Retirement News Highlights
Thursday, June 29, 2023

Oklahoma pension funds brace for deadlines to divest blacklisted firms

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Pensions & Investments
June 29, 2023

Oklahoma pension funds are weighing their options as deadlines loom to divest holdings with 13 financial firms said to be boycotting energy companies, a situation that could lead to a showdown with state officials.

The 13 financial firms, which include BlackRock Inc. and State Street Corp., were named in a list released by Oklahoma Treasurer Todd Russ on May 3.

Executive directors of the pension funds are considering taking an exemption from the divestment mandate, while also assessing which of the unlucky 13 firms stand any chance of being removed from Mr. Russ' list.

The investment committee of the $10.8 billion Oklahoma Public Employees Retirement System, the pension fund with the largest exposure to the blacklisted firms, for example, has already recommended that the board take a broad fiduciary exemption permitted under the Energy Discrimination Elimination Act of 2022, a law that punishes firms for factoring environmental, social and governance issues in their investment decision-making.

The exemption allows state governmental entities to essentially ignore any requirement they determine is inconsistent with their fiduciary responsibility.

If OPERS does not take the fiduciary exemption, it will need to begin the divestment process as early as late August, as will all other pension funds that forego the exemption.

The law requires the pension funds to terminate contracts with the blacklisted firms and ask non-blacklisted managers to remove investments in the blacklisted firms, including publicly traded securities.

Without taking a fiduciary exemption, Oklahoma City-based OPERS would have to execute an extreme divestment as it employs both BlackRock and State Street Global Advisors as money managers, which jointly account for 63.5% of the pension fund's portfolio, or approximately $6.9 billion, Executive Director Joe Fox said in an email.

BlackRock currently advises several mandates totaling about $6.3 billion, while State Street advises a U.S. equity fund with about $618 million, Mr. Fox said.

OPERS estimates that the cost of commissions, taxes and fees for the mandated divestment activity is $9.7 million, with an additional $391,000 for the divestment of funds in the Uniform Retirement System for Justices and Judges.

The cost reflects only "explicit costs," which OPERS says may be "reasonably accurately estimated." The final total market value losses to the retirement system, however, are "potentially multiple times the estimate given," OPERS noted in internal meeting documents Mr. Fox shared with Pensions & Investments.

The investment committee's recommendation to take the fiduciary exemption, however, was temporarily set aside. The 14-member board, which includes Mr. Russ and three appointees of Oklahoma Gov. Kevin Stitt, postponed any action on the recommendation because the restricted financial companies have 90 days to respond and attempt to be removed from the list, Mr. Fox said in an email.

The 13 firms were notified in writing in May by the pension funds with which they have business that they were blacklisted and that they had 90 days from the receipt of the letter to cease boycotting energy companies to avoid divestment.

In letters sent to BlackRock and State Street viewed by P&I, OPERS said that the letter was sent to give them "the opportunity to clarify their activities related to energy companies."

Indeed, the pension funds and their asset managers have been working with the treasurer's office to figure out why the 13 firms were put on the list, with asset managers arguing that they do not boycott energy companies.

"BlackRock is a leading investor in the Oklahoma energy sector," a BlackRock spokesperson said in an email, adding that the company invests over $15 billion in public energy companies based in Oklahoma and $320 billion in public energy companies globally.

State Street, too, made a similar plea. "State Street does not discriminate against oil and gas companies, or any other industry sectors," a State Street spokesperson said in an email.

Keith Brainard, research director for the National Association of State Retirement Administrators in Georgetown, Texas, said that BlackRock and State Street need to demonstrate that they don't belong on the list.

In BlackRock's case, it's a question of whether its "public statements will be enough to change the mind of the state treasurer," he said.

The Oklahoma treasurer's office declined to comment on whether BlackRock and State Street had any chance of getting removed from the list.

"BlackRock and State Street will still be in their 90-day appeal period when the first update to the list is expected to be published," Jordan Harvey, the Oklahoma treasurer's chief of staff and deputy treasurer, said in an email.

Ms. Harvey appeared more open about the other blacklisted firms.

"We are hopeful to be able to remove some of the companies that were placed on the list because of their failure to provide an adequate response," she said, referring to their responses to Mr. Russ' initial questionnaire in February. Those firms are GSM Grosvenor, Lexington Partners, WCM Investment Management, FirstMark Fund Partners and Stepstone VC Global Partners.

The other firms whose inclusion on the list hangs in the balance are J.P. Morgan Chase & Co., Bank of America, Wells Fargo & Co., William Blair, Actis and Climate First Bank.

Other exemptions

Oklahoma's pension funds do have a few other more narrow exemptions at their disposal. State governmental entities, for example, are not required to divest from any indirect holdings in actively or passively managed investment funds or private equity funds. They can also delay the schedule for divestment if a pension fund determines that divestment from the restricted firms will likely result in a loss in value or a benchmark deviation.

If they decide not to divest indirect holdings, however, they must submit letters to the managers of each investment fund containing restricted companies requesting that they remove those financial companies from the fund or create a similar actively or passively managed fund with indirect holdings devoid of listed financial companies.

The $20.3 billion Oklahoma Teachers' Retirement System, the state's largest pension plan, for example, is weighing whether or not to divest its indirect holdings, which account for about $116 million of its total exposure of nearly $125 million. If it does not, it must ask the managers of each investment fund containing blacklisted firms to remove those firms from the fund.

When asked if Oklahoma Teachers was planning to make such a request of its managers, Sarah Green, the fund's executive director, demurred.

"It's too early to tell," she said.

Back to top