

**PROPOSED REGULATION OF THE
STATE TREASURER**

LCB FILE NO. R141-18I

**The following document is the initial draft regulation proposed
by the agency submitted on 06/12/2018**

ADOPTED REGULATION OF THE
STATE TREASURER'S OFFICE

LCB FILE No. R___-17

Effective __, 2018

Authority: §§31 -34, SB 26 (2017).

A REGULATION relating to the State Treasurer's identification of companies boycotting Israel through the limitation of business and subsequent divestments of direct and indirect investment with those companies, including providing procedures for giving notice to companies of insertion on a list of scrutinized companies; providing procedures to remove those identified companies from a list of scrutinized companies upon cessation of certain business activities; and providing other matters properly related thereto.

Section 1. Chapter 353 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 12, inclusive, of this regulation.

Sec. 2. The provisions of sections 3 to 12, inclusive, may be cited as the Scrutinized Companies Regulations.

Sec. 3. The purposes of sections 4 to 12 inclusive, are:

1. To provide a process for giving notice to a company when placing it on the list of scrutinized companies; and
2. To provide a process for the removal of a company from the list of scrutinized companies.
3. For the accomplishment of these purposes, the provisions of sections 4 to 11, inclusive, must be broadly and liberally construed.

Sec. 4. As used in sections 5 to 12, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 5 to 10, inclusive, have the meanings ascribed to them in those sections.

Sec. 5. "Divestment" means sale, redemption, withdrawal, and other means of liquidating investments.

Sec. 6. The State Treasurer shall identify each scrutinized company in which a public fund has either direct holdings or indirect holdings and take action as follows:

1. The State Treasurer shall determine whether a company is scrutinized based on the following information:

- a. Credible, publicly available information, including without limitation, information provided by nonprofit organizations, research firms, international organizations, and governmental entities;
 - b. Information obtained by asset managers either under contract with the State Treasurer or an institutional investment option currently invested in by the State Treasurer;
 - c. Information obtained by contacting other institutional investors that have divested from or engaged with companies that have economic prohibitions against Israel; or
 - d. Other state lists of restricted companies and any federal information or guidance.
2. Upon determination of a company considered in scrutinized status, the State Treasurer shall send a notice to the alleged scrutinized company via registered mail to the legal address of the company within 30 days of date the State Treasurer became aware of the allegation.
 - a. The notice shall inform the company of the State Treasurer's pending determination to include the company on the scrutinized company list and inform the company that inclusion on the list would make the company:
 - i. subject to divestment; and
 - ii. ineligible for future state investment.
 - b. The noticed company shall have 30 days from the date of notice to clarify its activities and/or cease activities. The company shall return the response to the State Treasurer via registered mail.
 - c. Failure to respond within 30 days from the date the notice is issued shall automatically render the noticed company into scrutinized company status.
 3. The State Treasurer shall review the submitted information and provide an initial response within 30 days of receipt. The State Treasurer shall make the final determination within 90 days from the initial response date. The final determination will be sent via registered mail to the legal address of the company.

Sec. 7 Written Notice of Appeal

1. A company that has been determined to be a scrutinized company in the final determination process may file a notice of appeal with the State Treasurer within 10 days after receipt of the final determination notice.
 - a. The appeal must include a written statement of the issues to be addressed on appeal.
2. Within 20 days after receipt of the notice of appeal, the State Treasurer or his designee shall be the hearing officer and shall hold a hearing on the appeal in substantial compliance with the provisions of NRS 233B.121 to 233B.1235, inclusive, 233B.125 and 233B.126.
 - a. The securitized company shall provide evidence that substantiates its written statements regarding why its status as a scrutinized company is in error.
 - b. The scrutinized company may not seek any type of judicial intervention until the hearing officer has made a determination on the appeal.
3. If the appeal is upheld, the company will be removed or not placed on the scrutinized company list within 10 days following the date of the hearing.

4. If the appeal is rejected, the company will remain on the list until satisfactory evidence warranting the removal of the company is received by the State Treasurer. Scrutinized companies shall appeal once per fiscal year prior to the finalization of the list on June 30 each year. Scrutinized companies shall appeal by December 1 each year to be considered for removal from the list prior to the June 30 posting.

Sec 8. The State Treasurer shall annually review the list of scrutinized companies prior to the posting of the list on the Internet site of the State Treasurer.

1. Previously determined scrutinized companies shall remain on the list unless satisfactory evidence is provided to the State Treasurer which warrants the removal of the company from the list, such as clarification of activities and/or the cessation of activities which constitute a Boycott of Israel.
 - a. Scrutinized companies must provide written evidence which substantiates its removal from the list by December 1 each year to ensure removal by the June 30 annual posting.
 - b. The State Treasurer will review the information provided in addition to the information noted in Section 6 for determining whether the scrutinized companies shall remain on the list or be removed. The determination will be made in accordance with the timelines noted in Section 6, Subsection 2.
2. Companies that are no longer determined to be scrutinized companies shall be removed from the list of scrutinized companies prior to the June 30 posting of the annual list.
3. Removed companies shall be reported as cleared in the subsequent annual report.

Sec.9. The Treasurer's Office shall monitor direct investments with scrutinized companies of a short term nature (approximately three months or less in time remaining for the security to mature), and shall not extend and/or reinvest with that company until boycott activities have ceased.

Sec 10 Before any action is taken pursuant to section 33, subsection (1), the State Treasurer shall make the necessary findings as to what action may be taken consistent with his or her fiduciary responsibilities, considering investment safety, liquidity, and securing a just and reasonable investment return while avoiding undue risk.

Sec. 11. The Treasurer's Office shall analyze the complexity of direct investments with scrutinized companies having more than three months' time to mature and develop a divestment plan, considering the prudent divestment strategy that preserves the principle value of the security.

Sec. 12. For indirect holdings that are determined to include investments in a scrutinized company or companies, the Treasurer's Office shall send a letter requesting the outside investment manager consider divesting investments from the scrutinized company or consider investment in a similar actively or passively managed fund with indirect holdings devoid of listed scrutinized companies.