



Investment Committee

Agenda Item 6a

September 24, 2018

Item Name: California Public Divest from Iran Act and Sudan Act – Adoption of Findings

Program: Total Fund

Item Type: Action

Recommendation

Remove the companies identified in Table 1 below from consideration under the California Public Divest from Iran Act and Sudan Act (collectively, the Acts) given the outcomes of CalPERS’ research and engagement activities.

Table 1: Companies for Removal from Consideration Under the Acts

| Ref # | Company |
|---|-------------------------------|
| California Public Divest from Iran Act (G.C. §7513.7) | |
| 1. | Bilfinger SE |
| 2. | BT Group |
| 3. | General Electric Co. |
| 4. | Honeywell International |
| 5. | Linde AG |
| 6. | Raiffeisen Bank International |
| 7. | S&P Global |
| Sudan Act (G.C. §7513.6) | |
| 8. | Ascom AG |
| 9. | Dubai Islamic Bank |
| 10. | ENGIE SA |
| 11. | ICICI Bank |
| 12. | Old Mutual PLC |

Executive Summary

In preparation for CalPERS annual report to the California legislature, this item presents staff’s findings to the Investment Committee (Committee) regarding removal (from CalPERS’ review process) of companies that do not meet the threshold criteria for consideration under the Acts.

Strategic Plan

This item does not directly support the CalPERS 2017-22 Strategic Plan.

Investment Beliefs

This item does not directly support CalPERS' Investment Beliefs.

Background

The Acts

The Acts prohibit the boards of the California Teachers' Retirement System and CalPERS from investing in companies with specified business activities in Iran and Sudan, respectively, subject to the fiduciary duties of the Board as described in the California Constitution. The Acts are codified in Government Code (G.C.) §7513.6 (Sudan Act) and G.C. §7513.7 (California Public Divest from Iran Act).

The Acts require CalPERS to undertake a number of different activities, including the identification of and engagement with companies potentially subject to the Acts, divestment where both indicated and consistent with the Committee's fiduciary duties, and submission of an annual report to the California legislature¹. This agenda item is intended to comply with the annual review requirements under the Acts.

Recent Agenda Item - Deferral to 2020 of 5-Year Review

The purpose of the 5-year review is to ensure that prior divestment decisions remain supportive of the prudent stewardship of the System's assets, consistent with the Committee's fiduciary obligations. Periodic review of CalPERS' active divestment mandates supports the key objective of delivering our target risk-adjusted investment returns.

At the meeting of this Committee held on August 13, 2018², staff informed the Committee that, given the phased nature of the "wind down process" following the withdrawal of the U.S. from the Joint Comprehensive Plan of Action (JCPOA), and the as-yet-unsettled nature of international relations and implications for global business activities and sanctions related to Iran, staff thought it premature to undertake CalPERS' 5-year review of the California Public Divest from Iran Act divestment mandate as originally scheduled for 2018. The 5-year review for the Acts' divestment mandates has now been tentatively scheduled for 2020.

Analysis

Table 2 below summarizes the key findings with respect to the companies proposed for removal from CalPERS' consideration under the Acts.

Table 2: Companies Not Meeting Threshold Criteria for Consideration

| Ref # | Company | Key Findings |
|---|----------------------|--|
| California Public Divest from Iran Act (G.C. §7513.7) | | |
| 1. | Bilfinger SE | In a letter dated December 5, 2017, the company confirmed it is not engaged in the business activities targeted by G.C. §7513.7. |
| 2. | BT Group | In a letter dated November 3, 2017, the company confirmed it is not engaged in the business activities targeted by G.C. §7513.7. |
| 3. | General Electric Co. | Staff's review of recent SEC 10-Q filings indicates the company does not meet the threshold criteria for consideration under G.C. §7513.7. |

¹ [CalPERS legislative report archives](#)

² [Agenda Item 8c, "Iran/Sudan Update"](#) available in the Committee meeting archives

| Ref # | Company | Key Findings |
|--------------------------|-------------------------------|--|
| 4. | Honeywell International | In a letter dated November 2, 2017, the company confirmed it is not engaged in the business activities targeted by G.C. §7513.7. |
| 5. | Linde AG | In a letter dated November 29, 2017, the company confirmed it is not engaged in the business activities targeted by G.C. §7513.7. |
| 6. | Raiffeisen Bank International | In a letter dated December 1, 2017, the company confirmed it is not engaged in the business activities targeted by G.C. §7513.7. |
| 7. | S&P Global | In a letter dated January 19, 2017, the company confirmed it is not engaged in the business activities targeted by G.C. §7513.7. |
| Sudan Act (G.C. §7513.6) | | |
| 8. | Ascom AG | In a letter dated October 9, 2017, the company confirmed it is not engaged in business activities in Sudan. |
| 9. | Dubai Islamic Bank | In a letter dated November 8, 2017, the company stated it held a 29.5% stake, as a passive investor in a legacy investment, in the Bank of Khartoum. The company confirmed that it intends to exit the position, and that it has no business activity in Sudan. Staff believes the company does not meet the threshold for consideration under G.C. §7513.6. |
| 10. | ENGIE SA | In a letter dated December 20, 2017, the company outlined that it 1) is not engaged in oil-related activities in Sudan, 2) has <i>de minimis</i> activities through an affiliate related to engineering services for infrastructure projects relating to irrigation, supply of basic food and drinking water, and renewable energy. Staff believes the company does not meet the threshold for consideration under G.C. §7513.6. |
| 11. | ICICI Bank | In a letter dated November 19, 2017, the company confirmed it has no presence in Sudan, nor does it have any exposure to any entity incorporated in Sudan. Staff believes the company does not meet the threshold criteria for consideration under G.C. §7513.6. |
| 12. | Old Mutual PLC | In a letter dated October 10, 2017, the company confirmed it does not have active business operations within Sudan or areas under the control of the government of Sudan. |

Budget and Fiscal Impacts

Not Applicable.

Benefits and Risks

Staff has not identified any risks associated with removing the companies identified in Tables 1 and 2 from consideration under the Acts. Eliminating companies that do not meet the threshold

criteria for consideration under the Acts supports open and transparent communication to interested stakeholders, and allows CalPERS to focus resources on areas where questions remain open.

Should conditions change to such an extent as to have material implications for CalPERS' compliance with the tenets of the Acts, staff will return to the Committee for consideration and guidance.

Attachments

There are no attachments for this item.

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