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Rules on Iranian Assets Nullified

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The California Department of Insurance's high-profile crackdown on companies dealing with certain Iranian businesses hit a snag this week as the Office of Administrative Law ruled the department improperly issued regulations related to the Middle East nation.

In a decision issued Monday, the OAL in Sacramento said the department failed to take appropriate measures, such as requiring notice, hearings and other steps, before a regulation can be allowed to take effect. The rules constituted an impermissible "underground regulation," the decision stated.

The finding is a win for insurance companies that protested the effort and a blow to California Insurance Commissioner Steve Poizner, whose office recently said its regulations caused insurers to divest approximately \$400 million in Iran-related assets.

The OAL lacks policing authority, but Monday's decision effectively nullifies the regulations. Companies are within their rights to ignore them, according to William L. Gausewitz, a partner at Michelman & Robinson, whose law firm represents five of California's leading insurance trade associations.

"It means the next time the Department of Insurance or any other agency decides to try this, they're going to say, 'We're going to be a little more careful,'" Gausewitz said.

Other attorneys for the insurance industry hailed the decision.

"It was extremely important to our clients to avoid setting a precedent for regulating investments without following the proper administrative procedures," said John A. Sebastinelli of Michelman & Robinson.

Department of Insurance spokesman Ioannis Kazanis said the department is "going through the OAL's ruling with a fine-tooth comb" and was "examining all of our options" in terms of its next step.

In February, Poizner issued a statement that California would treat insurer investments in Iranian companies as non-admitted assets, meaning they could not count the investments toward the financial resources available to operate their businesses. The regulations identified 50 companies

that conducted business with Iranian energy, nuclear and defense sectors. One such company reportedly affected by the decision is Royal Dutch Shell.

Poizner was a Republican candidate for governor earlier this year when the regulatory action was announced.

"We remain strongly committed to this issue," Kazanis said. "From the moral side of this issue, we feel strong we have moved appropriately. We are sure many policyholders don't share the same enthusiasm for investment in Iran's oppressive regime."