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Federal Investments Report for CalPERS Board February 2017

I. Securities and Capital Markets

1. **Brief summary of issue.** Policy developments related to the Securities and Exchange Commission (“SEC”) and legislation concerning the capital markets.
2. **Specific changes/developments since last report.**
 - **Executive Order on Financial Services Regulation.** President Trump issued an Executive Order outlining the Administration’s Core Principles for regulating the United States financial system. In addition, the order requires members of the Financial Stability Oversight Counsel to review and report to the President within 120 days on how existing laws and regulations promote the Core Principles and what actions can be taken to support the Core Principles.
 - **House Financial Services Oversight Plan.** The House Financial Services Committee approved its oversight plan. The plan states that the “Committee will monitor all aspects of the Securities and Exchange Commission’s (“SEC”) operations, activities, and initiatives to ensure that it fulfills its Congressional mandate to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.” The plan also states that the Committee will review developments and issues of corporate governance and the SEC’s proposals to modernize corporate governance practices.
 - **Pay Ratio Rule.** The SEC is reconsidering implementation of the Pay Ratio Rule. The SEC had previously delayed compliance until this fiscal year. Acting Chairman Piwowar stated, “It is my understanding that some issuers have begun to encounter unanticipated compliance difficulties.” To better understand the difficulties, the SEC is seeking public input on challenges issuers have faced.
 - **Conflict Minerals Rule.** SEC Acting Chairman Michael Piwowar stated that he has directed SEC staff to reconsider whether existing guidance on the conflict mineral rule is “still appropriate and whether any additional relief is appropriate.” Additionally, Acting Commissioner Piwowar requested comments from interested parties.
 - **SEC Advisory Committee on Small and Emerging Companies Meeting.** The SEC Advisory Committee on Small and Emerging Companies held a meeting focused on secondary market liquidity for Regulation A companies and why more companies may choose to stay private. The meeting also included a discussion of the committee making a recommendation to the SEC on corporate board diversity.
 - **Legal Challenge of Trump’s 2-for-1 Executive Order.** Public Citizen, the Natural Resources Defense Council, and the Communications Workers of America brought a suit against the Trump Administration over the January 30th



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Executive Order requiring federal agencies to identify two regulations for repeal for every new rule. The suit argues that the order is arbitrary, capricious, an abuse of discretion.

- **Resource Extraction Payments Rule.** The House of Representatives and Senate passed a joint resolution under the Congressional Review Act that repealed the SEC’s Resource Extraction Rule. The Resource Extraction Rule required public oil and gas companies to file public reports when making payments of more than \$100,000, on an annual basis, to U.S. or foreign governments connected with the development of oil, natural gas, or minerals. The compliance date was set for September 30, 2018. The final vote in the Senate was 52-47. The final vote in the House was 235-187.
- **Department of Labor Takes Action to Delay Fiduciary Duty Rule.** The Department of Labor (“DOL”) sent a proposal to delay the rule’s applicability date to the Office of Management and Budget. The proposal comes one week after President Trump ordered the DOL to review the rule. The proposal will delay the rule by 180 days and open a short public comment period.
- **Executive Memo on Fiduciary Duty Rule.** President Trump issued a memo regarding the Department of Labor’s (“DOL”) Fiduciary Duty Rule. The memo states that it is the Administration’s priority “to empower Americans to make their own financial decisions, to facilitate their ability to save for retirement and build the individual wealth necessary to afford typical lifetime expenses, such as buying a home and paying for college, and to withstand unexpected financial emergencies.” The memo requires the DOL to examine the rule “to determine whether it may adversely affect the ability of Americans to gain access to retirement information and financial advice.” In addition, the DOL must prepare an economic and legal analysis concerning the likely impact on retirement savings, disruption to the retirement services industry, and any increase in the price to retirement services. If the DOL analysis finds that the Fiduciary Duty Rule is inconsistent with the Administration’s priority, the DOL is required to publish for notice and comment a proposed rule to rescind or revise the rule.
- **Legislation.**
 - **Financial CHOICE Act.** In a Bloomberg interview, House Financial Services Committee Chairman Jeb Hensarling said that the Financial CHOICE Act would be reintroduced “within a matter of weeks” while also noting that it is “more important to get it done right as opposed to quick.” Hensarling also discussed CFPB reforms contained in the Financial CHOICE Act. Additionally, House Financial Services Housing and Insurance Subcommittee Chairman Sean Duffy (R-WI) gave a speech at the U.S. Chamber of Commerce stating that the Financial CHOICE Act will likely be re-introduced in mid-February and reach the House floor in the spring. Importantly, Rep. Duffy also said that his proxy advisor bill, H.R. 5311, the Corporate Governance Reform and Transparency Act of



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2016 in the 114th Congress, would be included in the re-introduced version.

3. Implications for CalPERS.

- The reintroduction and subsequent markup of the FCA will provide CalPERS an opportunity to provide input on particular aspects of the legislation for the benefit of shareowners and the broader securities markets;
- The executive order regarding financial services regulation could impact how federal financial regulators behave under the current administration.
- Reconsideration of conflict minerals and pay ratio rules may impact the required disclosures by issuers.

4. CalPERS/Federal Representative Actions.

- Provided updates on the reintroduction of the FCA; and
- Conducted ongoing monitoring of regulatory and legislative developments related to the securities markets.

5. Recommendations for Next Steps. We will continue to provide updates on other legislative and regulatory issues and recommend action by CalPERS, as warranted.

II. Derivatives Reform

1. Brief summary of issue. Policy developments related to the Commodity Futures Trading Commission (“CFTC”) and the derivatives markets.

2. Specific changes/developments since last report.

- **CFTC No-Action Letter Regarding Variation Margin.** The Commodity Futures Trading Commission’s issued a time-limited no-action letter stating that, from March 1, 2017 to September 1, 2017, it will not pursue enforcement actions against swap dealers for failure to comply with the variation margin requirements for swaps that are subject to a March 1, 2017 compliance date. Accompanying the no-action letter, Acting Chairman Christopher Giancarlo issued a statement noting that “ninety percent of those end-users are not ready to meet the new requirements despite their best efforts to do so.”

3. Implications for CalPERS.

- No-action letter will help ensure that derivatives markets are not disrupted due to swap dealer variation margin requirements.

4. CalPERS/Federal Representative Actions.

- Conducted ongoing monitoring of the pending nominations of Mr. Brummer and Mr. Quintenz to be CFTC Commissioners as well as regulatory and legislative developments related to the derivatives markets.



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5. **Recommendations for Next Steps.** We will provide updates and recommend action by CalPERS, as warranted, including commenting on relevant rulemakings and legislative proposals.

III. GSE Reform

1. **Brief summary of issue.** Policy developments related to housing finance reform.
2. **Specific changes/developments since last report.**
 - **Housing Finance Reform.**
 - **G-Fee Use for Budgetary Offset.** Rep. Mark Sanford (R-SC) and Rep. Brad Sherman, (D-CA), introduced H.R. 916, the Risk Management and Homeowner Stability Act of 2017. The bill would amend the Congressional Budget and Impoundment Control Act of 1974 to prohibit the use of Fannie Mae and Freddie Mac guarantee fees as offsets. Rep. Sanford stated, “[t]his bill simply ensures that guarantee fees can’t be used as a budgetary offset outside of their intended purpose, which is to provide stability for the mortgage market.” We will continue to monitor and keep CalPERS apprised of developments and need for further engagement.
 - **Letter to Watt Regarding Blackstone Transaction.** Ten Democratic Representatives sent a letter to Federal Housing Finance Authority (“FHFA”) Director Mel Watt expressing their concern over Fannie Mae’s guarantee of up to \$1 billion in debt from Blackstone’s Invitation Homes, Inc. The letter questions the impact on homeownership rates and if the guarantee is within Fannie Mae’s mission. Lastly, the letter urges the FHFA to reconsider allowing Fannie Mae to make the guarantee and requests a reply from Director Watt.
3. **Implications for CalPERS.**
 - The Risk Management and Homeowner Stability Act of 2017 will create greater stability in the secondary mortgage market and certainty for investors in GSE MBS.
4. **CalPERS/Federal Representative Actions.** Conducted ongoing monitoring of relevant regulatory and legislative developments related to the secondary mortgage 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.