

March 19, 2018**Item Name:** AB 20 Report to the California Legislature**Program:** Investment Compliance & Operational Risk**Item Type:** Information Consent**Executive Summary**

Staff intends to submit the attached report to the California Legislature and the Governor pursuant to the requirements of Assembly Bill 20 (AB 20), California Government Code §7513.72 (the Act), regarding Dakota Access Pipeline (DAPL) engagement activities. The report also sets out additional information in response to the CalPERS Board's prior direction to staff to explore engagement on DAPL.

The CalPERS AB 20 legislative report is provided as Attachment 1.

Strategic Plan

This item is required by statute and not a specific product of the CalPERS Strategic Plan.

Investment Beliefs

This item touches on several CalPERS Investment Beliefs, and in particular:

Investment Belief 3: CalPERS' investment decisions may reflect wider stakeholder views, provided they are consistent with its fiduciary duty to members and beneficiaries. In considering whether to engage on issues raised by stakeholders, CalPERS will use the following prioritization framework:

- Principles and Policy: to what extent is the issue supported by CalPERS Investment Beliefs, Governance and Sustainability Principles, or other Investment Policy?
- Materiality: does the issue have the potential for an impact on portfolio risk or return?
- Definition and Likelihood of Success: is success likely, in that CalPERS' action will influence an outcome which can be measured? Can we partner with others to achieve success or would someone else be more suited to carry the issue?
- Capacity: does CalPERS have the expertise, resources, and standing to influence an outcome?

Investment Belief 4: Long-term value creation requires effective management of three forms of capital: financial, physical, and human.

Background

AB 20 (Kalra) was introduced during the 2016-17 legislative session and signed by Governor Brown. The Act requires that a one-time report be provided to the Legislature and Governor no later than April 1, 2018. The report must include the following components:

- A list of investments that CalPERS has in companies constructing, or funding the construction of, the Dakota Access Pipeline.
- A list of such companies with which CalPERS has constructively engaged, to include:
 - A detailed description of CalPERS' engagement activities with each company, including, but not limited to, the number of engagement interactions with each company.
 - A detailed description of the results of the engagement, including, but not limited to, agreements reached between CalPERS and the company.
 - An evaluation as to the efficacy of the engagement, including, but not limited to, whether the engagement resulted in a change of action by the investing firm or company with which CalPERS funds were invested.

Further, the bill expresses the Legislature's intent that the Committee review and consider factors related to tribal sovereignty and indigenous tribal rights as part of the Committee's investment policies related to environmental, social, and governance issues. A more comprehensive review of CalPERS' engagement activities and related proposed changes to the Governance and Sustainability Principles are separately presented in agenda items 6b, 6c, and 6d.

Analysis

The attached report outlines the DAPL-related engagement activities undertaken by CalPERS' Sustainable Investment Program staff as required by the Act.

Budget and Fiscal Impacts

Submission of the CalPERS AB 20 legislative report will be completed using existing budgeted resources.

Benefits and Risks

Failure to comply with the statutory requirement of the Act could result in legal and reputational risk to CalPERS.

Attachments

- Attachment 1 – AB 20 Report to the California Legislature
- Attachment 2 – End of Mission Statement by the United Nations Special Rapporteur
- Attachment 3 – CalPERS' Governance & Sustainability Principles
- Attachment 4 – Investor Statement to Banks Financing the Dakota Access Pipeline
- Attachment 5 – Public Summary of Foley Hoag Report, Good Practices for Managing the Social Impacts of Oil Pipelines in the United States
- Attachment 6 – The Equator Principles
- Attachment 7 – Letter from 10 Banks to the Equator Principles Association
- Attachment 8 – Investor Statement to the Equator Principles Association
- Attachment 9 – U.S. Federal Judge Order to Energy Transfer Partners
- Attachment 10 – BayernLB's Public Statement Regarding DAPL
- Attachment 11 – BBVA's Public Statement Regarding DAPL
- Attachment 12 – BNP Paribas Announcement Regarding DAPL
- Attachment 13 – Citigroup's Public Statement Regarding DAPL
- Attachment 14 – Credit Agricole's Public Statement Regarding DAPL
- Attachment 15 – DNB's Public Statement Regarding DAPL



- Attachment 16 – ING’s Public Statement Regarding DAPL
- Attachment 17 – Intesa Sanpaolo’s Public Statement Regarding DAPL
- Attachment 18 – Mizuho’s Public Statement Regarding DAPL
- Attachment 19 – Société Générale’s Public Statement Regarding DAPL
- Attachment 20 – Toronto Dominion Securities’ Public Statement Regarding DAPL
- Attachment 21 – Wells Fargo’s Public Statement Regarding DAPL
- Attachment 22 – Wells Fargo’s Indigenous Peoples’ Statement
- Attachment 23 – Government Code § 7513.72

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