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Date: August 3, 2018

TO: MEMBERS, GOVERNANCE COMMITTEE

I. AGENDA ITEM # AND TITLE :	Open Agenda Item 4 – Governance, Compliance and Privacy Update
II. NAME AND PROGRAM:	Governance, Compliance & Privacy
III. ACTIVITY:	<input checked="" type="checkbox"/> Informational <input type="checkbox"/> Request for Direction <input type="checkbox"/> Action Proposed <input type="checkbox"/> Exploratory
IV. JUSTIFICATION:	<input checked="" type="checkbox"/> Standard/Required Item <input type="checkbox"/> Board Request – New Item <input type="checkbox"/> New Topic from Staff

V. EXECUTIVE SUMMARY:

Compliance reporting includes:

- AB 375 – California Consumer Privacy Act of 2018
- 2018 Corporate Governance Annual Disclosure (CGAD)
- 2018 Biennial Insurer Supplier Diversity Survey
- California Whistleblower Act Annual Notification
- Hotline reporting

VI. ANALYSIS:

The following summarizes compliance related activity for the period and is in alignment with State Fund’s Compliance Framework¹:

Clear Written Standards of Conduct, Policies & Procedures

A. New Legislation

AB 375 (Chau and Hertzberg) – California Consumer Privacy Act of 2018

Effective January 1, 2020, the bill adds Title 1.81.5 to the Civil Code² to:

- Provide consumers with additional privacy rights to access, delete, and make opt-in and opt-out choices about use of their personal information (PI).
- Require businesses that collect PI to inform consumers about its use, disclose if it will be sold, and prohibit specific uses without consumer notice.
- Prohibit businesses from discriminating against consumers for exercising their rights under the bill.

¹ All Governance reports are grounded in State Fund’s Compliance Framework – resource USSG Ch. 8 Part B2.1(b)

² Cal. Civil Code 1798.100 – 1798.198

- Provide consumers with a limited private right of action against a business for a data breach to:
 - Recover damages from \$100 to \$750 per consumer per incident
 - Seek injunctive, declaratory, or other relief the court deems proper
- Provide the Attorney General with enforcement authority to impose civil penalties of up to \$7,500 for each violation.

B. Operational Impact

- State Fund does not meet the definition of a business as outlined in the statute. This statute does not apply to State Fund.

Consistent monitoring, evaluation & reporting

A. 2018 Corporate Governance Annual Disclosure (CGAD)

The confidential CGAD provides information about governance activities at State Fund. State Fund submitted its annual CGAD report, attested by the CEO and General Counsel/Corporate Secretary, to the California Department of Insurance on May 29, 2018³. Reports are due annually by June 1.

B. 2018 Biennial Insurer Supplier Diversity Survey

California admitted insurers with premiums in California of \$100 million or more must report biennially to the Department of Insurance about their efforts to obtain services from diverse suppliers. Insurer surveys are public information. State Fund submitted its *Supplier Diversity Survey* to the Department of Insurance on June 30, 2018 as required.⁴ State Fund's diverse spend was 12.24% during the reporting period, spread amongst 23 unique suppliers.

C. California Whistleblower Protection Act Annual Notification

Whistleblower protection under California law⁵ extends to all persons, regardless of reporting venue.

The annual Whistleblower communication and brochure about the State Auditor's Whistleblower Program was sent by email to all employees on July 11, 2018⁶. The 2018 whistleblower posters are displayed in State Fund locations where other employee notices are maintained. Attestation of distribution was sent to the State Auditor on July 13, 2018.

The covering communication included a statement about State Fund's continuing commitment to ethics and transparency by maintaining our own Ethics and Privacy Hotline operated by an independent third party.

³ Corporate Governance Annual Disclosure pursuant to Cal. Insurance Code §§ 936.1 et seq.

⁴ A California Diverse Supplier is any minority or women owned business enterprise with a headquarters address in California, or a disabled veteran business enterprises (Cal. Insurance Code §§ 927.1(b); 927.2 (a)(2)(C)).

⁵ Cal. Labor Code §1102.5

⁶ Cal. Gov't Code §§ 8548.2 and 8548.3

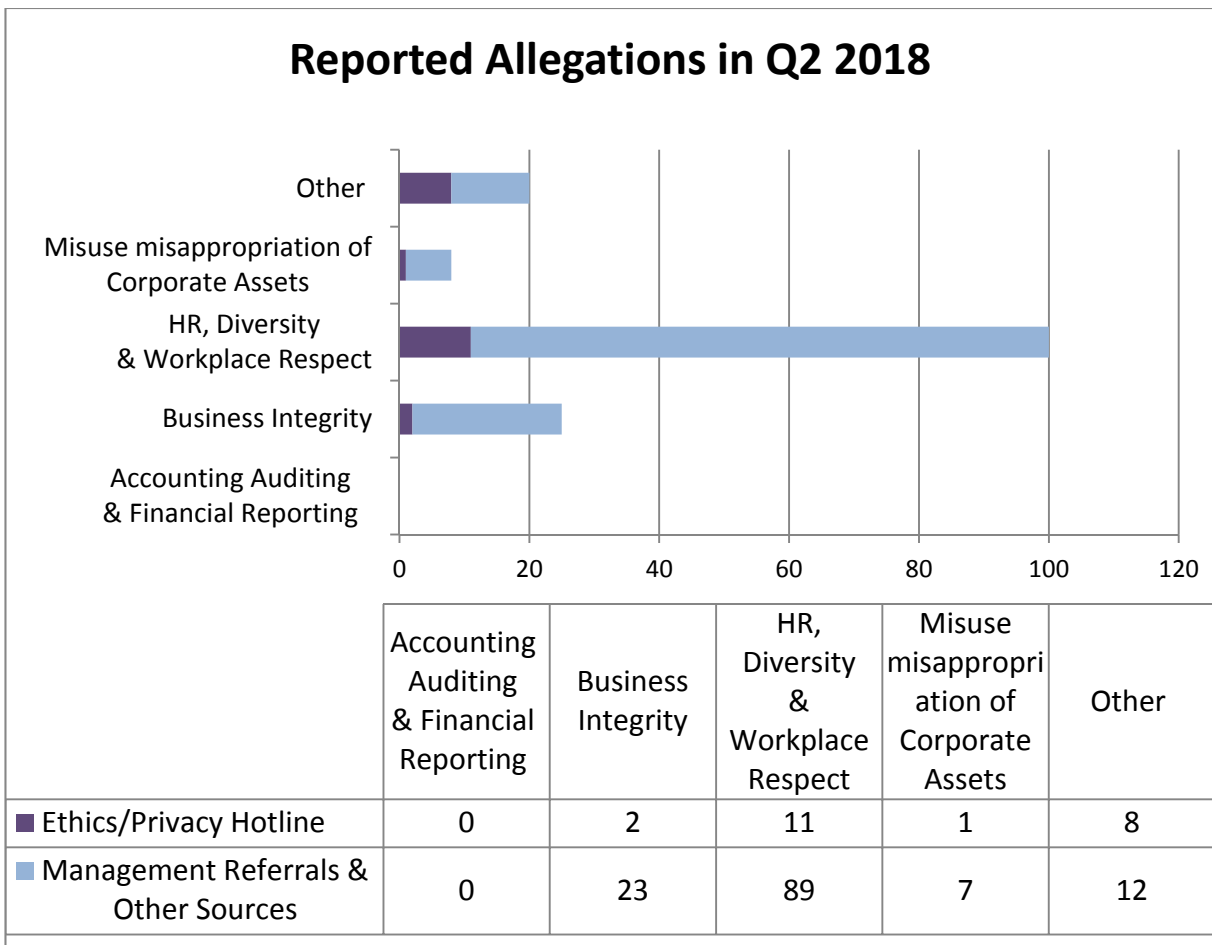
D. Ethics and Privacy Reported Issues

The total number of hotline reports increased by 27% (22 Q2 vs. 16 Q1 2018). We experienced a slight decline in hotline reporting in Q1 because of the new hotline vendor. In Q2, State Fund employees became more aware of the new hotline and reporting increased. Compared to last year (1st half, 242), the total number of hotline reports has increased by 21% (306) in 2018.

Human Resources (HR) related issues continue to be the most reported category:

- Q2 2018 (100 of 153) – 65% of total incidents reported
- Time and behavior issues (66 of 100) – 66% of HR related issues
- In line with Navex Global report of 2017 – 71% are HR related issues

Chart 1: Allegations by Category



Appendix:

Report Allegation Categories and Definitions

Accounting, Auditing, and Financial Reporting: Forgery, Accounting and Financial Control

Business Integrity: Falsifying Records, Privacy and Data Security Incidents, Theft, Compliance and Regulatory Matters, Information Security, Vendor Relations, Claims, Policy, Legal, and Other Business Practices

HR, Diversity and Work Place Respect: Attendance, Code of Conduct Violation, Conflict of Interest, Equal Employment Opportunity-Discrimination, Retaliation and Sexual Harassment, Favoritism, Inappropriate/ Offensive Behavior, Hiring Practices, Performance

Misuse, Misappropriation of Corporate Assets: Fraud, Misuse/ Abuse of Time or Resources

Other: Types of misconduct that fails to fall into the above categories such as Safety, Assault or Environmental Protection Compliance.