Santa Clara Valley Water District

File No.: 20-0457 **Agenda Date:** 6/23/2020
Item No.: 8.1.

BOARD AGENDA MEMORANDUM

SUBJECT:
Updates on the Fiscal Year 2020-2021 Santa Clara Valley Water District Investment Policy.

RECOMMENDATION:

A. Approve the Revised Fiscal Year 2020-2021 Santa Clara Valley Water District Investment Policy; and
B. Provide direction to staff regarding additional investment prohibitions.

SUMMARY:
On May 12, 2020, the Santa Clara Valley Water District Board (Board) adopted the Fiscal Year 2020-21 Investment Policy in compliance with California Government Code (Government Code) Sections 53607 and 53608. As part of the approval, the Board provided feedback regarding three key issues summarized below and directed staff to return with additional information and recommendations to address the Board's concerns.

May 12, 2020 Board Feedback:

1. Do not invest in banks and financial institutions that support human rights violation, such as recent cases involving Bank of America and Wells Fargo Bank that are funding companies that have extractive human rights violations; follow the Global Sullivan Principles to avoid investing in companies that support environmental and human capital violations
2. Add a provision to invest up to 1% of the portfolio in smaller banks and credit unions that have equal to or less than $2 billion in total assets, and 4% of the portfolio in small banks with a maximum of $10 billion in total assets.
3. Add CDARS program to invest in local Certificates of Deposit (CD)

Staff researched each of the above issues raised by the Board and summarized the findings and recommendations in the corresponding sections below. The recommended changes to the Investment Policy are incorporated in Attachment 1 and delineated with red font text to highlight the changes for Board consideration.

1. Investment Prohibition Against Banks that Violate Human Rights and Environment

Directors Santos and Kremen both referenced the Sullivan Principles. The Sullivan Principles are the names of two corporate codes of conduct developed by the African-American preacher Rev. Leon Sullivan, promoting corporate social responsibility. The original Sullivan principles were developed in 1977 to apply economic pressure on South Africa in protest of its system of apartheid. The new global Sullivan principles were jointly unveiled in 1999 by Rev. Sullivan and United Nations (UN) Secretary General Kofi Annan. The new and expanded corporate code of conduct, as opposed to the originals' specific focus on South African apartheid, were designed to increase the active participation of corporations in the advancement of human rights and social justice at the international level. In 2011, the UN updated its guidance on these matters with the "UN Guiding Principles on Business and Human Rights"[1] which are guidelines for States and companies to prevent, address and remedy human rights abuses committed in business operations.

Staff researched the UN Guiding Principles as it applies to banks and recommends that the Board consider BankTrack's "Human Rights Benchmarking Report"[2] which summarizes its findings on international banks on their progress towards implementing the UN Guiding Principles. BankTrack is the international tracking, campaigning and corporate social responsibility support organization targeting private sector commercial banks and the activities they finance. BankTrak published the third edition of the report on May 6, 2020 which evaluated 50 of the latest private sector commercial banks globally against a set of 14 criteria based on the UN Guiding Principles. The criteria examine four aspects of banks' implementation of the Guiding Principles: their policy commitment, human rights due diligence process, reporting on human rights and their approach to access to remedy. One bank, ABN AMRO, was rated the highest as a leader in following the UN Guiding Principles, 9 banks were rated front runners, 19 banks were rated followers, and the remaining 21 banks were rated laggards. The full list is included in Attachment 2 for the Board's consideration.

One option for Board consideration is to provide further direction on which specific banks to include in a list of prohibited banks that Valley Water shall not invest in. With the Board's direction, the Investment Policy would be updated to include a new section 7.13.3 to prohibit investments in these banks:

7.13.3 Prohibited Banks

No investments will be made in the following banks who are not in compliance with the UN Guiding Principles on Business and Human Rights until such time that they are upgraded to [________] category by BankTrack:

[Board direction on list of prohibited banks]

2. <u>Invest up to 1% of the portfolio in smaller banks with less than $2 billion in total assets</u>

In Fiscal Year 2017-18 the Board directed staff to add section 3.5 California Certificates of Deposit to the Investment Policy to invest 5% of the portfolio in local banks with total assets up to $10 billion. To meet the Board's direction, staff downloaded the list of banks and credit unions located in the nine Bay Area Counties that meet the criteria from the Federal Deposit Insurance Corporation (FDIC) and

National Credit Union Administration (NCUA). A list of 90 banks and credit unions was prepared by staff, and attention was focused on banks and credit unions located in the Counties of Santa Clara, Alameda, San Mateo and San Francisco. To-date the District investment portfolio has over $27 million or approximately 5% of the portfolio in these small local banks, of which $5.9 million or approximately 1% is invested in the following small banks and credit unions with under $2 billion in total assets: Alliance Credit Union (total assets $552 million), Bank of San Francisco (total assets $397 million), Community Bank of the Bay (total assets $494 million), and Meriwest Credit Union (total assets $1.8 billion).

Given the Board's direction to specify investments in small local banks, staff recommends amending the Investment Policy as follows (change highlighted in red):

3.5 California Certificates of Deposit

To the extent permitted by California Government Code, while meeting Valley Water's investment objectives for safety, liquidity and yield, Valley Water encourages investing in Certificates of Deposit issued by California based banks, up to the Federal Deposit Insurance Corporation limit at the time of such investment which is currently set at $250,000, as amended

3.5.1 Keeping investments to local banks, within the Bay Area, to keep money at home and jobs local; invest only in banks with below $10 billion in assets; and keep 4% of liquid cash in banks with up to $10 billion in assets and 1% in banks with up to $2 billion in assets for a limit of 5 years (short term) at the discretion of the treasurer; such investments may be in the form of collateralized deposits, FDIC/NCUA insured CDs, CDARS, or any other legally allowable deposits.

3. Add CDARs to increase investments in local banks

In 2018 as part of staff's ongoing efforts to meet the Board's direction to invest in local banks, staff researched extensively on whether the Certificate of Deposit Account Registry Service (CDARS) (www.cdars.com <http://www.cdars.com>) would be an appropriate tool for Valley Water to utilize to increase our investments in CDs. Staff held several conference calls with the Promontory Interfinancial Network (Promontory) that developed the CDARs platform to learn about this platform and assess whether it would meet Valley Water's business needs. CDARs acts as an intermediary to aggregate CD offerings from the thousands of banks that are members of the CDAR network. To allow additional flexibility in utilizing the CDARs program, staff proposes to amend the Investment Policy, section 3.5.1, to allow the use of CDARS program (see above). This is consistent with the California Government Code (Government Code) Sections 53607 and 53608.

As of May 2020, staff has purchased over $27 million CDs and collateralized deposits in local Bay Area banks and credit unions by contacting these institutions by phone, establishing contact, and physically going into the local branches to open the local investment accounts via in-person manual account setup process. The Board requirement to invest 4% of liquid cash in banks with up to $10 billion in assets and 1% in banks with up to $2 billion in assets has been met.

1 <https://www.business-humanrights.org/en/un-guiding-principles>
2 <https://www.banktrack.org/campaign/banks_and_human_rights>

FINANCIAL IMPACT:
There is no financial impact associated with this item.

CEQA:
The recommended action does not constitute a project under CEQA because it does not have the potential for resulting in direct or reasonably foreseeable indirect physical change in the environment.

ATTACHMENTS:
Attachment 1: Revised Investment Policy
Attachment 2: BankTrack Human Rights Benchmark Report

UNCLASSIFIED MANAGER:
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