Public Funds Investment Act

A college district must comply with the Public Funds Investment Act, Government Code Chapter 2256.

Investment Compliance

All investments made by investing entities, including college districts, shall comply with Government Code Chapter 2256, Subchapter A, and all federal, state, and local statutes, rules, or regulations. *Gov't Code 2256.026*

Written Policies

The governing body of an investing entity shall adopt by rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds under its control. The investment policies must be written; primarily emphasize safety of principal and liquidity; and address investment diversification, yield, and maturity and the quality and capability of investment management; and include:

1. A list of the types of authorized investments in which the investing entity's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the entity;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;
4. Methods to monitor the market price of investments acquired with public funds;
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and
6. Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see Loss of Required Rating, below].

Gov't Code 2256.005(a)-(b)

Annual Review

The governing body of an investing entity shall review its investment policy and investment strategies not less than annually. The governing body shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. *Education Code 51.0032; Gov't Code 2256.005(e)*

Investment Strategies

As an integral part of the investment policy, the governing body shall adopt a separate written investment strategy for each of the funds or group of funds under its control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:

1. Understanding of the suitability of the investment to the financial requirements of the entity;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the need arises to liquidate the investment before maturity;
5. Diversification of the investment portfolio; and
6. Yield.

Gov't Code 2256.005(d)

Investment Officer

Each investing entity shall designate, by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees as investment officer to be responsible for the investment of its funds consistent with the investment policy adopted by the entity. If the governing body of an investing entity has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the first investing entity for purposes of Government Code Chapter 2256. Authority granted to a person to invest an entity's funds is effective until rescinded by the investing entity, until the expiration of the officer's term or the termination of the person's employment by the investing entity, or if an investment management firm, until the expiration of the contract with the investing entity. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the governing body of the investing entity retains the ultimate responsibility as fiduciaries of the assets of the investing entity. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity. *Gov't Code 2256.005(f)*

Government Code Chapter 2256 does not prohibit an investing entity or investment officer from using the entity's employees or the services of a contractor of the entity to aid the investment officer in the execution of the officer's duties under Government Code Chapter 2256. *Gov't Code 2256.003(c)*

Investment Training

Initial Training for Board Members and Investment Officer

Each member of the governing board of a state agency and its investment officer shall attend at least one training session relating to the person's responsibilities under Government Code Chapter 2256 within six months after taking office or assuming duties. The Coordinating Board shall provide the training under Government Code 2256.007. The training must include education in:

1. Investment controls;
2. Security risks;
3. Strategy risks;
4. Market risks;
5. Diversification of investment portfolio; and
6. Compliance with Chapter 2256.

Gov't Code 2256.007(a)-(c)

Biennial Training for Investment Officer

The investment officer shall attend a training session not less than once each state fiscal biennium and may receive training from any independent source approved by the governing body of the state agency. *Gov't Code 2256.007(d)*

Training for Investment Officer and Other College Officials

The treasurer, the chief financial officer if the treasurer is not the chief financial officer, and the investment officer of a local government shall:

1. Attend at least one training session from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government and containing at least 10 hours of instruction relating to the treasurer's or officer's responsibilities under Government Code Chapter 2256, Subchapter A, within 12 months after taking office or assuming duties; and
2. Attend an investment training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date, and receive not less than 10 hours of instruction relating to investment responsibilities under Chapter 2256, Subchapter A, from an independent source approved by the governing body of the local government or a designated investment committee advising the investment officer as provided for in the investment policy of the local government.

The training must include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with Government Code Chapter 2256.

Gov't Code 2256.008(a), (c)

Standard of Care

Investments shall be made with judgment and care, under prevailing circumstances, that a person of prudence, discretion, and intelligence would exercise in the management of his or her own affairs, not for speculation, but for investment, considering the probable safety of capital and the probable income to be derived. Investment of funds shall be governed by the following objectives in order of priority:

1. Preservation and safety of principal;
2. Liquidity; and
3. Yield.

In determining whether an investment officer has exercised prudence with respect to an investment decision, the following shall be taken into consideration:

1. The investment of all funds, or funds under the entity's control over which the officer had responsibility rather than a consideration as to the prudence of a single investment; and
2. Whether the investment decision was consistent with the written investment policy of the entity.

Gov't Code 2256.006

Personal Interest

An investment officer of an entity who has a personal business relationship with a business organization offering to engage in an investment transaction with the entity shall file a statement disclosing that personal business interest. An investment officer who is related within the second degree by affinity or consanguinity, as determined by Government Code Chapter 573, to an individual seeking to sell an investment to the investment officer's entity shall file a statement disclosing that relationship. A required statement must be filed with the Texas Ethics Commission and the governing body of the entity. For purposes of this policy, an investment officer has a personal business relationship with a business organization if:

1. The investment officer owns 10 percent or more of the voting stock or shares of the business organization or owns $5,000 or more of the fair market value of the business organization;

2. Funds received by the investment officer from the business organization exceed 10 percent of the investment officer's gross income for the previous year; or

3. The investment officer has acquired from the business organization during the previous year investments with a book value of $2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

Reports

Quarterly Reports

Not less than quarterly, the investment officer shall prepare and submit to the governing body of the entity a written report of investment transactions for all funds covered by the Public Funds Investment Act for the preceding reporting period. This report shall be presented not less than quarterly to the governing body and the chief executive officer of the entity within a reasonable time after the end of the period. The report must:

1. Describe in detail the investment position of the entity on the date of the report;

2. Be prepared jointly by all investment officers of the entity;

3. Be signed by each investment officer of the entity;

4. Contain a summary statement for each pooled fund group (i.e., each internally created fund of an investing entity in which one or more institutional accounts of the investing entity are invested) that states the:

   a. Beginning market value for the reporting period;

   b. Ending market value for the period; and

   c. Fully accrued interest for the reporting period;

5. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;

6. State the maturity date of each separately invested asset that has a maturity date;

7. State the account or fund or pooled group fund in the state agency or local government for which each individual investment was acquired; and

8. State the compliance of the investment portfolio of the state agency or local government as it relates to the investment strategy expressed in the agency's or local government's in-

vestment policy and relevant provisions of Government Code Chapter 2256.

If the entity invests in other than money market mutual funds, investment pools or accounts offered by its depository bank in the form of certificates of deposit, or money market accounts or similar accounts, the reports prepared by the investment officer under Government Code Chapter 2256 shall be formally reviewed at least annually by an independent auditor, and the result of the review shall be reported to the governing body by that auditor.

Education Code 51.0032; Gov't Code 2256.001, .002 (9), .023

Biennial Report

The investment officer shall prepare a report on Government Code Chapter 2256, Subchapter A, and deliver it to the governing body of the state agency no later than the 180th day after the last day of each regular session of the legislature. *Gov't Code 2256.007(d)*

Selection of Broker

The governing body of an entity subject to Government Code Chapter 2256, Subchapter A, or a designated investment committee, shall, at least annually, review, revise, and adopt a list of qualified brokers that are authorized to engage in investment transactions with the entity. *Gov't Code 2256.025*

Authorized Investments

Each governing body of a local government or a state agency may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with investment policies approved by the governing body and according to the standard of care set out in this policy. The governing body of an investing entity may specify in its investment policy that any investment authorized by Government Code Chapter 2256 is not suitable. Investments may be made directly by the governing body or by a nonprofit corporation acting on behalf of the governing body or an investment pool acting on behalf of two or more local governments, state agencies, or a combination of those entities.

In the exercise of these powers, the governing body of an investing entity may contract with an investment management firm registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.) or with the State Securities Board to provide for the investment and management of its public funds or other funds under its control. A contract made for such purpose may not be for a term longer than two years. A renewal or extension of the contract must be made by the governing body of an investing entity by order, ordinance, or resolution.

Gov't Code 2256.003(a)-(b), .005(j)

Obligations

Except as provided below, the following are authorized investments under the Public Funds Investment Act:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;

2. Direct obligations of this state or its agencies and instrumentalities;

3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;

4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state of Texas, the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;

5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;

6. Bonds issued, assumed, or guaranteed by the state of Israel;

7. Interest-bearing banking deposits that are guaranteed or insured by:

    a. The FDIC or its successor; or

    b. The National Credit Union Share Insurance Fund or its successor; and

8. Interest-bearing banking deposits other than those described by item 7 if:

    a. The funds invested in the banking deposits are invested through a broker with a main office or branch office in this state that the investing entity selects from a list the governing body or designated investment committee of the entity adopts as required by Government Code 2256.025 or a depository institution with a main office or branch office in this state that the investing entity selects;

    b. The selected broker or depository institution arranges for the deposit of the funds in the banking deposits in one or more federally insured depository institutions, regardless of where located, for the investing entity's account;

c. The full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and

d. The investing entity appoints as the entity's custodian of the banking deposits issued for the entity's account the selected depository institution, an entity described by Government Code 2257.041(d), or a clearing broker dealer registered with the Securities and Exchange Commission and operating under Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. 240.15c3-3).

Gov't Code 2256.009(a)

The following investments are not authorized:

1. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.

2. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.

3. Collateralized mortgage obligations that have a stated final maturity date of greater than 10 years.

4. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

Gov't Code 2256.009(b)

Certificates of Deposit and Share Certificates

A certificate of deposit or share certificate is an authorized investment if the certificate is issued by a depository institution that has its main office or a branch office in Texas and is:

1. Guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor;

2. Secured by obligations described by Government Code 2256.009(a) above, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage-backed securities of the nature described by Section 2256.009(b); or

3. Secured in accordance with Government Code Chapter 2257 or in any other manner and amount provided by law for the deposits of the investing entity.

In addition to the authority to invest funds in certificates of deposit under the previous section, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under Government Code 2256.010:

1. The funds are invested by an investing entity through a broker that has its main office or a branch office in this state and is selected from a list adopted by the investing entity as required by Government Code 2256.025, or a depository institution that has its main office or a branch office in this state and that is selected by the investing entity;

2. The broker or depository institution selected by the investing entity arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the investing entity;

3. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and

4. The investing entity appoints the depository institution selected by the investing entity under item 1, above, or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. 240.15c3-3) as custodian for the investing entity with respect to the certificates of deposit issued for the account of the investing entity.

Gov't Code 2256.010

The investment policies may provide that bids for certificates of deposit be solicited orally, in writing, electronically, or in any combination of those methods. *Gov't Code 2256.005(c)*

Repurchase Agreements

A fully collateralized repurchase agreement is an authorized investment under the Public Funds Investment Act if the repurchase agreement:

1. Has a defined termination date;

2. Is secured by a combination of cash and obligations described by Government Code 2256.009(a)(1) or 2256.013 or, if applicable, 2256.0204;

3. Requires the securities being purchased by the entity or cash held by the entity to be pledged to the entity either directly or through a joint account approved by the entity, held in the entity's name either directly or through a joint account approved

by the entity, and deposited with the entity or a third party selected and approved by the entity; and

4. Is placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas.

Notwithstanding any other law, the term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by an entity under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement.

A repurchase agreement made by an investing entity under this provision may be submitted for clearing and settlement to a covered clearing agency, as defined by the Securities and Exchange Commission in Rule 17Ad-22, 17 C.F.R. 240.17Ad-22.

Government Code 1371.059(c) applies to the execution of a repurchase agreement by an investing entity.

An investing entity that contracts with an investment management firm under Government Code 2256.003(b) may authorize the firm to invest the entity's public funds or other funds under the entity's control in repurchase agreements as provided by this section using a joint account.

An investment management firm responsible for managing a repurchase agreement transaction using a joint account on behalf of an investing entity as authorized under this provision must ensure that:

1. Accounting and control procedures are implemented to document the investing entity's aggregate daily investment and pro rata share in the joint account;

2. Each party participating in the joint account retains the sole rights of ownership to the party's pro rata share of assets invested in the joint account, including investment earnings on those assets; and

3. Policies and procedures are implemented to prevent a party participating in the joint account from using any part of a balance of the joint account that is credited to another party.

A "repurchase agreement" means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obliga-

tions described by Section 2256.009(a)(1) or 2256.013 or, if applicable, 2256.0204, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement.

A "joint account" means an account maintained by a custodian bank and established on behalf of two or more parties to engage in aggregate repurchase agreement transactions.

Gov't Code 2256.011

Securities Lending Program

A securities lending program is an authorized investment if:

1. The value of securities loaned must not be less than 100 percent collateralized, including accrued income, and the loan must allow for termination at any time;
2. The loan must be secured by:
    a. Pledged securities described by Government Code 2256.009;
    b. Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
    c. Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;
3. The terms of the loan require that the securities being held as collateral be pledged to the investing entity, held in the investing entity's name, and deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity; and
4. The loan must be placed through a primary government securities dealer, as defined by 5 C.F.R. 6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in this state.

An agreement to lend securities under a securities lending program must have a term of one year or less.

Gov't Code 2256.0115

Banker's Acceptance

A banker's acceptance is an authorized investment if the banker's acceptance:

1. Has a stated maturity of 270 days or fewer from the date of issuance;

2. Will be, in accordance with its terms, liquidated in full at maturity;

3. Is eligible for collateral for borrowing from a Federal Reserve Bank; and

4. Is accepted by a bank organized and existing under the laws of the United States or any state, if the short-term obligations of the bank, or of a bank holding company of which the bank is the largest subsidiary, are rated not less than A-1 or P-1 or an equivalent rating by at least one nationally recognized credit rating agency.

Gov't Code 2256.012

Commercial Paper

Commercial paper is an authorized investment if the commercial paper:

1. Has a stated maturity of 365 days or fewer from the date of issuance; and

2. Is rated not less than A1-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies, or by one nationally recognized credit rating agency and is fully secured by an irrevocable letter of credit issued by a bank organized and existing under the laws of the United States or any state.

Gov't Code 2256.013

Mutual Funds

A no-load money market mutual fund is an authorized investment if the mutual fund:

1. Is registered with and regulated by the Securities and Exchange Commission;

2. Provides the investing entity with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); and

3. Complies with federal Securities and Exchange Commission Rule 2a-7 (17 C.F.R. Section 270.2a-7), promulgated under the Investment Company Act of 1940 (15 U.S.C. Section 80a-1 et seq.).

A no-load mutual fund is an authorized investment if the mutual fund:

1. Is registered with the Securities and Exchange Commission;

2. Has an average weighted maturity of less than two years; and

3. Either has a duration of one year or more and is invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regarding authorized investments (Public Funds Investment Act) or has a duration of less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Investments in no-load money market mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c). In addition, the investing entity may not invest any portion of bond proceeds, reserves, and funds held for debt service, in no-load mutual funds.

Gov't Code 2256.014

Guaranteed Investment Contracts

A guaranteed investment contract is an authorized investment for bond proceeds if the guaranteed investment contract:

1. Has a defined termination date;

2. Is secured by obligations described by Government Code 2256.009(a)(1), excluding those obligations described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract; and

3. Is pledged to the entity and deposited with the entity or with a third party selected and approved by the entity.

   Bond proceeds, other than bond proceeds representing reserves and funds maintained for debt service purposes, may not be invested in a guaranteed investment contract with a term longer than five years from the date of issuance of the bonds.

To be eligible as an authorized investment:

1. The governing body of the entity must specifically authorize guaranteed investment contracts as eligible investments in the order, ordinance, or resolution authorizing the issuance of bonds;

2. The entity must receive bids from at least three separate providers with no material financial interest in the bonds from which proceeds were received;

3. The entity must purchase the highest yielding guaranteed investment contract for which a qualifying bid is received;

4. The price of the guaranteed investment contract must take into account the reasonably expected drawdown schedule for the bond proceeds to be invested; and

5. The provider must certify the administrative costs reasonably expected to be paid to third parties in connection with the guaranteed investment contract.

Government Code 1371.059(c) applies to the execution of a guaranteed investment contract by an investing entity.

Gov't Code 2256.015

Investment Pools

A public funds investment pool is an authorized investment if it meets the requirements of Government Code 2256.016 and 2256.019, including that the governing body of the entity authorizes the investment in the particular pool by rule, order, ordinance, or resolution, as appropriate. *Gov't Code 2256.016, .019*

Hedging Transactions

A hedging transaction is an authorized investment if an eligible entity meets the requirements of Government Code 2256.0206.

"Eligible entity" means a political subdivision, including a college district, that has:

1. A principal amount of at least $250 million in outstanding long-term indebtedness, long-term indebtedness proposed to be issued, or a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and

2. Outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Gov't Code 2256.0206

Funds from Mineral Rights

The governing board of a public junior college district may invest funds received by the district from a lease or contract for the management and development of land owned by the district and leased for oil, gas, or other mineral development in any investment authorized to be made by a trustee under Property Code Title 9, Subtitle B (Texas Trust Code).

Funds invested by the governing board of a public junior college district under this section shall be segregated and accounted for separately from other funds of the district.

Gov't Code 2256.0207

Authorized Investments Specific to Institutions of Higher Education

In addition to the authorized investments permitted by Government Code Chapter 2256, Subchapter A, an institution of higher education may purchase, sell, and invest its funds and funds under its control in the following:

1. Cash management and fixed income funds sponsored by organizations exempt from federal income taxation under Section 501(f), Internal Revenue Code of 1986, 26 U.S.C. Section (f);

2. Negotiable certificates of deposit issued by a bank that has a certificate of deposit rating of at least 1 or the equivalent by a nationally recognized credit rating agency or that is associated with a holding company having a commercial paper rating of at least A-1, P-1, or the equivalent by a nationally recognized credit rating agency; and

3. Corporate bonds, debentures, or similar debt obligations rated by a nationally recognized investment rating firm in one of the two highest long-term rating categories, without regard to gradations within those categories.

Gov't Code 2256.020

Change in Law

Except as provided by Government Code Chapter 2270, an entity is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

Loss of Required Rating

An investment that requires a minimum rating under Government Code Chapter 2256, Subchapter A, does not qualify as an authorized investment during the period the investment does not have the minimum rating. An entity shall take all prudent measures that are consistent with its investment policy to liquidate an investment that does not have the minimum rating. *Gov't Code 2256.021*

Investment of Bond Proceeds and Pledged Revenue

The investment officer of a local government, including a college district, may invest bond proceeds or pledged revenue only to the extent permitted by Government Code Chapter 2256, in accordance with:

1. Statutory provisions governing the debt issuance or the agreement, as applicable; and

2. The local government's investment policy regarding the debt issuance or the agreement, as applicable.

"Pledged revenue" means money pledged to the payment of or as security for bonds or other indebtedness issued by a local government; obligations under a lease, installment sale, or other agree-

ment of a local government; or certificates of participation in a debt or obligation.

Gov't Code 2256.0208

Investment of Debt Service Funds

A school district, including a junior college district, may enter into a contract with a term not to exceed seven years to purchase investments with the proceeds of taxes levied or to be levied by the district for the purpose of paying debt service on bonds issued by the district.

A contract under this section may provide for the purchase of investments at a stated yield or yields.

Before entering a contract under this section, a school district must solicit and receive bids from at least three separate providers. The district must accept the qualifying bid that provides for the highest yield investments over the term of the contract.

A contract under this section may provide only for the purchase of an obligation described by Government Code 2256.009(a)(1), other than an obligation described by Government Code 2256.009(b).

Education Code 45.112

General Deposits

The governing board of each institution of higher education may invest the funds received as general deposits authorized by Education Code 54.502 in the manner provided under either Education Code 51.003 or 51.0031. *Education Code 54.5022*

Investments in Scrutinized Companies

Except as provided by Government Code 2270.0002 and 2270.0208, an investing entity may not acquire securities of a listed company. *Gov't Code 2270.0209*

Identification of Investments

Not later than the 30th day after the date an investing entity receives a list of scrutinized companies provided under Government Code 2270.0201, the entity shall notify the comptroller of the listed companies in which the entity owns direct or indirect holdings. *Gov't Code 2270.0202*

Scrutinized Companies Engaged in Inactive Business Operations

For each listed company that is engaged in only inactive scrutinized business operations, the investing entity shall send a written notice informing the company of Government Code Chapter 2270 and encouraging the company to continue to refrain from initiating active business operations in Sudan, in Iran, and with designated foreign terrorist organizations until it is able to avoid being considered a listed company. The investing entity shall continue the correspondence as the entity considers necessary, but is not required

to initiate correspondence more often than semiannually. *Gov't Code 2270.0203*

Scrutinized Companies Engaged in Active Business Operations

For each listed company identified under Section 2270.0202 that is engaged in scrutinized active business operations, the investing entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by investing entities.

The notice shall offer the company the opportunity to clarify its Sudan-related, Iran-related, or designated foreign terrorist organization-related activities, as applicable, and shall encourage the company, not later than the 90th day after the date the company receives notice under this section, to either cease all scrutinized business operations as described by Government Code 2270.0052, 2270.0102, and 2270.0152, or convert such operations to inactive business operations in order to avoid qualifying for divestment by investing entities.

If, during that time, the company ceases the described scrutinized business operations, the comptroller shall remove the company from the list of scrutinized companies, and Chapter 2270 will no longer apply to the company unless it resumes scrutinized business operations. If the company converts its scrutinized active business operations to inactive business operations, the company is subject to all provisions of Chapter 2270 relating to inactive business operations.

If, after the time expires, the listed company continues to have scrutinized active business operations, the investing entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Government Code 2270.0207, according to the schedule provided by Government Code 2270.0206.

Gov't Code 2270.0204

Countries of Concern

"Country of concern" means China, Iran, North Korea, or Russia, or a country designated by the governor under Section 2270.0121. *Gov't Code 2270.0001(2-b)*

Securities

An investing entity may not acquire a security issued by a country of concern or an entity owned or controlled by or subject to the jurisdiction of a country of concern. *Gov't Code 2270.0122*

Banks

An investing entity may not invest or make a deposit in a bank with a principal place of business located in a country of concern. *Gov't Code 2270.0123*

Notice of Status

For each listed company that is a scrutinized company under Government Code 2270.0124, the investing entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by investing entities.

The notice shall offer the company the opportunity to, not later than the 90th day after the date the company receives notice under this section, change its organizational or ownership structure or location so as to not be a scrutinized company as described by Section 2270.0124 in order to avoid qualifying for divestment by investing entities.

If, during the time provided, the company makes any applicable required changes, the comptroller shall remove the company from the list of scrutinized companies, and Chapter 2270 will no longer apply to the company unless the company later again becomes a scrutinized company as described by Section 2270.0124.

Notwithstanding Section 2270.0207, if, after the time provided expires, the listed company continues to operate as a scrutinized company as described by Section 2270.0124, the investing entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except private equity funds described by Section 2270.0207, according to the schedule provided by Section 2270.0206.

Gov't Code 2270.02035

Genocide

For each company identified under Section 2270.0202 that has been complicit, as defined by Government Code 2270.0051, in the genocidal campaign in Darfur, the investing entity shall send a written notice informing the company of its listed company status and warning the company that it may become subject to divestment by the investing entity. The notice must require the listed company to refrain from taking any further action that would make it complicit.

If, after receiving the notice, the listed company takes additional action that makes the company complicit, the investing entity shall sell, redeem, divest, or withdraw all publicly traded securities of the company, except securities described by Section 2270.0207, according to the schedule provided by Section 2270.0206.

Gov't Code 2270.0051(2), .0205

Exception

Notwithstanding any other law, a company that the U.S. government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, its federal sanctions regime relating to Iran or another country of concern, or any federal sanctions regime relating to a designated foreign terrorist organization is not

subject to divestment or investment prohibition under Chapter 2270. *Gov't Code 2270.0002*

Sellers of Investments

A written copy of the investment policy shall be presented to any business organization offering to engage in an investment transaction with an investing entity. For purposes of this section, "business organization" means an investment pool or an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio that has accepted authority granted by the entity under the contract to exercise investment discretion in regard to the investing entity's funds. The qualified representative of the business organization offering to engage in an investment transaction with an investing entity shall execute a written instrument in a form acceptable to the investing entity and the business organization substantially to the effect that the business organization has:

1. Received and reviewed the investment policy of the entity; and
2. Acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the entity and the organization that are not authorized by the entity's policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio, requires an interpretation of subjective investment standards, or relates to investment transactions of the entity that are not made through accounts or other contractual arrangements over which the business organization has accepted discretionary investment authority.

The investment officer of an entity may not acquire or otherwise obtain any authorized investment described in the investment policy of the investing entity from a business organization that has not delivered to the entity the instrument described above.

Gov't Code 2256.005(k)-(l)

Donations

Government Code Chapter 2256, Subchapter A, does not apply to an investment donated to an investing entity for a particular purpose or under terms of use specified by the donor. *Gov't Code 2256.004(b)*

Electronic Funds Transfer

Any local government, including a college district, may use electronic means to transfer or invest all funds collected or controlled by the local government. *Gov't Code 2256.051*

Private Auditor

Notwithstanding any other law, a state agency, including a college district, shall employ a private auditor if authorized by the legisla-

tive audit committee either on the committee's initiative or on request of the governing body of the agency. *Gov't Code 2256.052*