



Board of Retirement Regular Meeting

Sacramento County Employees' Retirement System

Agenda Item 18

MEETING DATE: February 21, 2024

SUBJECT: Securities Litigation Policy

SUBMITTED FOR: ___ Consent X Deliberation and Action ___ Receive and File

RECOMMENDATION

Approve amendments to Securities Litigation Policy.

PURPOSE

This item supports Strategic Management Plan goals regarding transparency, compliance with laws and regulations, and effective oversight of plan assets.

DISCUSSION

The Board formalized the Securities Litigation Policy in April 2007, establishing guidelines and procedures for monitoring securities-related class action proceedings potentially associated with SCERS investments. Aside from formatting revisions in 2018, it has remained unchanged since that time. General Counsel provided an educational report regarding securities litigation and the policy in January 2020, but made no recommendations regarding the policy at that time.

Pursuant to SCERS' practice of reviewing and refreshing policies approximately every three years, Staff has re-evaluated the Securities Litigation Policy to consider whether any amendments are appropriate due to legal changes or practical experience. The recommended amendments are largely stylistic, but also attributable to practical experience over the course of the past 15 years.

Currently, in the discretion of the Chief Executive Officer (CEO) and under the oversight of the General Counsel, SCERS retains a securities litigation monitoring and filing service, along with outside securities litigation attorneys, to assist SCERS with identifying and analyzing potential claims. Over the past few years, SCERS has encountered specific legal proceedings (e.g., international class actions) where the policy was unclear about the CEO's authority to execute or submit necessary documents. The recommended amendments clarify the nature of the CEO's discretion over both domestic and international claims, including filing and settlement authority.

In addition to supporting fiduciary compliance and strategic management objectives, participation in securities class action proceedings through the Securities Litigation Policy creates revenue for SCERS by recovering investment losses that would otherwise remain unclaimed. Since 2021, SCERS' claims administrator, Financial Recovery Technologies, has recovered approximately \$1.4 million for SCERS.

ATTACHMENTS

- Board Order
- Securities Litigation Policy -- redlined version with proposed amendments
- Securities Litigation Policy -- clean version of amended policy

Prepared by:

/s/

Jason R. Morrish
General Counsel

Reviewed by:

/s/

Eric Stern
Chief Executive Officer



Retirement Board Order

Sacramento County Employees' Retirement System

Before the Board of Retirement
February 21, 2024

AGENDA ITEM:

Securities Litigation Policy

THE BOARD OF RETIREMENT hereby approves Staff's recommendation to approve amendments to Securities Litigation Policy.

I HEREBY CERTIFY that the above order was passed and adopted on February 21, 2024 by the following vote of the Board of Retirement, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

ALTERNATES

(Present but not voting):

James Diepenbrock
Board President

Eric Stern
Chief Executive Officer and
Board Secretary



SECURITIES LITIGATION POLICY

REDLINE VERSION

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PURPOSE

The purpose of this policy is to establish guidelines and procedures for the Sacramento County Employees' Retirement System ("SCERS") to monitor and participate in securities class action proceedings, ~~and determine and facilitate the appropriate level of participation by SCERS in securities class action litigation to recover damages for investment losses caused by the malfeasance of persons and entities associated with a SCERS investment.~~

POLICY

~~The Board delegates the decision to participate in securities-related domestic and international class action and claims-based litigation to the Chief Executive Officer. The Chief Executive Officer is authorized to execute any and all documents necessary to effectively determine and facilitate the appropriate level of SCERS' participation in a given class action proceeding, subject to the retention, consultation, and reporting obligations set forth below. SCERS will engage the services of a qualified pool of law firms ("Securities Litigation Counsel") with the experience and expertise required to properly evaluate, and if necessary, represent SCERS in securities litigation matters. While such firms frequently offer to provide securities litigation monitoring services at no cost, in order to ensure the independence and integrity of its assessment, SCERS will retain a separate company ("Support Service Provider") for that purpose. The Board of Retirement delegates the decision to participate in a class action to the Chief Executive Officer, subject to the obligation to report to the Board as provided below.~~

APPLICATION

The following procedures will be used to: (1) collect objective information about potential cases that is timely, accurate, and comprehensive; (2) calculate SCERS' losses and potential recovery in a particular action; (3) evaluate the legal merits of individual cases; (4) consider the benefits and costs of alternative approaches to participation in a given the case; and

(5) decide whether SCERS should seek appointment as lead plaintiff ~~according to pre-determined criteria, including a threshold amount of estimated losses.~~

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A. Collection of Information

~~SCERS will retain a consultant to provide professional securities litigation monitoring, filing and recovery services ("Support Services Provider"). Such services shall include, at a minimum: The Support Service Provider shall continuously monitor SCERS' investment portfolio with the assistance of its Custodial Bank, and shall regularly make available to the General Counsel current information and data in useable form, to include, at a minimum:~~

1. Identification, assertion and filing (when available) of claims in securities class actions and other securities, antitrust, and bankruptcy litigation-related matters for which SCERS is eligible;

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2. Regular reporting to SCERS regarding Description of any and all pending securities class actions for which SCERS may qualify as a class participant;

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3. Estimated calculations of what, if any, recognized damages SCERS has incurred; and

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4. Accountings for funds collected on SCERS' behalf and remittance of those funds to SCERS in accordance with the terms of the consulting agreement; Listing of any settlements for which SCERS should file a claim.

B. Review

~~The~~ General Counsel shall review the Support Service Provider's reports at least quarterly information on a weekly basis, and to determine whether any pending action involves recognized damages to SCERS of \$2 million dollars or more. If so, the General Counsel will refer that particular action to a qualified law firm each ("Securities Litigation Counsel") ~~in the pool~~ for further review and legal analysis. Securities Litigation Counsel shall independently evaluate the action, and make a written recommendation to the General Counsel as to what, if any, additional level of participation in the litigation SCERS should consider.

C. Recommendation

Upon receipt of the report(s) and recommendations from Securities Litigation Counsel, the General Counsel shall consult with the Chief Investment Officer and make a recommendation to the Chief Executive Officer as to the appropriate action to be taken by SCERS.

If the recommendation is for SCERS to petition to be lead plaintiff in an action, the recommendation shall include referral to a particular Securities Litigation Counsel for that purpose, together with the reasons for the recommendation, including legal strategies, possible conflicts of interest, and fee proposals.

D. Disposition

The Chief Executive Officer shall consider the recommendation of the General Counsel and shall decide what, if any action, SCERS should pursue. If time permits, the matter shall be referred to the Board for action. In the event an immediate decision is necessary, the Chief Executive Officer is authorized to make the decision, but shall concurrently notify the Board President and shall include a summary of the action in his report to the Board at its next meeting.

E. Active Monitoring

~~The~~ General Counsel will also actively monitor every class action in which SCERS may have recognized damages. In addition, the General Counsel may recommend to the Chief Executive Officer at any time that SCERS should take further action, such as intervening or objecting as appropriate, filing amicus support, or, opting out of the class.

F. Lead Plaintiff

In every any case where SCERS is designated as a lead plaintiff, it shall take all actions consistent with its status as a fiduciary of the class. ~~The~~ Securities Litigation Counsel shall be required to provide in advance a projected ~~time table~~ timetable, legal strategy, anticipated budget and expectations for the level of participation by SCERS. In addition addition, the firm will be required to provide a monthly written report of its expenditure of time and money in the case. SCERS may, in its sole discretion, participate in any or all legal proceedings. ~~The~~ Securities Litigation Counsel shall

appear before the Board as reasonably requested to discuss progress in the case, and upon resolution of the case shall present a final report.

G. Asset Recovery

The ~~Custodial Bank~~Support Service Provider shall continue to be responsible for filing all proofs of claim, including the supporting documents and information necessary to recover ~~assets~~funds in every securities class action ~~or other claims-based~~ proceeding in which SCERS has damages. The General Counsel, in consultation with the Chief Investment Officer, shall monitor the performance of the Support Service Provider and Custodial Bank in that regard. ~~The Custodial Bank shall submit quarterly reports on the securities litigation proceeds recovered, which information shall be shared with the Board.~~

~~The Chief Executive Officer is authorized to file or execute documents necessary to support SCERS' claim for damages in any case subject to this policy where Securities Litigation Counsel or the Support Service Provider are not permitted to do so. Further, in cases where a recovery amount is negotiable or discretionary, the Chief Executive Officer is authorized to accept recovery or settle claims up to \$75,000 individually and up to \$150,000 with the approval of the Board President.~~

~~Recovery of funds under this policy shall be reported~~ annually to the Board.

BACKGROUND

~~In furtherance of its fiduciary duties and strategic management goals, SCERS has a responsibility to determine and facilitate an appropriate level of participation in securities-related class action litigation intended to recover damages for investment losses caused by the malfeasance of persons and entities associated with a SCERS investment. The federal Private Securities Litigation Reform Act of 1995 ("PSLRA") permits institutional investors, such as SCERS, to seek lead plaintiff status in securities class action cases. It has been demonstrated that when institutional investors serve as lead plaintiffs it can facilitate the reduction of attorneys' fees and costs, improve the amount and distribution of net recoveries for the class, deter individual wrongdoers, and effect structural governance reform.~~

~~However, being a lead plaintiff may involve certain costs, including, but not limited to, additional staff time required to respond to discovery requests and attend legal proceedings. Therefore, in assessing the appropriate role an institutional investor should take in any given case, it is important to carefully consider alternative approaches, including, but not limited to, active monitoring of a case; intervening or objecting as appropriate; filing amicus support; or opting out of the class to pursue recovery in another manner.~~

RESPONSIBILITIES

Responsibility for the coordination and management of these procedures shall rest with the General Counsel, in consultation with the Chief Investment Officer, subject to the review and approval of the Chief Executive Officer.

Executive Owner: General Counsel

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POLICY HISTORY

Date	Description
02-21-2024	Board amended policy
01-15-2020	Board reviewed policy
08-01-2018	Renumbered from 043
01-17-2018	Board affirmed in revised policy format
04-19-2007	Board approved new policy



SECURITIES LITIGATION POLICY

CLEAN VERSION AS AMENDED

PURPOSE

The purpose of this policy is to establish guidelines and procedures for the Sacramento County Employees' Retirement System ("SCERS") to monitor and participate in securities class action proceedings.

POLICY

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The Chief Executive Officer is authorized to file or execute documents necessary to support SCERS' claim for damages in any case subject to this policy where Securities Litigation Counsel or the Support Service Provider are not permitted to do so. Further, in cases where a recovery amount is negotiable or discretionary, the Chief Executive Officer is authorized to accept recovery or settle claims up to \$75,000 individually and up to \$150,000 with the approval of the Board President.

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