



## Agenda Item 6b

June 19, 2013

**ITEM NAME:** 2013-15 Compliance Plan

**PROGRAM:** Enterprise Compliance Division

**ITEM TYPE:** Action

**RECOMMENDATION:**

Approve the proposed 2013-15 Annual Compliance Plan.

**EXECUTIVE SUMMARY**

The Enterprise Compliance Division (ECOM) is responsible for oversight of program area compliance with applicable laws, regulations and policies. ECOM also works with the program areas to evaluate the effectiveness of existing compliance strategies and to identify, develop and implement solutions to address potential weaknesses.

As part of its oversight responsibilities, ECOM conducts compliance reviews to establish a baseline for ongoing engagement with key program areas. Upon completion of each compliance review, ECOM works with the program areas to establish ongoing compliance monitoring, provide compliance best practices and deliver continual business process improvement support.

While developing the Annual Compliance Plan, ECOM staff reviewed audit findings, ERMD risk assessments and Ethics Helpline trends, and consulted with the Office of Audit Services (OFAS) and Enterprise Risk Management Division (ERMD). Based on these results, ECOM prepared an Annual Compliance Plan that describes ECOM's compliance approach and identifies compliance reviews planned for the Fiscal Years 2013-14 and 2014-15. This proposed plan is designed to focus on high-priority compliance targets and to provide ongoing assurance on compliance with applicable laws, regulations and policies in these areas.

**STRATEGIC PLAN**

This agenda item supports Strategic Plan Goal B: Cultivate a high-performing, risk-intelligent and innovative organization. Consistent with this proposed plan, ECOM will provide ongoing compliance monitoring of program area compliance with applicable laws, regulations and policies.

## **BACKGROUND**

The United States Sentencing Commission's "Organizational Sentencing Guidelines" establishes minimum requirements for effective compliance programs. Under these guidelines, an effective program uses reasonable steps and efforts to:

*"exercise due diligence to prevent and detect criminal conduct; and... promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law."*

CalPERS is governed by a wide range of complex, frequently changing laws, regulations, rules, policies and procedures, affecting all areas of operations; these requirements comprise CalPERS governance framework. Through an integrated assurances model, ECOM provides a second line of defense by proactively helping program areas identify and address potential noncompliance before problems occur.

In the second line of defense role, ECOM has the following responsibilities:

- Develop, document and implement procedures, processes and controls related to enterprise compliance oversight and monitoring
- Effectively detect, prevent and address violations of law and conflicts of interest
- Conduct compliance reviews of program activities and communicate results to divisions
- Monitor investment system's controls for effectiveness
- Meet regularly with program staff to coordinate program compliance oversight efforts
- Monitor and administer Personal Trading Regulation and platform
- Properly and appropriately escalate compliance issues

In support of these principles, and consistent with Board and Executive direction, ECOM works with enterprise-wide program areas to provide an independent source of validation and testing of statutorily-mandated activities, advise program areas regarding compliance best practices and deliver related continual business process improvement support on an ongoing basis. ECOM also provides enterprise-wide leadership on compliance topics, conducts oversight of potential conflicts of interest affecting CalPERS, and coordinates with program areas to maintain the Regulatory Compliance Library, which documents laws and regulations governing all aspects of CalPERS operations.

The attached proposed Annual Compliance Plan identifies those program areas specifically scheduled for compliance reviews during 2013-14 and 2014-15. These priorities were identified by assessing:

- ERMD risk assessment agenda items presented to the CalPERS Risk & Audit Committee
- Historical experience and review of audit findings
- Discussions with OFAS and ERMD

- Ethics Helpline trends and observations by ECOM staff
- ECOM strategic direction and available resources

Upon completion of each compliance review, ECOM will use the information obtained during the review to develop a compliance monitoring plan. ECOM will assist each program to identify best practices and deliver continual business process improvement support. In this way, ECOM will methodically expand our oversight of CalPERS compliance activity and establish strategic partnerships with program area staff throughout CalPERS.

### **ANALYSIS**

By maintaining an effective compliance program, ECOM will establish the following:

- Clear documentation of compliance requirements
- Monitoring programs and controls to prevent and detect noncompliance
- Pro-compliance culture (tone at the top)

For FY 2013-14, ECOM will have 5.0 Personnel Years (PY) for program compliance review activities.

### **BENEFITS/RISKS**

The establishment and maintenance of an effective compliance program can help CalPERS avoid or reduce fines and penalties and proactively identify and prevent noncompliance, avoiding potentially significant consequences (e.g. lawsuits, increased fines, reputational harm).

Approval of the proposed plan will provide a basis for continuing development and expansion of ECOM's compliance oversight and outreach activities, resulting in improved assurance of CalPERS compliance with applicable laws, rules and regulations. Approval of the plan also advances CalPERS Strategic Plan Goal B: Cultivate a high-performing, risk-intelligent and innovative organization.

As the second line of defense, ECOM requires both authority and opportunity to perform appropriate oversight and compliance support activities to provide reasonable assurance that CalPERS is complying with applicable laws, rules, regulations and policies. Failure to approve the plan may result in ECOM being unable to provide CalPERS with the appropriate levels of oversight to detect and prevent noncompliant activity, and the inability to form an effective compliance program consistent with the standards set forth in the U.S. Federal Sentencing Guidelines. Failure to provide adequate oversight may also increase exposure to the risk of lawsuits, penalties, reputational harm or failure to achieve service levels or strategic goals.

**ATTACHMENTS**

Attachment A: CalPERS Enterprise Compliance Plan, Fiscal Years 2013-14  
and 2014-15

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