Proposal to Adopt Regulation 18237

Staff of the Fair Political Practices Commission will be holding an interested persons’ meeting to solicit public input relating to a proposed new regulation that would interpret Section 82034 which defines “investment” for purposes of the reporting and conflict-of-interest provisions of the Political Reform Act.¹

Section 82034 provides that the term “investment” does not include an interest in a diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940. The proposed regulation seeks to clarify this exemption by stating that it includes funds sharing certain characteristics with mutual funds. The purpose of the regulation is to permit public officials who hold investments in these funds to treat those investments the same as mutual funds so that they would not need to be reported on statements of economic interests and would not give rise to a conflict of interest. Types of funds that may be affected by the amendment include exchange traded index funds and investments held in a plan qualified under section 457 of the Internal Revenue Code.

The regulation would also interpret the term “diversified” appearing in Section 82034 to include a requirement that there be diversification of industries, not just diversification of issuers of securities. For example, a narrow interpretation of “diversified” would only require that a fund could not hold a requisite number of stocks in a particular corporation. The broader interpretation would also require that a fund could not have a stated policy of concentrating its holdings in a particular industry. (These funds are commonly called “sector funds.”)

You may participate in this interested persons’ meeting in person or by teleconference by calling (888) 751-0624; access code 723284. For questions about participating by phone, you may contact Virginia Latteri-Lopez at (916) 322-5660. The Commission also invites written comments addressing these topics. Written comments or questions about the meeting may be addressed to Val Joyce, Commission Counsel at (916) 322-5660 or at the address set forth above.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.