

May 19, 2004

MEMORANDUM

TO: The Board of the University of Virginia  
Investment Management Company:

John O. Wynne, Chair  
A. Macdonald Caputo  
Peter F. Dolan  
Christine P. Gustafson  
Mark J. Kington  
Leonard W. Sandridge  
Thomas A. Saunders, III  
Matthew G. Thompson  
Gordon F. Rainey, Jr., Ex Officio  
Thomas F. Farrell, II, Ex Officio

and

William G. Crutchfield, Jr.	Don R. Pippin
Susan Y. Dorsey	Terence P. Ross
G. Slaughter Fitz-Hugh, Jr.	Warren M. Thompson
W. Heywood Fralin	E. Darracott Vaughan, Jr., M.D.
Glynn D. Key	Georgia M. Willis
Lewis F. Payne	James W. Head

FROM: Alexander G. Gilliam, Jr.

RE: Minutes of the Meeting of the Board of the University of  
Virginia Investment Management Company on May 19, 2004

The Board of Directors of the University of Virginia Investment Management Company (UVIMCO) met, in Open Session, at 10:15 a.m., Wednesday, May 19, 2004, in the offices of Morgan Stanley, 1221 Sixth Avenue, New York; John O. Wynne, Chair, presided. A. Macdonald Caputo, Mark J. Kington, Leonard W. Sandridge, Thomas A. Saunders, III, Matthew G. Thompson, and Gordon F. Rainey, Jr., Rector, were present.

Ms. Christine P. Gustafson participated by telephone.

Also present were Alexander G. Gilliam, Jr., Rob Walker Freer, Ms. Kristina Lilly, Sherif Nahas, and Ms. Elizabeth Snyder.

On motion, the Board adopted the following motion to go into Executive Session:

That the Board of the University of Virginia Investment Management Company go into Executive Session for discussion of investment strategies relating to University Endowment Funds, as provided for in Section 2.2-3711 (A)(6) of the Code of Virginia.

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The Board resumed in Open Session at 3:00 p.m. and adopted the following resolution certifying that their discussions in Executive Session had been conducted in accord with the provisions of the Virginia Freedom of Information Act:

That we vote on and record our certification that, to the best of each Board member's knowledge, only public business matters lawfully exempted from open meeting requirements and which were identified in the motion(s) authorizing the closed session, were heard, discussed or considered in closed session.

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The Board then voted to confirm the following actions taken since its last meeting:

Confirmation of Commitment to Golden Gate Capital Investment Fund II, L.P. and II-A, L.P.

The Commitment of \$30 million in Golden Gate Capital Investment Fund II, L.P. and Golden Gate Capital Investment Fund II-A, L.P., is confirmed.

CONFIRMATION OF COMMITMENT TO H.I.G. BAYSIDE OPPORTUNITY FUND, L.P.

The commitment of \$25 million to H.I.G. Bayside Opportunity Fund, L.P. is confirmed.

The Board adopted the following resolutions:

INVESTMENT IN CHILDREN'S INVESTMENT FUND

RESOLVED, an additional investment of up to \$50 million in the Children's Investment Fund is authorized.



RETENTION OF KPMG AS AUDITORS

RESOLVED that the firm KPMG be retained as auditors for the new University of Virginia Investment Management Company which will come into being on July 1, 2004.

UVIMCO RESOLUTION ON ORGANIZATIONAL DOCUMENTS

WHEREAS, the UVIMCO Board approves in concept the organizational documents for the separate corporate entity to be formed as of July 1, 2004 or later ("New UVIMCO"), including Articles of Incorporation, Bylaws, Conflict of Interests Policy, and standard form Management/Deposit Agreement; and

WHEREAS, the UVIMCO Board approves in concept a 401(k) plan for employees of New UVIMCO;

RESOLVED that the Chair of the UVIMCO Board is authorized to take the following actions:

1. Adopt all appropriate existing policies and procedures of UVIMCO as the policies and procedures of the separate corporate entity to be formed as of July 1, 2004, or later ("New UVIMCO").
2. Take any and all actions that may be deemed necessary or appropriate to adopt, execute and/or file with the appropriate authorities, the organizational documents for New UVIMCO, including but not limited to the Articles of Incorporation, Bylaws, Conflict of Interest Policy, and standard form Management/Deposit Agreement.
3. Take any and all actions that may be deemed necessary or appropriate to effectuate a 401(k) plan for employees of New UVIMCO, and any and all other appropriate benefit plans.

(The documents are appended to these Minutes as an Attachment)

UVIMCO VALUATION POLICY

RESOLVED, the UVIMCO valuation policy, enumerated as follows, is approved:

**UNIVERSITY OF VIRGINIA INVESTMENT MANAGEMENT COMPANY**  
**VALUATION POLICY**

**1. Publicly Traded Securities**

**1.1. Exchange listed securities**

**1.1.1. Value using last reported sale price of security as of valuation date.**

**1.2. Over the counter securities**

**1.2.1. Value using the mean of the bid and asked of security as of valuation date.**

**1.3. Publicly registered investment company shares / open ended mutual fund shares**

**1.3.1. Value using published net asset value as of valuation date.**

**1.4. Independent third party source will be used.**

**1.4.1. Will obtain third party pricing source through Custodian.**

**2. Private Placement Securities**

**2.1 Includes domestic and foreign limited partnerships, corporations and other fund structures not publicly registered.**

**2.2 General Procedures**

**2.2.1 Value using Best Available Valuation Data received, adjusting for subsequent cash flows and currency exchange, if applicable. Best Available Valuation Data relates to the latest available manager financial statements and/or manager representations at the time valuations are being determined. Cash flow adjustments are determined from subsequent additional investment or fund distributions.**

**2.2.2 Unrealized capital gain or loss adjustments will be considered when amounts are material and estimable through available documented information.**

**2.3 Special Procedures**

**2.3.1 Additional valuation adjustments may be considered on individual investments when transactions are made which directly relate to the investments being valued. Additional valuation adjustments require approval from the UVIMCO Board.**

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Investment Management Company

The Board agreed that it will meet in Charlottesville on September 16<sup>th</sup>. The meeting will be preceded by a dinner on the evening of September 15<sup>th</sup>.

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On motion, the meeting was adjourned at 3:05 p.m.

AGG:lah

These minutes have been posted to the University of Virginia's Board of Visitors website.

<http://www.virginia.edu/bov/uvimcominutes.html>

ATTACHMENT

University of Virginia Investment Management Company  
Articles of Incorporation

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1. Name. The name of the corporation is the University of Virginia Investment Management Company (hereafter "Company").

2. Purpose. The Company is a non-profit, non-stock corporation organized under Virginia law for exclusively charitable and educational purposes and more specifically to provide investment and investment management and related services to the University of Virginia ("University"), and/or to the private and independent foundations and other entities affiliated with the University operating in support of its mission. In furtherance thereof, the Company may receive, hold, distribute, manage, supervise, oversee and invest endowment, and other funds of the University of Virginia and/or of the aforesaid private foundations and other entities operating in support of the University's mission.

In aid of such purpose(s), the Company is empowered and authorized to undertake any and all lawful activity permitted of non-stock corporations under the laws of the Commonwealth of Virginia, provided, the Company may not undertake or financially support activity prohibited by the Internal Revenue Code with respect to its tax-exempt status, including that no substantial part of its activities shall consist of attempting to influence legislation and the Company shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office. No part of the net earnings of the Company shall be paid to or inure to the benefit of any director or officer of the Company or any other individual, other than reasonable compensation as may be authorized by the Board of Directors to officers and employees for personal services rendered.

3. Power. The Company shall have all powers necessary or convenient to effect any or all of the purposes for which the Company is organized, including all specific powers of a nonstock corporation set forth in the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended.

4. No Members. The Company shall have no members.

5. Board of Directors. The initial Board of Directors shall consist of eleven directors, three of whom shall be appointed by the Board of Visitors of the University of Virginia upon the recommendation of the Rector and one appointed by the University of Virginia President, with the balance (initially, seven directors) appointed by the Board of Directors; provided the initial appointments of the said seven directors shall be made by the initial Board of Directors composed of the four directors appointed by the Board of Visitors and the President of the University of Virginia. The number of directors may be increased or decreased as set forth in the Bylaws of the Company. Provided that there shall not be less than (9) or more than (13) directors. At all times, the number of directors appointed by the Board of Visitors of the University of Virginia and the University of Virginia President shall constitute less than one-half of the total number of directors.

Terms of appointment are for three years except initial appointments may be staggered to such lesser period as the appointing authority may designate, and except the appointee of the President of the University of Virginia shall serve a term of one year or less but without limit on reappointment. No director appointed by the Board of Directors or the Board of Visitors of the University of Virginia may serve more than three successive three-year terms; however, in the event the Board of Directors appoints a director to also serve in the dual role of chief executive or chief investment officer for the Company, with approval of the Board of Directors, the director serving in such dual capacity is eligible to serve on the Board of Directors for an additional period beyond three successive terms, such additional period not to exceed the duration of such dual service. Appointments to fill vacancies shall be made by the appointing authority for the unexpired term, with eligibility for reappointment by the Board of Visitors of the University of Virginia or the Board of Directors to no more than three successive three-year terms (subject to extension in the event of dual service as above provided.). The appointing authority shall have the right to remove its appointee to the Board of Directors at any time with or without cause unless the appointment explicitly provides to the contrary.

Directors shall serve without salary or other compensation in connection with services provided in such capacity, except for reimbursement of authorized expenses incurred on behalf of the Company or compensation as may be approved by the Board of Directors in connection with service to the Company as its chief executive officer or other corporate officer.

6. Corporate Officers. The corporate officers shall be established and appointed by the Board of Directors for such terms and conditions as it may approve, provided, there shall be a presiding Chair elected by the Board of Directors from among its membership. The initial or first Chair shall however be appointed by the Board of Visitors of the University of Virginia for a term not to exceed two years with succeeding Chairs elected by the Board of Directors from among its membership to a term of two years. No Chair may serve more than three successive two year terms or serve beyond his or her membership on the Board of Directors. The Chair is empowered to preside at meetings of the Board of Directors, and perform such other duties as the Board of Directors may authorize from time to time and as set forth in its Bylaws.

7. Standing Committee. The Board of Directors may form such committees as it may require from time to time, with such powers and responsibilities and composition as prescribed by the Board of Directors in its Bylaws. Each standing committee shall include one or more individuals appointed to the Board of Directors by the Board of Visitors of the University of Virginia and/or the University President.

8. Registered Agent/Office: The registered agent and business address of the registered office of the Company is Richard C. Maxwell ( Va. State Bar member and a resident of the Commonwealth of Virginia), 10 South Jefferson Street, Suite 1400, Roanoke, Virginia 24011.

9. Dissolution. In the event of dissolution or liquidation of the Company, none of the property of the Company or any proceeds thereof shall be distributed to or divided among the officers or directors of the Company or other person, other than payment of reasonable compensation to officers and employees for services properly rendered and authorized. Any funds, assets or other property held or managed for the University or its account shall be returned

to the University or assigned to a tax-exempt and non-profit organization approved in writing by the University. Funds or other property held or managed for the account of a University-related foundation or entity shall likewise be returned to the foundation or assigned to a tax-exempt and non-profit organization approved in writing by the foundation or entity. Any other assets shall be assigned or transferred to a tax-exempt and non-profit organization approved by the University, except as applicable law may require otherwise.

10. Indemnification. In addition to such authority as may exist under the laws of Virginia, and to the extent permitted by such laws, the Company shall reimburse its directors and officers for reasonable defense and attorney expenses and for civil liability (other than punitive damages) if made a defendant to any civil or criminal proceeding (other than proceedings instituted by the Company) solely as a result of acts or omissions taken in good faith for and with the belief that such actions were in the Company's best interests, unless the Board of Directors determines or a court of competent jurisdiction finds willful misconduct, gross negligence, a violation of applicable law or Company policy, or obtaining any benefit in violation of law or policy. The Company is additionally authorized to procure and contract for private insurance and indemnity, insuring itself and its officers, directors and employees with defense and liability coverage in connection with service for the Company.

(b) The Board of Directors may authorize advance payment of reasonable expenses incurred by any director who is made a party to a proceeding as described above in advance of final disposition of the proceeding if the director furnishes: (i) a written statement certifying and warranting his or her good faith belief that he or she has met the standard of conduct described above; and (ii) a written and unconditional promise to repay the advance if it is ultimately determined that he or she did not meet such standard of conduct, and (iii) providing the Board of Directors with such other assurance or undertaking as it may reasonably require under the circumstances.

(c) In addition, to the full extent, if any, that the Virginia Nonstock Corporation Act, as it exists on the date hereof or may hereafter be amended, permits the limitation

or elimination of the liability of directors, a Director of the Company shall not be liable to the Company for monetary damages arising out of a single transaction occurrence or course of conduct in excess of \$1.00.

11. Amendments. Amendment, modification or repeal of these Articles shall be made only upon approval of at least three-fourths of the Board of Directors.

12. Bylaws. The Board of Directors may make and amend bylaws, not inconsistent with the Articles of Incorporation, for the managing and regulating of the business of the Company

### Incorporator

By: \_\_\_\_\_

**University of Virginia Investment Management Company**

**Bylaws**

**Article I.**

**Board of Directors**

**1. Company Board of Directors.** The Company shall be governed and managed by a Board of Directors. The initial number of directors is eleven (11). The number of directors may be increased or decreased by amendment to the Bylaws, provided that the number of directors shall not be less than nine (9) or more than thirteen (13). In the event of a reduction in the number of directors, the directors at the time of such reduction shall continue to serve as directors until their terms as originally established expire. All corporate power shall be exercised by or under the authority of the Board of Directors, subject to any limitation contained in the Articles of Incorporation or these Bylaws. The appointing authority shall have the right to remove its appointee to the Board of Directors at any time with or without cause unless the appointment explicitly provides to the contrary. The directors shall serve in such capacity without salary or other compensation, other than reimbursement of authorized expenses incurred on behalf of the Company or compensation as may be approved by the Board of Directors in connection with service to the Company as its chief executive officer or other corporate office. A director may resign at any time by delivering written notice to the Board of Directors, its chairman or the secretary. A resignation is effective when the notice is delivered unless the notice specifies a later effective date.

**2. Vacancies in Office.** A vacancy as a result of the removal, disability, death or resignation of a director shall be filled for the unexpired term. Such vacancy shall be filled by the University Rector with respect to his/her appointments, the University President with respect to his/her appointment, and the Board of Directors with respect to its appointees.

**3. Meetings.** The Board of Directors shall meet at least quarterly. The regular quarterly meetings shall be scheduled, within or without the Commonwealth, as the Chair shall designate or approve. The Chair is further empowered and responsible for approving the meeting agenda for all regular or special meetings of the Board of Directors. Special meetings may be called as needed by the Chair, or upon written call of a majority of the directors.

Notice thereof may be provided by personal delivery, or by mailing or faxing to the business or home address on record with the Company, or any other method permitted by law. Notice may also be sent electronically to such address designated by a director, which shall be deemed made on the date of transmission from the Company. Notice of the meeting location and time, and the agenda, shall be provided at least twenty four (24) hours in advance of the meeting; except where greater notice is required in the articles or bylaws or by applicable law as, for example, with respect to proposed revisions to the articles or bylaws. Notice may be waived in writing by a director which waiver shall be included in the minutes,

however, attendance at or participation in a meeting waives any omission or defect in notification unless the director promptly upon arrival objects to the meeting and does not thereafter vote. The meeting agenda may be added or changed with approval of two-thirds of the directors participating at the meeting, provided a quorum exists.

The Chair shall preside at meetings of the Board of Directors. A director designated by the Chair shall preside in the Chair's absence.

**4. Quorum.** A quorum for the conduct of business by the Board of Directors shall consist of a majority of the directors. An affirmative vote of a majority participating in the meeting is necessary to authorize any resolution, action or decision of the Board of Directors.

**5. Participation in Meeting.** Any or all directors may participate in any meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting by this means is deemed to be present at the meeting.

**6. Action by Unanimous Consent.** Any action permitted to be taken at a meeting of the directors may be taken without a meeting if the action is taken by all of the directors. The action shall be evidenced by one or more written consents stating the action taken and signed by each director either before or after the action taken.

## Article 2. Board Committees

**1. Committees.** The Board of Directors may establish committees from time to time as it may require. There shall however be the following four standing committees: an Executive Committee, a Nominating Committee, an Investment and Finance Committee, and an Audit Committee. The Chair of the Board of Directors shall be an ex-officio member of each standing committee. Each standing committee shall consist of at least three members of the Board of Directors who shall be appointed by the Chair (or, in the case of the Executive Committee, elected by a majority of the members of the Board of Directors), and who shall serve for terms of up to three years as designated by the Chair (or, in the case of the Executive Committee, as designated by a majority of the members of the Board of Directors). The Chair may designate the presiding officer for each committee, and shall have the power to fill any vacancy. All standing committees shall include one or more of the directors appointed by the University Rector or President. A quorum for the conduct of committee business shall require a majority of the appointed membership. Advance notice of scheduled meetings shall be provided to committee members as in the case of meetings of the Board of Directors.

**2. Executive Committee.** In addition to any duty or matter that may be assigned to it by the Board of Directors, the Executive Committee shall be and is fully empowered to act on behalf of the Board of Directors between meetings, authorized to take such action or actions as it may approve or direct on behalf of the Board of Directors except only with respect to the following matters. Without approval of the Board of Directors, the Executive Committee shall have no authority to approve any amendment or other change to the Articles of Incorporation or the Bylaws, or authorize the merger, consolidation, dissolution, reorganization or liquidation of the Company, or authorize the sale, exchange, encumbrance, mortgage, or pledge of the Company or its assets other than in connection with investments in the ordinary course of business or to appoint or remove any individual to/from the Board of Directors, or to hire or terminate the employment of any chief executive officer or chief operating or investment officer of the Company, or to amend the terms of any client agreement for investment management services as may be reached with the University or affiliated entities, or to change the investment standards and policies approved by the Board of Directors. Any action taken by the Executive Committee shall be reported to the Board of Directors at its next regular or special meeting.

**3. Finance Committee.** In addition to any duty or other matter that may be assigned to it by the Board of Directors, the Finance Committee shall be responsible for preparing, reviewing and recommending to the Board of Directors an annual budget for the Company and for reviewing and recommending to the Board of Directors compensation to be paid by the Company to its officers and employees.

**4. Audit Committee.** In addition to any duty or other matter that may be assigned to it by the Board of Directors, the Audit Committee shall be responsible for managing, overseeing and directing the Company's proper and complete financial accounting, reporting and audit of transactions and operations, and is empowered to engage accountants and auditors for such purpose. The Audit Committee is further responsible on behalf of the Board of Directors for adopting, revising, monitoring, training and enforcing compliance with the Company's conflicts of interests policy, which shall be applicable to and govern the directors, officers and employees of the Company. The conflicts policy is, and shall at all times remain, a material condition to appointment to office or any agreement of employment, incorporated by reference. The Audit Committee shall be responsible for ensuring appropriate circulation of the policy among Company directors, officers and employees, and shall annually certify in writing the Company's compliance with the policy to the Board of Directors and to the University (as may be provided in the investment management contract with the University). Notwithstanding anything as may be to the contrary, the Audit Committee membership shall be comprised of directors who, in the judgment of the Board of Directors, are free of business or personal relationship or interest that may reasonably be anticipated to interfere with the exercise of independent judgment on behalf of the Company in discharging its powers, purposes and responsibility as stated in the Articles of Incorporation and in any client agreement providing for investment management services. The Audit Committee shall report its actions to the Board of Directors at its next regular or special meeting.

**5. Nominations Committee.** The Nominations Committee shall be responsible for evaluating and recommending candidates for appointment to the Board of Directors and such other duties as the Board of Directors may authorize. Notwithstanding anything as may be to the contrary in these Bylaws, the Nominations Committee shall consist of three members appointed from the Board of Directors to terms not exceeding three years; one being the appointee of the University President, one being an appointee of the University Rector and the other designated by the Chair from among the existing membership on the Board of Directors. Vacancies shall be filled by the appointing authority.

### **Article 3. Officers**

**1. Officers.** The officers of the Company shall include a Chair of the Board of Directors, a Chief Executive Officer, a Secretary, and such other officers as the Board of Directors may authorize.

**2. Chair.** The Chair shall be elected by the Board of Directors from among its membership for a term of two years, provided the first or initial Chair shall be selected by the University Rector from the University of Virginia's Board of Visitors for a term not to exceed two years. Vacancies in office of the Chair shall be filled by the Board of Directors from among its membership for the remaining term, except a vacancy during the term of the initial Chair shall be filled by the University Rector. No Chair may serve more than three successive two year terms or serve beyond his or her membership on the Board of Directors. The Chair shall preside at all meetings of the Board of Directors, and appoint the committee membership as stated in these bylaws. In the event the Chair is unable to attend or otherwise unavailable, the Chair may designate a substitute presiding officer from among the Board of Directors to act on his or her behalf. Should the Chair be unable or unavailable to designate a substitute, or should the Chair's designee not appear at any scheduled meeting, the Board of Directors may elect an interim chair *pro tempore* to preside at its meeting.

**3. Chief Executive Officer.** The Chief Executive Officer shall be the chief executive officer of the Company and shall have general supervision of the business of the Company, the responsibility to implement the policies of the Board and to administer the Company in all its activities and departments, subject, however, to the control of the Board, the Executive Committee and the Chair of the Board of Directors. In general, the Chief Executive Officer shall perform all duties incident to such office and such other duties as may from time to time be assigned to him by the Board, the Executive Committee, or the Chair of the Board of Directors.

**4. Secretary.** The Secretary shall serve for such term as the Board of Directors shall approve, and shall be responsible for attending all meetings of the Board of Directors and its committees, for preparing and maintaining minutes of meetings, and keeping in good order a complete and accurate inventory of books, records and

policies of the Company, including resolutions and other actions of the Board of Directors and its committees, giving notice as required in these bylaws or as may be required by law, and serving as the custodian of the corporate seal with authority to affix the seal to any document or other paper on behalf of the Company, to certify authenticity of Company books and records and other papers and documents, and such additional authority and duties as may be assigned by the Board of Directors or reasonably incident to said office. The Secretary may sub-delegate the above responsibility as may be necessary in order to properly discharge the duties of office, with prior written approval of the Chair who shall notify the Board of Directors thereof, provided the Secretary shall remain ultimately responsible for the proper performance of his or her designee. In the event the Secretary is unavailable to attend any meeting of the Board or of its committees and fails to delegate responsibility, the Board or committee may designate a secretary *pro tempore* with responsibility to prepare minutes and such other duties as may be required or assigned in keeping with said office. Notwithstanding anything as may be to the contrary above, the Board of Directors, and its committees within the scope of their authority, at all times have and reserve the power to designate in writing any director, officer or employee of the Company with authority to execute any agreement, document or other paper on behalf of the Company, including affixing the Company seal thereto.

**Article 4.  
Conflict of Interest Transaction**

In any transaction with the Company in which a director has a direct or indirect personal interest, as those terms are defined in the Virginia Nonstock Corporation Act at the time of such transaction, such director shall advise the other directors of the direct or indirect personal interest and abstain from voting on such transaction.

**Article 5.  
Miscellaneous**

**1. Amendments.** The bylaws may be amended or repealed, or new bylaws adopted, at any regular or special meeting of the Board of Directors upon majority vote; provided each member of the Board is given advance notice of the proposal at least 30 calendar days prior to the meeting when such matter shall be voted upon and such 30 days advance notice is also provided in writing to the University's Executive Vice-President and Chief Operating Officer.

**2. Fiscal Year.** The fiscal of the Company shall be July 1 to June 30.