



Agenda Item 6a

October 15, 2012

ITEM NAME: California Public Divest from Iran Act

PROGRAM: Global Equity

ITEM TYPE: Total Fund – Action

RECOMMENDATION

Approve staff's recommendation that six portfolio companies are not subject to the California Public Divest from Iran Act (Iran Act) based on information provided by the companies and third party sources such as the Governmental Accountability Office (GAO).

EXECUTIVE SUMMARY

Staff has engaged six companies and determined all six companies are not subject to the divestment provision of the Iran Act. The six companies are:

1. Bharat Petroleum Corporation
2. Hyundai Heavy Industries
3. Maire Tecnimont
4. Polskie Gornictwo Naftowe I Gazownictwo (PGNiG)
5. PTT Public Company Limited
6. Saras SpA

BACKGROUND

In October 2007, Assembly Bill 221 (AB 221) entitled the California Public Divest from Iran Act was enacted which provided for the identification, engagement and divestment of investments in companies engaged in specified business operations in Iran, subject to CalPERS overriding fiduciary duty.

In October 2011, Assembly Bill 1151 (Attachment 1), amended AB 221 to its current status as applicable to CalPERS under the requirements of Government Code section 7513.7. AB 1151 requires CalPERS to determine whether a company is taking substantial action to end or curtail business operations in Iran. Furthermore, it is required that this determination be supported by findings adopted by a roll call vote of the CalPERS Board following a presentation and discussion of the findings in open session. In addition, AB 1151 eliminated existing exemptions from AB 221 for companies engaged in certain humanitarian, educational, religious, journalistic, or welfare activities.

ANALYSIS

CalPERS utilizes external third party resources including the U.S. GAO reports on Iran sanctions for the initial identification of companies subject to the Iran Act. In addition, staff coordinates with the California Department of General Services to acquire a list of companies prohibited from contracting with public entities in California per the California Iranian Contracting Act of 2010.

Once a company has been identified, CalPERS notifies each company, setting out the provisions of the Iran Act, and seeking a response which can be properly assessed. Following engagement with identified companies, staff considers the companies' status in compliance with the provisions of the Iran Act. CalPERS Board will make the final determination of the companies' compliance with the Iran Act.

The actions specified in the Iran Act are to be taken subject to being consistent with CalPERS Board's fiduciary duties as described in Section 17 of Article XVI of the California Constitution.

Table 1 shows CalPERS current equity positions in the six portfolio companies that staff considers are not subject to the divestment provisions of the Iran Act. Table 2 summarizes the key findings of the six companies engaged by CalPERS including substantial action taken, curtailed operations, or as no longer being engaged in business operations pursuant to the Iran Act. The summary in the table is based on the companies' written responses to CalPERS enquiries plus information provided by the GAO.

TABLE 1: CalPERS Equity Positions

	Company	Shares Held by CalPERS as of 8/31/2012	Market Value (US\$) of Shares Held by CalPERS
1	Bharat Petroleum Corporation	852,540	\$5,132,099
2	Hyundai Heavy Industries	162,043	\$33,061,987
3	Maire Tecnimont	806,394	\$635,795
4	PGNiG	6,236,696	\$7,659,505
5	PTT Public Company Ltd.	0	\$0.00
6	Saras SpA	2,285,919	\$2,479,445

TABLE 2: Summary of Key Findings

	Company	Summary of Key Findings – Company Status
1	Bharat Petroleum Corporation (India)	On July 9, 2012, the Company stated it was: <ul style="list-style-type: none"> • Not performing any activity to be construed as a company having business operations in Iran per the Iran Act. • Not invested in USD \$20 million or more in the energy sector of Iran including a company that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transfer oil.
2	Hyundai Heavy Industries (South Korea)	On June 21, 2012, the Company stated it was: <ul style="list-style-type: none"> • Not engaged or invested in any business operations with entities in the defense or nuclear sectors of Iran; • Not invested in or engaged in business operations with entities in the energy sector, including a company that provides oil or liquefied natural gas tankers or products used to construct or maintain pipelines used to transfer oil; and • Not involved in any dealing with an Iranian organization labeled as a terrorist by the U.S. government.
3	Maire Tecnimont (Italy)	On July 18, 2012, the Company stated: <ul style="list-style-type: none"> • A letter of intent from Petropars Ltd. to initiate an engineering, procurement, and construction contract for an integrated gas treatment plant in Tombak, Iran has not been acted upon. • All existing projects are being closed out without renewal demonstrating an agreement to curtail even its non-material business operations.
4	PGNiG (Poland)	On April 25, 2012, the Company stated: <ul style="list-style-type: none"> • Its Management Board suspended all negotiations with Iran due to the European Union Sanctions. • The development of Lavan Field was definitely closed as of November 2010. • Completed liquidation of indirect subsidiary Geofizyka Torun Kish LLC, as of October 2011. • It has no future plans for operation in Iran.

	Company	Summary of Key Findings – Company Status
5	PTT Public Company Ltd. (India)	<p>At its May 2011 meeting, the Investment Committee approved divestment of PTT Public Company Ltd. Since CalPERS divestment, PTT has communicated its withdrawal from Iran.</p> <p>The August 2011, GAO report stated PTT has withdrawn from Iran.</p> <p>On July 19, 2011, the Company stated it has:</p> <ul style="list-style-type: none"> • Relinquished the entire block in the Iran Saveh project. • Ceased the supply of Jet fuel to Iran Air. • Suspended off-taking 9.2% of total Mehr Petrochemical Co. • No intentions to increase stakes in Iran. • No direct business or investment in Iran.
6	Saras SpA (Italy)	<p>On August 1, 2012, the Company stated it has:</p> <ul style="list-style-type: none"> • Ceased all business operations with Iran as of May 2012. • No future plans to buy Iranian crude oil.

BENEFITS/RISKS

This item fulfills CalPERS compliance with the provisions outlined in the Iran Act, thereby eliminating the risk of non-compliance with legislative reporting requirements.

ATTACHMENTS

Attachment 1 – California Assembly Bill 1151

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