



Agenda Item 7a

November 16, 2015

ITEM NAME: California Public Divest from Iran Act

PROGRAM: Investment Compliance & Operational Risk

ITEM TYPE: Total Fund – Action

RECOMMENDATION

That the Investment Committee (Committee) approve staff's recommendation that four portfolio companies be removed from the CalPERS list of companies subject to the California Public Divest from Iran Act (Iran Act) based on information provided by the companies.

EXECUTIVE SUMMARY

Staff has engaged four companies initially identified as having activities in Iran and determined these companies are not subject to the divestment provisions of the Iran Act.

STRATEGIC PLAN

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

INVESTMENT BELIEFS

This agenda item supports CalPERS Investment Belief IX (Risk to CalPERS is multi-faceted and not fully captured through measures such as volatility or tracking error) because highly volatile returns can have unexpected impacts on contribution rates and funding status. Investment Belief X (Strong processes and teamwork and deep resources are needed to achieve CalPERS goals and objectives) is also supported as CalPERS must consider the government agency constraints under which it operates.

BACKGROUND

In October 2007, Assembly Bill 221, commonly known as the California Public Divest from Iran Act, was enacted to provide for identification of, engagement with, and, absent a satisfactory response, divestment of investments in companies engaged in specified business operations in Iran, subject to the fiduciary duty of the Board. In October 2011, Assembly Bill 1151 amended AB 221 to its current form (Attachment 1).

ANALYSIS

CalPERS staff relies upon external third party resources, including the U.S. Government Accountability Office (GAO) and California Department of General Services, for designating, in conjunction with CalSTRS, the initial list of companies (Iran List) deemed subject to the Iran Act. CalPERS staff provides notification of such designation to each company on the Iran List, setting out the provisions of the Iran Act, and seeking a response that can be properly assessed by staff.

Following engagement with the four companies identified below, staff has determined that they do not meet the threshold criteria for potential divestment under the Iran Act. Table 1 summarizes the key findings with respect to these four companies based on the companies' written responses to staff's inquiries.

TABLE 1: Summary of Key Findings

	Company	Summary of Key Findings – Company Status
1	Heidelberg Druckmaschinen (Germany)	On November 26, 2014, the Company stated: <ul style="list-style-type: none"> • It is not engaging in activities in Iran covered by the Iran Act; • It is not operating in or involved with the Energy, Defense, Nuclear, Petroleum or Natural Gas Resources sectors.
2	Hitachi Zosen Corporation (Japan)	On January 13, 2015, the Company stated: <ul style="list-style-type: none"> • It is in compliance with all laws and regulations; • It does not engage in business activities specified in the Iran Act.
3	Nexans SA (France)	On September 30, 2015, the Company stated: <ul style="list-style-type: none"> • Its activities in Iran have ceased; • It does not carry out any commercial or industrial activities and ensures its operating subsidiaries comply with the export control and trade sanctions which they are subject to.
4	Toyota Tsusho Corporation (Japan)	On December 15, 2014, the Company stated: <ul style="list-style-type: none"> • Its business operations do not meet the criteria defined by the Iran Act; • The U.S. State Department granted a waiver to Japan under section 1245(d)(4)(D)(i) of the National Defense Authorization Act.

BUDGET AND FISCAL IMPACTS

Not Applicable

BENEFITS/RISKS

This item has significant compliance implications in terms of the divestment and reporting provisions outlined in the Iran Act. Failure to comply with the statutory requirements of the Iran Act could result in legal and reputational risk.

ATTACHMENTS

Attachment 1 – California Assembly Bill 1151

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