

**Federal Investments Report for CalPERS Board
 August 2016**

I. Oppose H.R. 5424, the “Investment Advisers Modernization Act of 2016” (Rep. Hurt)

1. **Brief summary of issue.** Developments related to H.R. 5424, the “Investment Advisers Modernization Act of 2016.” Introduced by Rep. Robert Hurt (R-VA), the bill would revise certain requirements for investment advisers and create an exemption for private equity funds from various books and records requirements.
2. **Specific changes/developments since last report.** H.R. 5424 was introduced on June 9, 2016. The House Financial Services Committee reported the bill favorably to the House on June 16, 2016.
3. **Implications for CalPERS.** A reduction in required disclosures by U.S. private equity fund managers could hamper CalPERS’ ability to effectively monitor its fund managers. Additionally, provisions of the bill would reduce reporting requirements that could adversely impact investor protections and the assessment of systemic risk.
4. **CalPERS/Federal Representative Actions.** Sent letter to House Financial Services Chairman Jeb Hensarling (R-TX) and Ranking Member Maxine Waters (D-CA) in opposition to the bill.
5. **Recommendations for Next Steps.** Continue engagement with House Financial Services Committee leadership and staff, and consider possible engagement with other Members of Congress to help advance CalPERS’ objective of opposing the bill.

II. Oppose H.R. 5311, the “Corporate Governance Reform and Transparency Act” (Rep. Duffy)

1. **Brief summary of issue.** Developments related to H.R. 5311, the “Corporate Governance Reform and Transparency Act.” Introduced by Rep. Sean Duffy (R-WI), the bill would require the registration of proxy advisory firms and the management of conflicts of interest, among other things.
2. **Specific changes/developments since last report.** H.R. 5311 was introduced on May 24, 2016. The House Financial Services Committee reported the bill favorably to the House on June 16, 2016.
3. **Implications for CalPERS.** The bill would establish an entirely new, but largely unnecessary and burdensome regulatory regime for proxy advisory firms and would negatively impact investors that utilize proxy advisory services.
4. **CalPERS/Federal Representative Actions.** Sent letter to Chairman Hensarling and Ranking Member Waters in opposition to the bill.
5. **Recommendations for Next Steps.** Continue engagement with House Financial Services Committee leadership and staff, and consider possible engagement with other Members of Congress to help advance CalPERS’ objective of opposing the bill.

III. Oppose H.R. 5429, the “SEC Regulatory Accountability Act” (Rep. Garrett)

1. **Brief summary of issue.** Developments related to H.R. 5429, the “SEC Regulatory Accountability Act.” Introduced by Rep. Scott Garrett (R-NJ), the bill would require the Securities and Exchange Commission (“SEC”) to consider the costs and benefits of its regulations and to review existing regulations to determine whether such regulations are “outmoded, ineffective, insufficient or excessively burdensome.”
2. **Specific changes/developments since last report.** H.R. 5429 was introduced on June 9, 2016. The House Financial Services Committee reported the bill favorably to the House on June 16, 2016.
3. **Implications for CalPERS.** The imposition of additional cost-benefit analysis would divert scarce resources from the SEC’s core mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation.
4. **CalPERS/Federal Representative Actions.** Sent letter to Chairman Hensarling and Ranking Member Waters in opposition to the bill.
5. **Recommendations for Next Steps.** Continue engagement with House Financial Services Committee leadership and staff, and consider possible engagement with other Members of Congress to help advance CalPERS’ objective of opposing the bill.

IV. Submit Comments on Financial CHOICE ACT Discussion Draft

1. **Brief summary of issue.** Developments related to a legislative discussion draft of the Financial CHOICE Act (“FCA”) sponsored by Chairman Hensarling. The discussion draft would reform the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), and includes provisions similar to H.R. 5424, H.R. 5311, and H.R. 5429. Additionally, the discussion draft contains a provision that would reduce the SEC’s funding levels by \$50 million from FY 2016 levels, and limit the ability of shareholders to vote on changes to executive compensation.
2. **Specific changes/developments since last report.** The discussion draft was released on June 23, 2016.
3. **Implications for CalPERS.** Enactment of the FCA would remove critical Dodd-Frank reforms, decrease investor protections, and inadequately fund the SEC.
4. **CalPERS/Federal Representative Actions.** Submitted a comment letter to Chairman Hensarling on July 15, 2016.
5. **Recommendations for Next Steps.** Continue engagement with House Financial Services leadership and staff, and consider possible engagement with other Members of Congress to help advance CalPERS’ objective of influencing the FCA.

V. SEC

1. **Brief summary of issue.** Policy developments related to the SEC, including Investor Advisory Committee (“IAC”) nominations, rulemakings, and legislation.
2. **Specific changes/developments since last report.**
 - **IAC Nominations**

- *IAC Appointments.* The SEC announced the appointment of three new members to its IAC, and the reappointment of five members whose terms had recently expired.
- **Rulemakings.**
 - *10-K Rulemaking.* The SEC approved an interim final rule to permit Form 10-K filers to provide a summary of business and financial information contained in the annual report so long as it includes hyperlinks to the related, more comprehensive disclosures in the Form 10-K.
 - *Smaller Reporting Company.* The SEC proposed amendments to the definition of a “smaller reporting company.” The proposed amendments would increase the financial threshold in the definition thereby expanding the number of companies that qualify as smaller reporting companies and for certain existing scaled disclosures in Regulation S-K and Regulation S-X.
 - *Investment Advisers Business Continuity Plans.* The SEC issued a proposed rule that would require registered investment advisers to adopt and implement written business continuity and transition plans to try to mitigate the effects of business disruptions on the adviser’s clients and investors.
 - *Disclosure Update and Simplification.* As part of its Disclosure Effectiveness Initiative, the SEC proposed amendments to update its disclosure requirements in the areas below:
 - “Duplicative requirements that require substantially the same disclosures as U.S. GAAP, International Financial Reporting Standards (“IFRS”) or other SEC disclosure requirements;
 - Overlapping requirements that are related to, though not the same as, U.S. GAAP, IFRS or other SEC disclosure requirements;
 - Outdated requirements that are now obsolete because of the passage of time or changes in the regulatory, business or technological environment; and
 - Superseded requirements that are inconsistent with recent legislation, recently updated SEC disclosure requirements, or recently updated U.S. GAAP.”
 - *Regulation SBSR.* The SEC adopted final amendments related to the regulatory reporting and public dissemination of security-based swap transactions, pursuant to Title VII of Dodd-Frank.
 - *Disclosure of Order Handling Information.* The SEC proposed rules that would require broker-dealers to provide customers, upon request, a report about the handling of the customer’s institutional orders. In addition, the proposed rules would require broker-dealers to make public on a quarterly basis aggregated reports about their handling of all institutional orders.
 - *Amendments to SEC Rules of Practice Regarding Administrative Proceedings.* The SEC adopted final amendments to its rules of practice that govern administrative proceedings. The amendments will provide

parties additional opportunities to conduct depositions and will make the timelines of administrative proceedings more flexible.

- **Legislation:**

- On July 7, the House passed H.R. 5485, the “Financial Services and General Government Appropriations Act, 2017” by a vote of 239 to 185. The bill includes \$1.5 billion for the SEC, which is \$226 million below the President’s Fiscal Year 2017 Budget Request and \$50 million lower than the FY 2016 enacted level. The following relevant amendments were offered and adopted:

- An amendment offered by Rep. Scott Garrett to prohibit the SEC from proposing or implementing a rule that mandates the use of universal proxy ballots during proxy contests;
- An amendment offered by Rep. Bill Huizenga (R-MI) to prohibit the SEC from finalizing, implementing, administering or enforcing its Pay-Ratio Disclosure rules;
- An amendment offered by Rep. Bill Posey (R-FL) to prohibit the SEC from implementing, administering, enforcing, or codifying into regulation, the SEC’s guidance related to “Commission Guidance Regarding Disclosure Related to Climate Change;” and
- An amendment offered by Rep. Huizenga (R-MI) to prohibit the SEC from enforcing its conflict minerals rule.

3. **Implications for CalPERS.**

- The SEC’s disclosure effectiveness initiative and 10-K interim final rule impact CalPERS’ priorities of strong corporate disclosures and governance.
- The SEC’s proposed rule on disclosure of order handling information would assist CalPERS evaluate execution counterparties and help to ensure sound trade routing practices.
- An appropriation bill that inadequately funds the SEC and prohibits certain SEC rulemakings undermines the agency’s ability to carry out its mission.

4. **CalPERS/Federal Representative Actions.**

- Sent a comment letter to the SEC regarding Regulation S-K.
- Ongoing monitoring of relevant regulatory and legislative developments related to the SEC.

5. **Recommendations for Next Steps.** We will continue to:

- Work to further CalPERS’ goal of obtaining a seat on the IAC; and
- Provide updates on other legislative and regulatory issues and recommend action by CalPERS, as warranted.

VI. CFTC

1. **Brief summary of issue.** Policy developments related to the Commodity Futures Trading Commission (“CFTC”), including nominations, rulemakings, legislation, and hearings.

2. Specific changes/developments since last report.

- **CFTC Nominations.** Senate Agriculture Committee Majority staff has indicated that staff continues to vet the nominations of Democratic nominee Chris Brummer and Republican nominee Brian Quintenz to be CFTC Commissioners. It remains unclear when the full Committee will consider the nominations.
- **CCPs.** The CFTC and the European Securities and Markets Authority (“ESMA”) published a Memorandum of Understanding (“MOU”) regarding recognized central counterparties (“CCPs”). The MOU outlines cooperation between the CFTC and ESMA on derivatives clearing organizations established in the U.S. that have applied or may apply to ESMA for recognition as CCPs.
- **Rulemakings.**
 - *Interest Rate Swaps.* The CFTC proposed amending its regulations to require certain additional interest rate swaps to be cleared by market participants through a registered derivatives clearing organization (“DCO”) or a DCO that is exempt from registration under the Commodity Exchange Act.
 - *Swaps Reporting.* The CFTC approved a final rule to amend the CFTC’s swaps reporting regulations to clarify for swap counterparties and registered entities which counterparty to a swap is responsible for reporting creation and continuation data for each of the multiple components of a cleared swap transaction. Additionally, the final rule clarifies which party is responsible for reporting the extinguishment of a swap when accepted by a derivatives clearing organization for clearing.
 - *Swaps.* The CFTC requested public comment on swap clearing requirement submissions that the CFTC has received from seven registered derivatives clearing organizations.
 - *Clearinghouse Recovery.* The CFTC issued guidance to derivatives clearinghouses on recovery and wind-down plans. The guidance sets forth questions that clearinghouses should consider when assessing whether particular tools should be included in recovery and wind-down plans.
 - *Foreign Persons Exemption.* The CFTC issued a proposed rule amending requirements for persons located outside the U.S. that would qualify for an exemption from registration as a futures commission merchant, introducing broker, commodity trading advisor, or commodity pool operator.
- **Legislation.**
 - *Derivatives Oversight and Taxpayer Protection Act.* On June 29, Senator Elizabeth Warren (D-MA) introduced S. 3118, the “Derivatives Oversight and Taxpayer Protection Act,” which is cosponsored by Sen. Mark Warner (D-VA). The bill would direct the CFTC to collect user fees from registered entities to cover the CFTC’s budget. In addition, the bill would update the CFTC’s enforcement authority so that the agency can impose certain civil penalties and fines on firms that violate the law. S. 3118 would also subject certain foreign exchange swaps to the CFTC’s

jurisdiction. A companion bill (H.R. 5592) has been introduced in the House by Rep. Elijah Cummings (D-MD).

- **Conaway-Peterson Letter.**
 - House Agriculture Committee Chairman Mike Conaway (R-TX) and Ranking Member Collin Peterson (D-MN) sent a letter to Federal Reserve Chair Janet Yellen and five other regulators noting their disappointment in the European Union’s decision to delay implementation of margin requirements for uncleared swaps. The letter urges the regulators to work with their foreign counterparts to attempt to resolve the issue.
- 3. **Implications for CalPERS.** CFTC rulemakings regarding swaps ensure efficient and orderly markets for CalPERS and other market participants.
- 4. **CalPERS/Federal Representative Actions.** Ongoing monitoring of relevant regulatory and legislative developments related to derivatives markets.
- 5. **Recommendations for Next Steps.** We will provide updates and recommend action by CalPERS, as warranted, including commenting on relevant rulemakings and legislative proposals.

VII. GSE Reform

1. **Brief summary of issue.** Policy developments related to efforts to reform the housing finance system.
2. **Specific changes/developments since last report.**
 - **Credit Risk Transfer.** The Federal Housing Finance Agency (“FHFA”) issued a Single-Family Credit Risk Transfer Request for Input (“RFI”). The RFI seeks information from stakeholders about proposals to engage in more risk sharing, including considering front-end transactions.
 - **GSEs.** 32 Members of Congress sent a letter to FHFA Director Melvin Watt and Treasury Secretary Jacob Lew expressing concerns about their respective agencies’ policy of sweeping all of Fannie Mae’s and Freddie Mac’s (the “GSEs”) profits to the Treasury. In addition, a group of housing industry and advocacy organizations sent a letter to Director Watt requesting that loan-level price adjustments (“LLPAs”) be substantially lowered or completely abolished. The letter outlines how LLPAs and guarantee fees, which are passed on to the consumer, have resulted in substantial profits for the GSEs.
 - **Housing Finance Reform.** A consortium of trade organizations (American Bankers Association, Mortgage Bankers Association, National Association of Home Builders, National Association of Realtors, and National Housing Conference) sent a letter to Director Watt urging housing finance reform, without advocating in favor of any particular kind of reform.
 - **TRID Proposal.** The Consumer Financial Protection Bureau (“CFPB”) issued a proposed rule and request for comment on amendments to the Truth in Lending Act-Real Estate Settlement Procedures Act Integrated Disclosure rules.

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3. **Implications for CalPERS.** Housing finance reform efforts could provide CalPERS and other investors in mortgage-backed securities greater regulatory clarity and certainty.
4. **CalPERS/Federal Representative Actions.** Ongoing monitoring of relevant regulatory and legislative developments related to the housing finance market.
5. **Recommendations for Next Steps.** We will provide updates and recommend action by CalPERS, as warranted, including commenting on relevant rulemakings and legislative proposals.