

**OFFICE OF THE TREASURER**

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## **California Office of Pension Protection and Market Reform**

### **Mission**

The Office will protect pensioners and taxpayers through an aggressive, coordinated approach that pursues corporate and market reforms and other actions – including legal and regulatory – to safeguard the State's pension fund assets.

The Office will be a joint operation of the State's two large public pension funds – the California Public Employees' Retirement System (CalPERS) and the California State Teachers' Retirement System (CalSTRS). The Office will be headed by a Director, who will report directly to both boards. Each fund's existing team of dedicated corporate governance experts and specialists will work together as a well-synchronized, cost-efficient, and focused force that promotes needed corporate and market reforms and combats abuses. In short, it will fight to protect taxpayers and pensioners – firefighters, police officers, teachers and other public servants and their families.

CalPERS and CalSTRS have a long history of playing leadership roles in advancing corporate governance reform. The creation of this office will build on that foundation at this critical juncture, maximizing the impact of the two funds' influence in the marketplace. The State's two pension funds have much in common, and when they determine that it is in their best interests to work jointly, then the Office will serve both in that regard. But the Office also will be charged with serving the unique needs of each fund individually, as the situation warrants.

The Office will take whatever steps are prudent and necessary to protect the two funds' members and their assets: It will enhance the funds' ability to seek redress and restitution for harm done and losses caused by corporate malfeasance; help protect pensioners from future misconduct; and pursue corporate and financial market reforms necessary to return and maintain integrity in the marketplace. That, in turn, will help restore the market stability and investor confidence so necessary for long-term economic growth and long-term positive performance of the funds' portfolios.

### **Duties**

Building on CalPERS' and CalSTRS' existing corporate governance efforts, the Office's responsibilities will include the following:

**Corporate and Market Reform** – The Office will aggressively pursue the corporate and financial market reforms needed to protect CalPERS and CalSTRS and their members. That includes organizing and leading shareholder campaigns on behalf of the pension funds (such as the current efforts to pass resolutions at Tyco International Ltd.; Ingersoll-Rand Co. Ltd.; and McDermott International Inc, calling on those

corporations to re-incorporate in the United States, and at General Electric Co. to tie executive pay to performance); working to urge corporations to reform and improve their corporate governance practices; monitoring compliance with any pension fund standards (such as CalPERS' and CalSTRS' Investment Protection Principles related to conflict of interest and investment banking practices); working to ensure that the SEC and other regulatory bodies create and enforce effective market protections; and participating in national investor groups.

**Investigation and Restitution** – The Office, in coordination with the legal office of each fund, will investigate and recommend actions necessary to seek redress and restitution when the funds and their members have suffered losses due to corporate fraud and malfeasance, and to take preventive steps to protect the pension funds and their members. The Office, when warranted, also will refer matters to the appropriate law enforcement agencies for further investigation and prosecution.

**Corporate Reviews** – The Office will conduct thorough examinations and due diligence reviews of public corporations in which the pension fund holds or might hold an investment. The in depth reviews, which would be undertaken on a select number of companies, could be shared with the marketplace and/or other institutional investors. The reviews would, among other things, put corporations on notice that large, influential shareholders are increasing their due diligence and vigilance. In addition, the prospect of making these reports public, in turn, will provide an additional level of deterrence – an insurance policy – against poor corporate practices.

**New Investment Strategies** – The Office, in coordination with the investment office of each fund, will study and recommend investment strategies designed to protect the fund's interests from corporate malfeasance while promoting market reforms (CalPERS, for example, has \$3 billion allocated to active-investment managers who pursue a strategy of enhancing financial results through improved corporate governance.)

## **Background**

As California's chief investment officer, the Treasurer sits on the Board of CalPERS, the largest public pension fund in the country with assets of approximately \$135 billion, and CalSTRS, the nation's third largest public pension fund with assets of approximately \$93 billion. The combined assets represent one of the most significant aggregations of capital in the world and make California one of the most influential shareholders and investors in the U.S. and global economies. It also means California's pensioners and taxpayers have a tremendous amount at stake in those markets and economies. The biggest, single determinant of the performance of the CalPERS and CalSTRS portfolios is the overall health and performance of the market. And that performance, in turn, is tied to whether investors – including those California pensioners and taxpayers – have faith and confidence in the fairness and integrity of the market.

In the wake of the greatest wave of corporate scandals since the crash of 1929, California State Treasurer Phil Angelides has been urging investors to aggressively use their clout to step up the pressure for corporate reform. In December 2002, for

example, the Treasurer released a report to institutional investors nationwide, *The Power of the Purse: How Investors Can Restore Integrity to Our Financial Markets*, calling on them to vigorously use their market strength to advance an agenda of corporate reform.

Names like Enron and WorldCom and Tyco conjure up indelible images of corporate malfeasance and greed that have had a profoundly depressing effect on our economy. Consider, for example, that the FBI has reported that the money stolen from every bank robbery in the United States between 1996 and 2000 totaled \$204 million. But in less time than it would take to knock off a single bank, WorldCom's accounting fraud cost the two pension funds more than \$850 million. And that is only one company. California's two pension funds also have been hurt financially by alleged corporate misconduct at corporations such like Homestore, Qwest and Enron.

Restoring the public's faith in our financial system and markets is critical to sustained economic prosperity. CalPERS and CalSTRS represent a potent, potential force for constructive change in the ethics and accountability of our financial institutions. It is imperative that California's two massive pension funds act now, in whatever ways they can, to help restore that faith and vibrancy. With its significant pension portfolio, California has a special obligation – and opportunity – to be a leading force for change as the nation struggles to regain its financial footing.

CalPERS and CalSTRS have played an important role in the past in promoting corporate governance reform. The two have made tremendous strides in the area of pension protection and corporate accountability. But there is more to be done, and the new California Office of Pension Protection and Market Reform will help shoulder that load.

Today, a handful of dedicated staff, in different divisions within each pension fund, are responsible for administering the activities proposed for the new Office, operating on a combined annual budget of approximately \$2 million. For perspective, that \$2 million investment in corporate governance and pensioner protection activities represents .0009 percent of the combined funds' portfolio and .6 percent of the combined funds' annual budget.

Meanwhile, the task of being alert and ever vigilant to the opportunities for meaningful reform, and the threats to corporate responsibility, has never been more daunting. CalPERS' and CalSTRS' activism in this area is particularly important given the legitimate concerns about the Bush Administration's, the SEC's and the new Congressional majority's commitment to corporate reform.

In that regard, both funds are actively engaged in commenting on and influencing the implementation of reform efforts in Washington, DC, such as U.S. Senator Paul Sarbanes' legislation, the Public Company Accounting Reform and Investor Protection Act, which was signed into law in July 2002. As the SEC drafts regulations to implement the new law, the two California funds are actively advocating rules that will best protect their members and restore market stability.

At the same time, both funds must study and act on more than 5,000 corporate proxy statements each year. And then there is the challenge of analyzing a growing number of shareholder resolutions. The Investor Responsibility Research Center, a nonprofit group in Washington, DC that advises institutions on proxy issues, says that by March 3 of this year it already had counted 914 shareholder resolutions, compared with 737 for all of 1998. And according to the AFL-CIO, the largest U.S. labor group, union pension funds alone have filed 380 resolutions this year, up from 200 last year.

Add to that the recent growth in the number of cases and increasing complexity of alleged corporate misconduct, where CalPERS and CalSTRS have had to resort to legal action to seek redress and recoup losses. Today the two funds have actions pending against a number of corporations, financial institutions and individuals, all related to issues of corporate accountability and alleged malfeasance. CalPERS and CalSTRS also are continually reviewing and adopting new corporate reform policies and standards. For example, the pension funds are dealing with new market issues concerning the practices of investment banks in areas such as Initial Public Offerings and research analysis – building on the groundbreaking work of New York's Attorney General Eliot Spitzer.

With the creation of the new Office of Pension Protection and Market Reform, California's two pension funds can unite and establish a joint task force to protect pensioners and taxpayers and promote corporate responsibility. The Office will step up the fight in which the two funds already are engaged. And in the process, it can be the model for others throughout the country to follow.