice-Chairperson may vote depends on her or his status as either a voting member or non-voting member of the Committee.
- (f) **Band Member Representative.** The Band Member Representative shall serve a four-year term on the Committee, beginning on January 1, 2022. Each successive Band Member Representative shall also serve a four-year term, with the term always beginning on January 1 and ending on December 31.
- (1) The Band Member Representative must:
    - (i) Be nominated by the Secretary-Treasurer;
    - (ii) Possess a Master of Finance or Master of Business Administration degree, or have other appropriate investment or financial background; and
    - (iii) Be confirmed by a majority vote of the Band Assembly.
  - (2) The Band Member Representative can only be removed for cause by a majority vote of the Joint Session of the Band Assembly.
- (g) **Investment professionals.** The investment professionals shall serve staggered terms on the Committee. Each investment professional must possess financial and investment backgrounds that are diverse from one another, be nominated by the Secretary-Treasurer, and be approved by a majority vote of the Band Assembly. Although lawful to have only three investment professionals serving, the Committee should strive to fill all five investment professional positions. An investment professional can only be removed for cause by a majority vote of the Joint Session of the Band Assembly.
- (1) One investment professional shall serve a one-year term, beginning on January 1, 2022. Each successive investment professional serving in this position shall serve a four-year term, with the term always beginning on January 1 and ending on December 31.
  - (2) The second investment professional shall serve a two-year term, beginning on January 1, 2022. Each successive investment professional serving in this

position shall serve a four-year term, with the term always beginning on January 1 and ending on December 31.

- (3) The third investment professional shall serve a three-year term, beginning on January 1, 2022. Each successive investment professional serving in this position shall serve a four-year term, with the term always beginning on January 1 and ending on December 31.
  - (4) The fourth and fifth investment professionals shall serve four-year terms, beginning on January 1, 2022. Each successive investment professional serving in either of these positions shall serve a four-year term, with the terms always beginning on January 1 and ending on December 31.
- (h) **Committee Secretary.** The Committee members shall appoint a Committee Secretary, whether from its members or otherwise. The Chief Investment Officer is permitted to serve as the Committee Secretary, in whole or in part, if appointed by the Committee.
- (1) The Committee Secretary shall not vote on the Committee's decisions if she or he is not already a voting member of the Committee.
  - (2) The Committee Secretary shall be responsible for meeting organization, administrative and logistical support, and the drafting of agendas, resolutions, and meeting minutes.
  - (3) The Committee Secretary shall communicate with Committee members as needed to address issues that may arise, legal or otherwise, in the course of the Committee's business.
- (i) **Resignation.** The Secretary-Treasurer, Chief Executive, and Commissioner of Finance may not resign from their positions on the Committee except in connection with resignation from their respective offices. Any other Committee member may resign at any time by providing written notice to the Committee. The resignation is effective when the Committee receives the notice, unless a later date is specified in the notice. Acceptance of the resignation is not necessary to make it effective.
- (j) **Removals and Vacancies.** The Secretary-Treasurer, Chief Executive, and Commissioner of Finance may not be removed from their positions on the Committee except in connection with removal from their respective offices. In the event that one or more of the Secretary-Treasurer, Chief Executive, or Commissioner of Finance positions are vacant, the vacant position or positions may be filled on a temporary basis in accordance with Band law. If the Secretary-Treasurer position is left vacant, the Vice-Chairperson shall be elevated to Chairperson until a new Secretary-Treasurer is elected. If any other position is left vacant, the position shall be filled in accordance with this chapter.



**§ 205. Duties; Resources and Authority.**

(a) **Duties.** The Committee shall:

- (1) Review the Band's Investment Policy Statement no later than December 31 of each year, provided that any revisions shall not conflict with the Band's investment principles established in § 201 of this chapter;
- (2) Establish bylaws consistent with this chapter that determine the rules of procedure and operation of the Committee;
- (3) Authorize the Chief Investment Officer to take prudent actions through the issuance of resolutions;
- (4) Review the quality, performance, and risk characteristics of the Band's investment portfolios;
- (5) Review market trends and implications for investment risk and portfolio management;
- (6) Review significant new investment asset classes and strategies;
- (7) Retain and terminate the Chief Investment Officer as the Committee deems appropriate;
- (8) Monitor the performance of the Chief Investment Officer, providing input on investment strategy and philosophy;
- (9) Develop a thoughtful rebalancing policy, under which the Chief Investment Officer will have specific rebalancing duties;
- (10) Review and approve the investment budget or contract, as appropriate, with ratification by the Band Assembly;
- (11) Establish a payment procedure whereby the investment budget is paid in accordance with § 207;
- (12) Select the Band's external managers, consultants, custodians, and investment advisors, with ratification by the Band Assembly;
- (13) Monitor the performance of any external managers, consultants, custodians, and investment advisors and terminate their services when appropriate;
- (14) Identify a hierarchy of individuals who can sign investment agreements, provided that the initiator of a transaction shall never be the same person approving the transaction on behalf of the Committee;

- (15) Review and discuss with the Chief Investment Officer any investment issues or considerations relating to Environmental, Social, and Governance Standards;
- (16) Participate in periodic discussions with the Chief Investment Officer, as appropriate, in connection with human resource and succession planning matters;
- (17) Prepare an Annual Report for presentation to the Band Assembly in executive session;
- (18) Prepare semi-annual Comprehensive Performance Reports for presentation to the Band Assembly in executive session; and
- (19) Take other actions within the general scope of its responsibilities under this chapter.

(b) **Resources and authority.** The Committee:

- (1) Shall have the resources and authority appropriate to discharge its duties and responsibilities, including the authority to retain legal counsel and other experts or consultants;
- (2) May conduct or authorize investigations into, or studies of matters within, the scope of the Committee's duties and responsibilities;
- (3) May form and delegate authority, consistent with this chapter, to subcommittees or to one or more designated members of the Committee; and
- (4) May approve a limited waiver of the Band's sovereign immunity in carrying out its statutorily prescribed duties.

**§ 206. Chief Investment Officer.**

- (a) The Committee shall hire, and have the authority to terminate at will, a Chief Investment Officer to implement the Band's Investment Policy Statement.
- (b) The Chief Investment Officer shall:
  - (1) Hire, supervise, and manage investment staff to assist in the carrying out of her or his duties;
  - (2) Report to and make investment management recommendations to the Committee;

- (3) Prepare all supporting documentation for the Committee's agenda packet, with the exception of the agenda itself; and
- (4) Execute the Committee's decisions and update the Committee about overall progress of the Band's investment function in each meeting.

**§ 207. Investment Budget.**

- (a) The investment budget consists of certain expenses that may be paid from the Band's general ledger and certain expenses which may be paid directly from investment assets at the direction of the Chief Investment Officer.
- (b) Expenses which may be paid directly from investment assets include underlying manager fees, custodial fees, and trading expenses.
- (c) Expenses which may be paid from the Band's general ledger include any costs that were pre-approved as part of an annual budgeting process, including compensation for the Chief Investment Officer and investment staff.
- (d) Any expense not authorized under this section must be approved by the Committee.

**§ 209. Meetings.**

- (a) **Frequency.** The Committee must meet at least once per year, but shall strive to meet four times per year. The Chairperson may call special meetings of the Committee as she or he deems necessary or appropriate.
- (b) **Quorum.**
  - (1) A quorum of the Committee exists when at least four voting members are present in person or by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other.
  - (2) The Committee may only act by a majority vote of its members present at the meeting where a quorum exists, except that the Committee may also conduct business via electronic mail without a meeting. A tie vote is insufficient to constitute a majority.
  - (3) When the Committee is conducting business via electronic mail, the vote of a majority of the Committee's voting members by such medium shall constitute the action of the Committee.

- (4) In the absence of a quorum, a lesser number of Committee members may adjourn the meeting.
- (c) **Agenda packets.** Members of the Committee will be provided an agenda and all pertinent materials to be discussed during the meeting at least three business days in advance.
- (d) **Bylaws.** The Committee shall have the power to adopt bylaws consistent with this chapter for the conduct of its business.
- (e) **Minutes.**
  - (1) The Committee Secretary shall draft and maintain minutes of Committee meetings, recording the time and date of the meeting, the names of present and absent Committee members, vote tallies, and the names of Committee members voting for or against each agenda item.
  - (2) The minutes shall be circulated amongst all Committee members within five business days after the meeting date and approved within 15 business days.
- (f) **Attendees.** The Committee, in its discretion, may invite the following individuals to the Committee's meetings to provide pertinent information:
  - (1) Staff members working in support of the Chief Investment Officer;
  - (2) Legal counsel;
  - (3) Outside investment advisors; and
  - (4) Band officials or administrative support personnel.
- (g) **Subcommittees.** The Committee may form subcommittees of no fewer than two members for any purpose that the Committee deems appropriate and may delegate to such subcommittees such power and authority, consistent with this chapter, as the Committee deems appropriate. The Committee shall not delegate to the subcommittee any power or authority required by law to be exercised by the Committee as a whole.

## § 210. Ethical Responsibilities.

- (a) **Prudent person.** When making decisions, the Committee members, Chief Investment Officer, and the investment staff must act in good faith and must exercise that degree of judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived therefrom.

- (b) **Conflicts of interest.** All members of the Committee shall be free of any conflict of interest with respect to the matters before the Committee. Committee members shall recuse themselves from any deliberations or votes when a conflict of interest exists.
- (c) **Punctuality.** Committee members must strive to be present at and on time for all meetings.
- (d) **Duty of Confidentiality.** Any individual who obtains information about the Band's investments under this chapter shall not disclose that information to unauthorized personnel, except with the express consent of the Committee.

**§ 211. Limitation of Liability; Indemnification; Insurance.**

- (a) **Limitation of liability.** Each member of the Committee shall, in the performance of such member's duties, be fully protected in relying on information, opinions, reports, or statements prepared or presented by any person as to matters the member reasonably believes are within such other person's professional or expert competence, to the extent permitted under Band law.
- (b) **Indemnification.** The Committee members may be indemnified for any and all liabilities and reasonable expenses incurred in connection with any claim, action, suit, or proceeding arising from present or past service on the Committee, in accordance with this chapter and resolutions adopted by the Committee.
- (c) **Directors and Officers Insurance.** This section shall not be construed as obviating the need for Committee members, the Chief Investment Officer, or any other director or officer working under this chapter to obtain Directors and Officers Insurance, which may be purchased by the Band.

**§ 212. Compensation; Expenses.**

- (a) **Compensation.** Committee members may not be compensated for their service on the Committee. If the Committee Secretary is employed by the Band but not a Committee member, the Committee may address in its bylaws whether the Committee Secretary should receive additional compensation from her or his regular employment with the Band.
- (b) **Expenses.** The Committee may address in its bylaws the reimbursement of any expenses incurred by Committee members in carrying out their duties, provided that any expenses claimed must be appropriate and reasonable.

**Ordinance 15-22  
(Band Assembly Bill 19-04-15-22)**

Introduced to the Band Assembly on this  
First day of December in the year  
Two thousand twenty-one.

Passed by the Band Assembly on this  
First day of December in the year  
Two thousand twenty-one.

  
Sheldon Boyd, Speaker of the Assembly

APPROVED

Date: December 3, 2021

  
Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND

