

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

**§ 18237. Definition of “Investment.”**

(a) For purposes of Section 82034, the term “investment” does not include a fund, including an exchange traded fund (ETF), closed-end fund or fund held in a plan qualified under Sections 401(k), 403(b), 457 or similar provision of the Internal Revenue Code (qualified plan), that is substantially similar to a “diversified mutual fund registered with the Securities and Exchange Commission under the Investment Company Act of 1940” if all the following are met:

(1) The fund is a bona fide investment fund that pools money from more than 100 investors and invests the money in stocks, bonds, or other securities.

(2) The fund holds securities of more than 15 issuers.

(3) The public official did not influence or control the decision to purchase or sell the specific fund on behalf of the official's agency during the applicable reporting period.

(4) The public official does not influence or control the selection of any specific investment purchased and sold on behalf of the fund.

(5) The fund does not have a stated policy of concentrating its holdings in the same industry or business.

(b) For purposes of subdivisions (a)(1) and (a)(2), an ETF, closed-end fund or qualified plan is presumed to have more than 100 investors and hold securities of more than 15 issuers.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82034, Government Code.

**HISTORY**

1. New section filed 10-26-2011; operative 11-25-2011. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2011, No. 43).

2. Amendment of subsection (a)(3) filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).