

Darfur Outrage Spreads to Mutual Funds

Shareholders Get a Say On Ruling Out Investments With Sudan-Linked Stakes

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Many mutual-fund shareholders this proxy season will be voting on a politically charged question: whether to discourage investment in companies doing business in Sudan, whose government is accused of abetting genocide.

At least 17 states have passed Sudan divestments laws in the past two years -- the governor of Arizona just signed one Monday. Now human-rights activists are turning up the heat on the mutual-fund industry.

Pension funds, religious groups, money managers, and other shareholders have filed resolutions aimed at Sudanese investments that will be included in the proxies of at least four big financial-services companies and 12 mutual funds managed by Fidelity Investments. The nonbinding proposals ask companies to develop policies to rule out investments in companies that contribute to genocide, serious human rights violations and crimes against humanity.

Focus on PetroChina

The main targets are **PetroChina** Co. and other big Chinese and foreign energy companies with stakes in Sudan, where the Darfur region has been the scene of brutal militia attacks widely believed to have the support of the Sudanese government. Oil revenues are "a crucial source of income for the Sudanese government and is essential to the funding of the government's military operations," according to the Allard K. Lowenstein International Human Rights Project at Yale Law School. In addition to PetroChina, activists are zeroed in on **China Petroleum & Chemical** Corp., or Sinopec, which as with PetroChina, is owned by the Chinese government; **Petrolia**m Nasional Bhd., or Petronas, of Malaysia; and India's Oil & Natural Gas Corp.

The 12 Fidelity mutual funds considering a Sudan resolution will vote at annual meetings held March 19. Among the other fund operators whose upcoming proxies include resolutions are **Citigroup** Inc., **Wells Fargo & Co.**, **J.P. Morgan Chase & Co.**, and Morgan Stanley. Merrill Lynch & Co. and T. Rowe Price Group Inc. agreed to include resolutions, but activists withdrew them after the firms agreed to set up screening policies. The Fidelity and Citigroup resolutions made their way to the proxies only after the Securities and Exchange Commission rejected appeals from the companies that would have given them leeway to keep them off the shareholders' ballots.

The oil companies have been popular with mutual funds that focus on Asian stocks -- one of the hottest fund categories for 2007 -- including China region funds from J.P. Morgan and Fidelity.

Shareholder activists have also filed Sudan-related resolutions with dozens of other fund-managing companies that haven't yet decided whether to put them on their proxies. These

Investors Against Genocide

Draw the line at investing in genocide

resolutions would cover other popular Asia funds, including American Funds Capital World Growth and Income Fund, and Franklin Templeton Asian Growth Fund.

On Dec. 31, President Bush signed the Sudan Accountability and Divestment Act, which, among other things, immunizes mutual funds from lawsuits objecting to Sudanese divestments. Advocates don't expect to win a majority vote on the Sudan divestment resolutions. Fidelity and the other four companies are recommending shareholders vote against them, saying they are too prescriptive and would interfere with their responsibility to maximize returns to shareholders. The Fidelity resolutions, filed by Investors Against Genocide, a Boston nonprofit group, asks Fidelity to "institute oversight procedures to screen out investments in companies that," in the judgment of the Fidelity's funds' board of trustees, "substantially contribute to genocide, patterns of extraordinary and egregious violations of human rights, or crimes against humanity."

In its request to the SEC, Fidelity said the "proposal attempts to micro-manage how the business of each fund should be conducted" and is vague to the point that it would be difficult to implement. Deciding what "substantially contribute" means, Fidelity said, would be troublesome. The SEC sided with shareholders, without much elaboration.

Although they are nonbinding, the proposals put more heat on money managers, many whom were barraged by letters, petitions, and protests last year and subsequently dumped shares in oil giants with Sudanese projects. At the end of 2006, Boston-based Fidelity had, through its mutual funds, been the largest U.S. holder of American depository shares in PetroChina with shares valued at \$634 million, according to SEC filings.

Fidelity Gets 170,000 Emails

Last year, activists estimate they sent Fidelity 170,000 emails. Actress Mia Farrow, a Fidelity shareholder, helped lead a "Fidelity Out of Sudan" campaign. In April, hundreds of people demonstrated outside Fidelity's Boston headquarters, chanting, "Fidelity, you can't hide! You are funding genocide!"

By the end of 2007, Fidelity had dumped 99% of the American depository shares in PetroChina, although several of its mutual funds still own PetroChina shares traded on the Hong Kong stock exchange. **Berkshire Hathaway Inc.**, another target of activists, also shed most of its PetroChina shares last year.

The companies said their actions weren't related to pressure, "but one can read the tea leaves," said Shelley Alpern, vice President at Trillium Asset Management Corp., a Boston money manager that filed several Sudan-related resolutions this year.

PetroChina has publicly told investors that it has no projects with the Sudanese government -- and that its assets are separate from its parent company, the state-owned China National Petroleum Co. CNPC said on its Web site that it is a partner with the Sudanese government in refineries, exploration, and other oil projects. Analysts said the two companies are essentially the same.

Investors Against Genocide

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