

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 1817
By: Bettencourt et al.
State Affairs
4/18/2023
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

It has been one year since Russia invaded Ukraine. Due to Russia's country-wide assault on Ukraine last February, 33 states so far have taken action to either sanction or divest from Russia. Texas took action, too. All 31 Senators signed on to a letter to the Lieutenant Governor requesting an interim charge to study the feasibility of the state comptroller to prepare and maintain a list of all companies that invest in the Russian Federation. In response, Comptroller Hegar requested the Texas Treasury Safekeeping Trust Company to review its investments in Russia and begin divestment.

Previously, at the end of 2021, the Trust had determined two things:

1. There were no direct securities traded or any direct investments in Russian companies or in a dedicated manager that invests in Russia.
2. The Trust had \$18.6 million in indirect exposure—money placed with outside managers who had invested a portion of their funds in Russia.

At the comptroller's request, total indirect exposure decreased by 93% to only \$1.2 million. As of May 2022, Russian exposure was 0% direct and 0.001% indirect. The Trust considers this impact on the state economy and the fiscal profile "insignificant" and having "no effective impact on investment opportunities."

S.B. 1817 would ensure that the State of Texas joins the other states from around the country in divesting state investment funds from Russia. The bill would ban state investment funds from being invested in businesses that have any form of commerce in the Russian Federation, including acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce would be banned.

S.B. 1817 would add companies that conduct operations within the Russian Federation to the list of scrutinized businesses maintained by the Comptroller's Office. Upon notification to the company, no later than the 90th day after the date the company receives a notice from the comptroller, they must either cease all scrutinized business operations or convert such operations to inactive business operations to avoid qualifying for divestment by state-run investing entities in the State of Texas.

(Original Author's/Sponsor's Statement of Intent)

C.S.S.B. 1817 amends current law relating to investments in certain companies doing business in the Russian Federation.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 2270.0001(9), Government Code, to redefine "scrutinized company."

SECTION 2. Amends Section 2270.0002, Government Code, as follows:

Sec. 2270.0002. EXCEPTION. (a) Creates this subsection from existing text.

(b) Provides that a company that complies with the United States government federal sanctions regime relating to the Russian Federation, including any exemption or federal guidance, notwithstanding any other law, is not subject to divestment or investment prohibition under Chapter 2270 (Prohibition on Investing Public Money in Certain Investments).

SECTION 3. Amends Chapter 2270, Government Code, by adding Subchapter D-1, as follows:

SUBCHAPTER D-1. GENERAL PROVISIONS RELATING TO INVESTMENTS IN RUSSIAN FEDERATION

Sec. 2270.0161. DEFINITION. Defines "business operations."

Sec. 2270.0162. SCRUTINIZED BUSINESS OPERATIONS IN RUSSIAN FEDERATION. Provides that a company engages in scrutinized business operations in the Russian Federation if the company has business operations that involve contracts with or providing supplies or services to the government of the Russian Federation, a company in which the government of the Russian Federation has any direct or indirect equity share, a consortium or project commissioned by the government of the Russian Federation, or a company involved in a consortium or project commissioned by the government of the Russian Federation.

SECTION 4. Amends Sections 2270.0201, Government Code, by amending Subsections (a) and (b) and adding Subsection (b-1), as follows:

(a) Requires the Comptroller of Public Accounts of the State of Texas (comptroller) to prepare and maintain a list of all scrutinized companies. Requires that the list be categorized according to:

(1) makes no changes to this subdivision;

(2)-(3) makes nonsubstantive changes to these subdivisions; and

(4) companies that are scrutinized companies under Section 2270.0001(9)(D).

(b) Authorizes the comptroller, in maintaining the list of scrutinized companies under Subsection (a), to review and rely, as appropriate in the comptroller's judgment, on publicly available information regarding companies with business operations in Sudan, in Iran, with designated foreign terrorist organizations, or in the Russian Federation, as applicable, including information provided by the state, nonprofit organizations, research firms, international organizations, and governmental entities.

(b-1) Provides that the governor is required to periodically consult with the Homeland Security Council (council), established under Subchapter B (Homeland Security Council), Chapter 421, to review whether a company that is a scrutinized company under Section 2270.0001(9)(D) should be included or continue to be included on the list of scrutinized companies maintained under Section 2270.0102 (Listed Companies) and is authorized to, after consulting with the council, direct the comptroller to remove a company from the list.

SECTION 5. Amends Section 2270.0203, Government Code, as follows:

Sec. 2270.0203. NOTICE TO LISTED COMPANY ENGAGED IN INACTIVE BUSINESS OPERATIONS. Requires the investing entity to send a written notice, for each listed company identified under Section 2270.0202 (Identification of Investment in Listed Companies) that is engaged in only inactive scrutinized business operations, informing the company of this chapter and encouraging the company to continue to refrain from initiating active business operations in Sudan, in Iran, with designated foreign terrorist organizations, and in the Russian Federation until it is able to avoid being considered a listed company. Makes a nonsubstantive change.

SECTION 6. Amends Section 2270.0204(b), Government Code, as follows:

(b) Requires that the notice offer the company the opportunity to clarify its Sudan-related, Iran-related, designated foreign terrorist organization-related, or Russian Federation-related activities, as applicable, and to encourage the company, not later than the 90th day after the date the company receives notice under Section 2270.0204 (Actions Relating to Listed Company Engaged in Active Business Operations), to either cease all scrutinized business operations as described by Sections 2270.0052 (Scrutinized Business Operations in Sudan), 2270.0102 (Scrutinized Business Operations in Iran), 2270.0152 (Scrutinized Business Operations with Designated Foreign Terrorist Organization), and 2270.0162, or convert such operations to inactive business operations in order to avoid qualifying for divestment by investing entities.

SECTION 7. Requires the comptroller, not later than the 180th day after the effective date of this Act, to include the companies described by Section 2270.0201(a)(4), Government Code, as added by this Act, on the list under Section 2270.0201(a), Government Code.

SECTION 8. Effective date: upon passage or September 1, 2023.