

SECURITIES LITIGATION

I. PURPOSE

This Sonoma County Employees' Retirement Association (SCERA) Policy provides procedures and guidelines for monitoring and participating in securities litigation as appropriate to protect SCERA's interests.

II. OBJECTIVES

- A. As a public pension plan and institutional shareholder, SCERA may be a plaintiff or plaintiff class member in securities actions or class actions that seek to recover damages resulting from alleged wrongful acts or omissions of others.
- B. The United States Securities and Exchange Commission and leaders in the legal community have commented that the governing board of a public pension system has a fiduciary duty to monitor securities actions in which the system has an interest and recover damages if administratively prudent.

III. GUIDELINES

- A. SCERA may retain outside consultants to assist in monitoring securities litigation cases, identifying those cases that potentially involve SCERA's assets and evaluating SCERA's potential losses and the possible value of taking an active role in the litigation.
- B. The Board of Retirement has determined that there is typically little or no value added to the pension fund from being a lead plaintiff in a domestic securities litigation class action.
 - 1. The Board of Retirement will generally consider becoming a lead plaintiff in a particular domestic securities litigation class action where (1) the estimated loss to SCERA exceeds \$2 million; (2) no institutional investor has petitioned the court to become lead plaintiff; and (3) lead plaintiff status is recommended by staff and counsel.
 - 2. While SCERA will not generally pursue lead plaintiff status in domestic securities class actions, SCERA should ensure that it obtains its fair share of any recovery in such cases where SCERA has a valid claim. Further,

where the size of SCERA's loss in a particular case is sufficient, SCERA may want to monitor and/or participate in the case as appropriate. In rare circumstances, SCERA may consider opting out of an apparently insufficient class action recovery to maintain a separate action against the defendant(s), either independently or in concert with other plaintiffs. SCERA may also monitor and/or object to attorneys' fee requests made in cases where SCERA has filed a claim.

- C. The Board of Retirement has determined that if the securities were purchased on a foreign exchange and a claim is not available under U.S. securities laws or state law, while more involvement may be required for recovery, more complications and risks may make involvement inappropriate.
 - 1. In a securities action in a foreign jurisdiction, investors generally will be required to join as named plaintiffs; there is no possibility of recovery of damages as a passive member of a class by just making a claim. Named plaintiffs are often responsible for payment of the defendants' defense costs if there is an adverse judgment against the plaintiffs.
 - 2. In such cases, the possible need for foreign legal counsel and a reliable source of funding for payment of defense costs in the event of an adverse judgment, raises significant questions about contract terms, the integrity and financial stability of the foreign law firm and defense cost funding guarantor, foreign jurisdiction law, and language translation, in addition to the fundamental questions of liability, potential damages and administrative considerations.
 - 3. For all these reasons, SCERA staff and counsel will weigh the potential for recovery against the risks, determine if a case is appropriate for Board of Retirement consideration, and, if so, provide a summary of the case, a discussion of relevant considerations and a recommendation to the Board of Retirement.
- D. The implementation of this Policy should not place an inordinate burden on SCERA staff or counsel. External resources should be used to keep SCERA apprised of potential actions, the status of filings and settlement of securities actions.

IV. OPERATIONAL PROCEDURES

- A. **Responsibility for Class Action Claim Filings.** The primary responsibility is with the Custodian to monitor all domestic class actions and to complete the

necessary paperwork to file SCERA's valid claims. In addition to monitoring by the Custodian, SCERA may engage outside legal counsel to monitor domestic and foreign jurisdiction actions.

- B. **Review of Class Action Filings.** The staff shall monitor the Custodian's activities regarding the filing and settlement of securities class action claims.
- C. **Potential Case Evaluation.** Where the potential amount SCERA could recover in a case is sufficiently large and the case has merit, staff and counsel shall evaluate and, if appropriate, recommend to the Retirement Board a more active role in the litigation.
- D. **Participation in Settlement.** Staff and counsel shall take reasonable steps to see that timely claims are submitted on behalf of SCERA in all appropriate securities class action settlements, and that objections are filed to attorneys' fees requests made by plaintiffs' counsel(s) in all appropriate securities class action settlements.
- E. **Reports to the Board.** Staff shall report annually to the Board or Investment Committee of the Board regarding cases that are being monitored and shall keep the Board apprised of any unusual or extraordinary events as they occur.

V. REVIEW

The Board shall review this policy at least every three years to ensure that it remains relevant and appropriate.

VI. HISTORY

The Board adopted this policy on 9/18/2008.

Reviewed and revised 11/18/2010; 2/20/2014; 11/20/2014.

Reviewed on 12/14/2017, 12/17/2020 and 10/19/2023.