

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
BOARD ACTION SUMMARY

DEPT: Treasurer / Tax Collector

BOARD AGENDA:5.B.20
AGENDA DATE: June 26, 2018

SUBJECT:

Approval of an Amendment to the Tobacco Investment Policy

BOARD ACTION AS FOLLOWS:

RESOLUTION NO. 2018-0330

On motion of Supervisor Chiesa Seconded by Supervisor Olsen
and approved by the following vote,

Ayes: Supervisors: Olsen, Chiesa, Monteith, and Vice-Chairman Withrow

Noes: Supervisors: None

Excused or Absent: Supervisors: Chairman DeMartini

Abstaining: Supervisor: None

- 1) Approved as recommended
- 2) Denied
- 3) Approved as amended
- 4) Other:

MOTION:

ATTEST:



ELIZABETH A. KING, Clerk of the Board of Supervisors

File No.

**THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
AGENDA ITEM**

DEPT: Treasurer / Tax Collector

BOARD AGENDA:5.B.20
AGENDA DATE: June 26, 2018

CONSENT:

CEO CONCURRENCE: YES

4/5 Vote Required: No

SUBJECT:

Approval of an Amendment to the Tobacco Investment Policy

STAFF RECOMMENDATION:

1. Approve amendment to the Stanislaus County Tobacco Investment Policy, to be effective July 1, 2018, to bring the policy into compliance with state law, authorized investments, authorized traders, and to change the distribution percentage of investment income to Stanislaus County.
2. Authorize the Auditor Controller's Office to change the existing two non-interest bearing Tobacco funds into two interest bearing Tobacco funds. One fund pertains to the 2002 Tobacco Endowment and the other pertains to the 2006 Tobacco Endowment, respectfully.

DISCUSSION:

The Tobacco Investment Policy has been amended to remove a previously authorized investment category that is no longer available due to the money market reform that became effective October 14, 2016. As of this date, government clients are no longer eligible to participate in tax-exempt non-Alternative Minimum Tax (AMT) mutual fund and money market accounts.

Due to the unavailability of an authorized short-term investment vehicle, investment earnings and funds received through matured investments have been held in trust by Stanislaus County in a non-interest bearing fund. This policy change will allow income to be held for a short time by Stanislaus County in an interest-bearing fund before final distribution to Stanislaus County.

This policy change will effectively change the distribution of investment income to the Stanislaus County General Fund from 80% (net of expenses) to 100% (net of expenses).

This policy also adds the Assistant Treasurer/Tax Collector and Chief Deputy Treasurer as authorized traders for Tobacco investment purchases and sales. Previous authority was only given to the "Assistant Treasurer."

Both KNN Public Finance, the County's debt advisor, and Norton Rose Fulbright US LLP, the County's debt counsel, have reviewed and support the recommended changes to the Tobacco Investment Policy.

POLICY ISSUE:

The existing Tobacco Investment Policy requires it be reviewed on an annual basis. Any changes must be prepared by the Stanislaus County Treasurer-Tax Collector and be reviewed and approved by the Board of Supervisors.

FISCAL IMPACT:

This policy change is projected to benefit the General Fund by approximately \$650,000 in Fiscal Year 2018-2019.

BOARD OF SUPERVISORS' PRIORITY:

The recommended actions are consistent with the Board's priority of *Delivering Efficient Public Services and Community Infrastructure* by providing transparency and ensuring that the Tobacco Investment Policy is current and appropriate.

STAFFING IMPACT:

There is no staffing impact associated with this agenda item.

CONTACT PERSON:

Dolores Sarenana, Chief Deputy Treasurer

Telephone: (209) 525-4466

ATTACHMENT(S):

1. Stanislaus County Tobacco Investment Policy Amended July 2018

STANISLAUS COUNTY
TOBACCO INVESTMENT POLICY
AMENDED JULY 2018

STANISLAUS COUNTY'S

INVESTMENT POLICY

FOR THE INVESTMENT OF THE

PROCEEDS FROM THE SECURITIZATION OF THE TOBACCO INDUSTRY'S MASTER SETTLEMENT AGREEMENT

Effective upon the receipt of the securitization bond proceeds

Prepared by: Lauren Klein, Stanislaus County Interim Treasurer/Tax Collector

Approved by the Stanislaus County Board of Supervisors on June 26, 2018

Amendment to become effective on July 1, 2018

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PURPOSE AND SCOPE

The purpose of the Stanislaus County Investment Policy for the Proceeds from the Securitization of the Tobacco Industry's Master Settlement Agreement is to provide guidance with respect to the investment of the proceeds of such securitization, evidenced by the Tobacco Settlement Asset-Backed Bonds issued in 2002 (the "2002 Bonds") and 2006 (the "2006 Bonds" and, together with the 2002 Bonds, the "Bonds"), that were deposited into a 2002 endowment fund (the "2002 Endowment") and a 2006 Endowment Fund (the "2006 Endowment" and, together with the 2002 Endowment, the "Endowments"), respectively, and the governance of the distribution of income generated from the investments held in the Endowments, as well as the final disposition of such investments.

The scope of this policy applies solely to the funds generated from securitization of Tobacco Industry mandated payments to Stanislaus County ("County") through the Master Settlement Agreement (MSA) with the major tobacco product manufacturers in the United States and the interest earned on those funds.

OBJECTIVE

The primary objective of the investment of the proceeds (with interest earned thereon) from securitization of the Tobacco industry's MSA payments to Stanislaus County deposited into each of the two Endowments is to generate additional discretionary income for Stanislaus County. The additional discretionary income will be generated by distributing 100% of the investment earnings, including interest and net capital gains, on the investments held in the Endowments, net of investment-related expenses (including expenses relating to the administration of the Tobacco Endowments that are performed by the Treasurer/Tax Collector Treasury Division) to the County.

Safety of principal and surety of interest income is highly important. Investment will be made only in fixed income securities rate "BBB" or higher by Standard and Poor's (or a comparable rating from Moody's or Fitch) at the time of purchase. The goal is to have a very high probability of return of principal and receipt of promised interest payments. Diversification by issuer will further enhance the likelihood of preserving the capital and receiving the interest payments. While no limit will be placed on investment in United States and mortgage agency paper such as the Federal National Mortgage Association (and others), no investment will be made of more than 5% of the entire portfolio at the time of purchase in any one local municipal or corporate issuer.

The only liquidity needs of these funds are the payment of expenses related to the investment administration of these funds and the investment income distribution to the County.

OBJECTIVE (Continued)

After consideration of the above safety and liquidity needs of these funds, the funds shall be invested to earn a competitive market rate of return or yield. Due to the primary objective of these funds adding revenue for the County, these funds shall be invested in fixed income vehicles with maturities of up to 30 years from the date of purchase with the average maturity for the entire portfolio ranging between one (1) and fifteen (15) years.

INVESTMENT AUTHORITY AND STANDARDS OF CARE

The investment of the funds generated by the securitization of the Tobacco industry's MSA payments *has been delegated to the Stanislaus County Treasurer/Tax Collector ("Treasurer") pursuant to Government Code section 27000.1 and 53607. This is an annual delegation given to the Stanislaus County Treasurer/Tax Collector by the Stanislaus County Board of Supervisors each year and can be revoked by the Stanislaus County Board of Supervisors at any time.* The Stanislaus County Treasurer/Tax Collector is responsible for all transactions undertaken.

All investments shall be made with the care, skill, prudence and diligence which any prudent person acting in a like capacity and familiar with the matters involved given the circumstances then prevailing would use to accomplish the stated objectives.

Financial market security transactions will be executed by delivery versus payment and the securities shall be held by a third party custodian.

The following are the requirements for the broker dealers:

1. Broker/Dealer qualifies under Securities and Exchange Commission Rule 15C3-1 (uniform net capital rule) with a minimum capitalization of \$10,000,000
2. Broker/Dealer staff have at least five years' experience with trading in investment grade fixed income securities
3. *Certified by the Financial Industry Regulatory Authority (FINRA) with written documentation supplied*
4. Registered with the State of California (written documentation supplied)
5. Submitted affidavit of review and willingness to comply with this Policy
6. Commitment and adherence to no political contributions being made to any candidate for the Stanislaus County Board of Supervisors or Stanislaus County Treasurer/Tax Collector which exceed the limitations contained in Rule G-37 of the Municipal Securities Rulemaking Board

INVESTMENT AUTHORITY AND STANDARDS OF CARE (Continued)

Internal controls as approved and monitored by the Stanislaus County Auditor-Controller shall be maintained to avoid or detect collusion and separate duties appropriately. The Assistant Treasurer/Tax Collector and/or Chief Deputy Treasurer may place all trades. Written authorization of trades by the Treasurer is only required for investments that mature in five years or more and may be authorized by the Treasurer's signature affixed to the trade ticket.

To avoid even the appearance of a conflict of interest, all officers and employees involved in the investment process shall refrain from personal business activity which in any way could hinder the proper execution and management of the investment program or impair anyone's ability to make an impartial decision.

A limit of \$50 per calendar year is placed on the receipt of honoraria, gifts and gratuities by the Stanislaus County Treasurer/Tax Collector and any staff involved in the process from advisors, brokers, dealers, bankers or other persons with whom the Stanislaus County Treasurer/Tax Collector or an deputy conducts business.

AUTHORIZED INVESTMENTS

Pursuant to Government Code Section 53601, investments will only be made in authorized securities with a maturity of thirty (30) years or less from the transaction settlement date but in no case shall any tax-exempt security have a maturity which exceeds the final maturity on any Tobacco Settlement Asset-Backed Bonds. The purchase of securities with greater than five (5) years maturity may commence ninety (90) days after the Board of Supervisors resolve to accept this investment policy. All individual securities must yield a positive return if held to maturity. The weighted average life of all tax-exempt investments may be no longer than the weighted average life of the Tobacco Settlement Asset-Backed Bonds. The following instruments are authorized for investment of bond proceeds (and any outstanding amount of issued) from the Tobacco Settlement Asset-Backed Bonds:

- a. Individual tax exempt non-Alternative Minimum Tax ("AMT") State of California obligations or bonds not to exceed 50% of all investments in the particular Endowment (at time of purchase). Investment in any indebtedness that is related to Tobacco Settlement Asset-Backed Bonds is prohibited.

AUTHORIZED INVESTMENTS (Continued)

- b. California local agency bonds, notes or other indebtedness that are tax exempt non-AMT obligations or bonds, provided that no more than 5% of the total portfolio of each Endowment is invested in any one municipality or agency (at the time of purchase) with a Standard and Poor's rating of BBB or higher (or other rating agency equivalent rating) at the time of purchase. Any investment in indebtedness related to Tobacco Asset-Backed Bonds is prohibited.
- c. In cases where the value of the investment portfolio each Endowment is greater than the value of the outstanding 2002 Bonds or 2006 Bonds, each determination made separately, including investment income not yet distributed to the County's General Fund, and/or income that is derived from authorized investments, any security described in Government Code Section 53601 except reverse repurchase agreements. These amounts may also be invested in the Stanislaus County Treasury pool in an interest bearing account at the current rate of interest.

DISTRIBUTION OF INVESTMENT INCOME

100% of Investment income on investments in the Endowments shall be distributed to the General Fund within 30 days of receipt of such investment income, except to the extent the County determines to reinvest all or a portion of such investment income in investments of the type described in paragraphs a or b of Authorized Investments above within 30 days of receipt. The distribution of investment income to the General Fund shall be net of reasonable investment-related expenses. Together with other moneys in the General Fund, the distributed moneys shall be subject to the discretion of the Stanislaus County Board of Supervisors.

REPORTING REQUIREMENTS

The Treasurer/Tax Collector shall prepare an annual report no later than August 15 following the close of each fiscal year on June 30. The report shall be forwarded to the Board of Supervisors for final review and acceptance.

The annual report shall include:

- a) A concise management summary of TSA funds' investment activity and position rendered with statements of review and reconciliation with custodial records, source of market valuation, ability to meet annual disbursement and for compliance with this Policy; the amounts of interest earned and net gains taken and the investment-related expense with net discretionary revenue distribution to the county; and amount subject to non-AMT investment versus taxable investment
- b) Signature(s) of the Treasurer/Tax Collector and staff attesting to the above

REPORTING REQUIREMENTS (Continued)

- c) Place for signature of the Chairman of the Board of Supervisors showing review and acceptance
- d) A detailed listing of securities held as of June 30 grouped by investment type (e.g. State of California bonds, California local bonds, etc.) delineated as follows:
 - Issuing Agency (e.g. State of California, City of Costa Mesa, etc.)
 - Date purchased (settlement date)
 - Par Value
 - Book Value
 - Market Value
 - Stated interest rate (coupon rate)
 - Yield to Maturity
 - Days to Maturity
- e) A detailed listing of security transactions during the report period (purchases, sales and maturities) grouped by investment type and to include the following:
 - Date of transaction
 - Issuing agency (e.g. State of California, City of Costa Mesa, etc.)
 - Purchase, Sale or Maturity Amount
 - Stated interest rate (coupon rate)
- f) A summary of the total portfolio and average weighted maturity showing compliance with Policy limitations as well as an annualized “cash” rate of return net of expenses for fiscal year-to-date interest received on average daily balances for the TSA funds as a whole
- g) A summary by investment type of beginning period position, purchases and sales/maturities and ending position

ANNUAL AUDIT

An annual audit shall be conducted to ensure that investment transactions are in compliance with State Law and this Policy. The audit shall be supervised by a Certified Public Accountant (CPA) who shall render an opinion to the Stanislaus County Auditor-Controller. The opinion shall be forwarded to the Board of Supervisors for review and acceptance. The Stanislaus County Auditor-Controller shall select the CPA.

INVESTMENT RELATED EXPENSES

The expenses of administration of the TSA funds shall be paid from interest earnings on the TSA funds. Total costs shall not exceed 25 basis points (0.25%) of the average daily balance of the portfolio for any fiscal year. Investment related expenses shall include:

- a) Normal Treasurer/Tax Collector costs for staff and support services in the area of investment transactions
- b) Custodial safekeeping of securities and banking services related to the TSA funds
- c) Accounting, reporting and auditing of all funds transactions
- d) Informational and educational materials and services related to investment of the funds
- e) Materials showing financial conditions of issuing agencies
- f) Other duties and costs related to the management of the investment of TSA funds

POLICY REVIEW AND AMENDMENT

This Policy shall be reviewed on an annual basis. Any changes must be prepared by the Stanislaus County Treasurer/Tax Collector and then reviewed and approved for propriety by the Stanislaus County Board of Supervisors.