



Consent

Agenda Item 3b

December 10, 2012

ITEM NAME: Annual Reports to the Legislature – Iran and Sudan
Divestment

PROGRAM: Global Governance

ITEM TYPE: Total Fund – Consent Action

RECOMMENDATION

Approve transmittal of annual reports to the California Legislature pursuant to statutory requirements of the California Public Divest from Iran and Sudan Acts.

EXECUTIVE SUMMARY

This agenda item seeks approval to submit to the California Legislature:

1. Iran Related Investments – Annual Legislative Report (Attachment 1)
2. Sudan Related Investments – Annual Legislative Report (Attachment 2)

During the reporting period CalPERS has divested from one company (Petronet LNG Ltd.), as it failed to take substantial action to cease or curtail operations in Iran. New investments in this company have been blocked. In addition, CalPERS has blocked future investments in one other company (Oil India Limited). Global Equity staff analyzed the potential costs, market impact and potential to affect risk and return associated with a divestment of the two securities. Staff determined that the divestment would not be material due to the small size of the holdings. There are no new divestments to report under the Sudan Act for this reporting period.

Upon approval by the Committee, staff will deliver both reports to the California Legislature before the January 1, 2013 deadline.

STRATEGIC PLAN

This agenda item oversees statutory requirements and does not directly support the CalPERS Strategic Plan.

BACKGROUND

CalPERS is subject to California Legislation related to portfolio holdings with business operations in Iran and Sudan. Additional information regarding the legislation is provided below.

1. California Public Divest from Iran Act

Assembly Bill 221, the California Public Divest from Iran Act (the Iran Act) enacted in October 2007, requires that CalPERS:

- identify companies potentially subject to the Iran Act due to their business operations in Iran;
- offer notification to the companies regarding the Iran Act's requirements to cease or curtail operations;
- determine whether companies are compliant with the Iran Act;
- divest of holdings in companies engaged in specified business operations in Iran, subject to CalPERS overriding fiduciary duty;
- liquidate any investments in such companies;
- report annually to the California Legislature.

In October 2011, Assembly Bill 1151 amended the Iran Act to its current status as applicable to CalPERS under the requirements of Government Code section 7513.7. The bill requires that CalPERS:

- review investments annually;
- eliminate the exemptions from the Iran Act for companies engaged in certain humanitarian, educational, religious, journalistic, or welfare activities;
- make public all proposed findings 72 hours before the board's consideration;
- notify interested parties of proposed findings 72 hours before the board's consideration;
- present findings to the CalPERS Board;
- discuss findings in open session;
- make a determination to support findings by roll call vote;
- report to the Legislature the findings and any public comments regarding the adopted findings and determinations.

2. California Public Divest from Sudan Act

In January 2007, Assembly Bill 2941, the California Public Divest from Sudan Act (the Sudan Act) became effective. This provided for many of the same requirements as described above in the Iran Act. This is the identification, notification, determination, and divestment of investments in companies engaged in specified business operations in Sudan, subject to CalPERS overriding fiduciary duty, the liquidation of any investments in such companies, and annual reporting by CalPERS to the Legislature.

ANALYSIS

CalPERS has diligently and comprehensively implemented the requirements of the Iran and Sudan Acts throughout the reporting period. Attachments 1 and 2 provide in-depth analysis to fulfill CalPERS compliance with the provisions outlined in both Acts.

BENEFITS/RISKS

Failure to comply with the statutory requirements of the Iran or Sudan Acts could result in legal and reputational risk for CalPERS.

ATTACHMENTS

Attachment 1 – California Public Divest from Iran Act Annual Legislative Report
Attachment 2 – California Public Divest from Sudan Act Annual Legislative Report

ANNE SIMPSON
Senior Portfolio Manager
Director of Global Governance

ERIC BAGGESEN
Senior Investment Officer
Global Equity

JANINE GUILLOT
Chief Operating Investment Officer