



Kentucky Retirement Systems  
**PRESENTATION TO**

# Public Pension Oversight Board

**State Auditor's Special Audit of  
KRS Adherence to SB2 2017**

David Eager, Executive Director  
Rich Robben, Executive Director, Office of Investments

September 23, 2019

# Three Primary Negative Findings

- 1. KRS does not post all investment manager contracts on its website.**
- 2. KRS does not control all redactions.**
- 3. KRS has been found non-compliant in adherence to the CFA Code of Conduct.**

# 1. Posting All Investment Manager Contracts

## Posted

- All 13 contracts signed since passage of SB2 and 41 Pre-SB2 contracts are posted on the website.
- All manager names, amount of assets being managed, fees and performance regardless of whether their contract is posted.

## Not Posted

- Contracts in place before June 17, 2017 have not been posted due to:
  - Confidentiality clauses and manager objections prohibit posting
  - The alternative of liquidation too costly
  - Will work out of them as they mature

## 2. KRS Should Control All Redactions

- **Final say as to proprietary and confidential exclusion from Open Records Act rests with managers.**

**KRS 61.878(1):** *"The following public records are excluded from application of KRS 61.870 to 61.884*

*(c) 1. ...records confidentially disclosed to an agency or required by an agency to be disclosed to it, generally recognized as confidential or proprietary, which if openly disclosed would permit an unfair commercial advantage to competitors of the entity that disclosed the records;"*

**KRS cannot be put in an untenable legal position by being required to determine what is and is not confidential and proprietary on behalf of a manager.**

## 2. KRS Should Control All Redactions (Continued)

- **Attorney General's Open Records Decision 16-ORD-273.**

*"Since investment services are the essence of [an investment manager's] business, conducted in a competitive field, there is no reason to doubt that such information is generally recognized as confidential or proprietary."*

*"Nonetheless, we do not find justification for KRS to withhold the partnership agreements in their entirety."*

**KRS agrees.**

### **3. KRS (has been) found non-compliant in adherence to the CFA Code of Conduct**

- **Most of KRS's managers do not belong to the CFA Institute (aka AIMR) and therefore refused to abide by its code of conduct and code of ethics.**
- **Further, the CFA Institute does not audit investment firms or their employees, has no real punitive powers, and does not conduct on-site reviews.**
- **KRS lobbied for replacing the CFA Institute requirement with the Securities and Exchange Commission Code of Ethics requirement resulting in HB489.**
- **CFA oversight of managers is now a moot point.**

# Other Audit Recommendations

**With regard to most other recommendations, KRS is:**

- **Already in the process of developing procedures that comply, or**
- **Will initiate such procedures as soon as possible**