

Government Code section 6254.26 (as of October 1, 2020)

6254.26. (a) Notwithstanding any provision of this chapter or other law, the following records regarding alternative investments in which public investment funds invest shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the keeper of the information:

- (1) Due diligence materials that are proprietary to the public investment fund or the alternative investment vehicle.
- (2) Quarterly and annual financial statements of alternative investment vehicles.
- (3) Meeting materials of alternative investment vehicles.
- (4) Records containing information regarding the portfolio positions in which alternative investment funds invest.
- (5) Capital call and distribution notices.
- (6) Alternative investment agreements and all related documents.

(b) Notwithstanding subdivision (a), the following information contained in records described in subdivision (a) regarding alternative investments in which public investment funds invest shall be subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:

- (1) The name, address, and vintage year of each alternative investment vehicle.
- (2) The dollar amount of the commitment made to each alternative investment vehicle by the public investment fund since inception.
- (3) The dollar amount of cash contributions made by the public investment fund to each alternative investment vehicle since inception.
- (4) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund from each alternative investment vehicle.
- (5) The dollar amount, on a fiscal yearend basis, of cash distributions received by the public investment fund plus remaining value of partnership assets attributable to the public investment fund's investment in each alternative investment vehicle.
- (6) The net internal rate of return of each alternative investment vehicle since inception.
- (7) The investment multiple of each alternative investment vehicle since inception.

(8) The dollar amount of the total management fees and costs paid on an annual fiscal yearend basis, by the public investment fund to each alternative investment vehicle.

(9) The dollar amount of cash profit received by public investment funds from each alternative investment vehicle on a fiscal year-end basis.

(c) For purposes of this section, the following definitions shall apply:

(1) "Alternative investment" means an investment in a private equity fund, venture fund, hedge fund, or absolute return fund.

(2) "Alternative investment vehicle" means the limited partnership, limited liability company, or similar legal structure through which the public investment fund invests in portfolio companies.

(3) "Portfolio positions" means individual portfolio investments made by the alternative investment vehicles.

(4) "Public investment fund" means any public pension or retirement system, any public endowment or foundation, or a public bank, as defined in Section 57600.

Government Code section 6254.35 (as of October 1, 2020)

6254.35. (a) For purposes of this section, the following definitions shall apply:

(1) "Customer" means a person or entity that has transacted or is transacting business with or has used or is using the services of a public bank or a person or entity for whom the public bank has acted as a fiduciary with respect to trust property.

(2) "Investment recipient" means an entity in which the public bank invests.

(3) "Loan recipient" means an entity or individual which has received a loan from the public bank.

(4) "Personal data" means social security numbers, tax identification numbers, physical descriptions, home addresses, home telephone numbers, statements of personal worth or any other personal financial data, employment histories, electronic mail addresses, and information that reveals any electronic network location or identity.

(5) "Public bank" has the same meaning as defined in Section 57600.

(b) Notwithstanding another provision of this chapter, the following information and records of a public bank and the related decisions of the directors, officers, and managers of a public bank shall not be subject to disclosure pursuant to this chapter, unless the information has already been publicly released by the custodian of the information:

(1) Due diligence materials that are proprietary to the public bank.

(2) A memorandum or letter produced and distributed internally by the public bank.

(3) A commercial or personal financial statement or other financial data received from an actual or potential customer, loan recipient, or investment recipient.

(4) Meeting materials of a closed session meeting, or a closed session portion of a meeting, of the board of directors, a committee of the board of directors, or executives of a public bank.

(5) A record containing information regarding a portfolio position in which the public bank invests.

(6) A record containing information regarding a specific loan amount or loan term, or information received from a loan recipient or customer pertaining to a loan or an application for a loan.

(7) A capital call or distribution notice, or a notice to a loan recipient or customer regarding a loan or account with the public bank.

- (8) An investment agreement, loan agreement, deposit agreement, or a related document.
  - (9) Specific account information or other personal data received by the public bank from an actual or potential customer, investment recipient, or loan recipient.
  - (10) A memorandum or letter produced and distributed for purposes of meetings with a federal or state banking regulator.
  - (11) A memorandum or letter received from a federal or state banking regulator.
  - (12) Meeting materials of the internal audit committee, the compliance committee, or the governance committee of the Board of Directors of a public bank.
- (c) Notwithstanding subdivision (b), the following information contained in records described in subdivision (b) shall be subject to disclosure pursuant to this chapter and shall not be considered a trade secret exempt from disclosure:
- (1) The name, title, and appointment year of each director and executive of the public bank.
  - (2) The name and address of each current investment recipient in which the public bank currently invests.
  - (3) General internal performance metrics of the public bank and financial statements of the bank, as specified or required by the public bank's charter or as required by federal law.
  - (4) Final audit reports of the public bank's independent auditors, although disclosure to an independent auditor of any information described in subdivision (b) shall not be construed to permit public disclosure of that information provided to the auditor.