



Agenda Item 6a

November 18, 2013

ITEM NAME: California Public Divest from Iran Act

PROGRAM: Global Equity

ITEM TYPE: Total Fund – Action

RECOMMENDATION

Approve staff's recommendation that four 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 four companies and determined all four companies are not subject to the divestment provision of the Iran Act. The four companies are:

1. Edison SPA
2. Lukoil
3. Oil and Natural Gas Corp. (ONGC)
4. Petronet

STRATEGIC PLAN

This agenda item supports the CalPERS Strategic Plan goal to cultivate a high-performing, risk-intelligent and innovative organization. Meeting reporting requirements, like those required by the California Public Divest from Iran Act, is a key mitigation for compliance and reputational risk.

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.

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 four portfolio companies that staff considers are not subject to the divestment provisions of the Iran Act. Table 2 summarizes the key findings of the four 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 9/30/2013	Market Value (US\$) of Shares Held by CalPERS
1	Edison SPA	0	\$0
2	Lukoil	1,351,133	\$85,849,205.64
3	Oil and Natural Gas Corporation (ONGC)	0	\$0
4	Petronet LNG	0	\$0

TABLE 2: Summary of Key Findings

	Company	Summary of Key Findings – Company Status
1	Edison Spa (Italy)	<p>At its May 2011, meeting, the Investment Committee approved divestment of Edison Spa. Since CalPERS divestment, Edison Spa has demonstrated its withdrawal from Iran.</p> <p>The December 2012, GAO report stated Edison Spa has withdrawn from Iran.</p> <p>On July 6, 2012, the U.S. Department of State announced Edison Spa:</p> <ul style="list-style-type: none"> • Withdrew from Iran’s energy sector, specifically its contract to explore Iran’s Dayyer natural gas field • Pledged not to engage in activity with Iran in the future that is subject to U.S. sanctions. • Secretary of State applied the Special Rule under Iran Sanctions Act (ISA) meaning as a company continues to act in accordance with its assurance, under the law, it will not be subject to an investigation into past Iran-based activities.
2	Lukoil (Russia)	<p>The December 2012, GAO report stated Lukoil has withdrawn from Iran.</p> <p>On October 12, 2012, the Company stated it was:</p> <ul style="list-style-type: none"> • Not engaged or invested in any business operations with entities in the defense or nuclear sectors of Iran; • Does not have an investment of \$20,000,000 or more in the energy sector 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	Oil and Natural Gas Corporation (ONGC) (India)	<p>On January 11, 2013, the Company stated:</p> <ul style="list-style-type: none"> • Not engaged in any business activities in Iran as defined in the California Public Divest from Iran Act.

	Company	Summary of Key Findings – Company Status
		<ul style="list-style-type: none"> • Not engaging in investments activities in Iran. • Not currently commercially active with respect to any block or field or Project in Iran. • Not pursuing any activity in the development of South Pars Phase 12 Project.
4	Petronet LNG (India)	<p>At its October 2012, meeting, the Investment Committee approved divestment of Petronet LNG. Since CalPERS divestment, Petronet LNG has communicated it's not subject to the California Public Divest from Iran Act.</p> <p>On January 16, 2013, the Company stated:</p> <ul style="list-style-type: none"> • 2009 business development discussions that took place did not translate into any business opportunities. • Not engaged or invested in any business operations in Iran;

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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