

SENATE BILL 543

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By: **Senators Jones, Britt, Conway, Currie, Exum, Gladden, McFadden, Muse, Pugh, and Rosapepe**

Introduced and read first time: February 2, 2007

Assigned to: Budget and Taxation

A BILL ENTITLED

1 AN ACT concerning

2 **2007 Darfur Protection Act – Divestiture from the Republic of Sudan**

3 FOR the purpose of requiring the Board of Trustees for the State Retirement and
4 Pension System to identify and create a list of certain companies within a
5 certain period of time who meet certain criteria; requiring the Board of Trustees
6 to use certain resources to identify certain companies; requiring the Board of
7 Trustees to provide written notice to certain companies; requiring the Board of
8 Trustees to notify certain companies that they may be subject to divestment
9 under certain circumstances; requiring the Board of Trustees to divest under
10 certain circumstances from certain companies following a certain schedule;
11 prohibiting the Board of Trustees from acquiring certain securities; exempting
12 certain companies from the provisions of this Act; requiring the Board of
13 Trustees to submit certain reports containing certain information to the
14 Chairman of the Joint Committee on Pensions and the United States
15 Presidential Special Envoy to Sudan, by a certain date; providing for the
16 expiration of this Act under certain circumstances; defining certain terms; and
17 generally relating to sanctions against the Republic of Sudan.

18 BY adding to

19 Article – State Personnel and Pensions

20 Section 21–1A–01 through 21–1A–08 to be under the new subtitle “Subtitle 1A.
21 Divestment from the Republic of Sudan”

22 Annotated Code of Maryland

23 (2004 Replacement Volume and 2006 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Preamble

2 WHEREAS, On July 23, 2004, the United States Congress declared that “the
3 atrocities unfolding in Darfur, Sudan, are genocide”; and

4 WHEREAS, On September 9, 2004, Secretary of State Colin L. Powell told the
5 United States Senate Foreign Relations Committee that “genocide has occurred and
6 may still be occurring in Darfur” and “the Government of Sudan and the Janjaweed
7 bear responsibility”; and

8 WHEREAS, On September 21, 2004, addressing the United Nations General
9 Assembly, President George W. Bush affirmed the Secretary of State’s finding and
10 stated, “at this hour, the world is witnessing terrible suffering and horrible crimes in
11 the Darfur region of Sudan, crimes my government has concluded are genocide”; and

12 WHEREAS, On December 7, 2004, the United States Congress noted that the
13 genocidal policy in Darfur has led to reports of “systematic rape of thousands of
14 women and girls, the abduction of women and children, and the destruction of
15 hundreds of ethnically African villages, including the poisoning of their wells and the
16 plunder of their crops and cattle upon which the people of such villages sustain
17 themselves”; and

18 WHEREAS, Also on December 7, 2004, the United States Congress found that
19 “the Government of Sudan has restricted access by humanitarian and human rights
20 workers to the Darfur area through intimidation by military and security forces, and
21 through bureaucratic and administrative obstruction, in an attempt to inflict the most
22 devastating harm on those individuals displaced from their villages and homes
23 without any means of sustenance or shelter”; and

24 WHEREAS, On September 25, 2006, the United States Congress reaffirmed
25 that “the genocide unfolding in the Darfur region of Sudan is characterized by acts of
26 terrorism and atrocities directed against civilians, including mass murder, rape, and
27 sexual violence committed by the Janjaweed and associated militias with the
28 complicity and support of the National Congress Party–led faction of the Government
29 of Sudan”; and

30 WHEREAS, On September 26, 2006, the United States Congress stated that “an
31 estimated 300,000 to 400,000 people have been killed by the Government of Sudan and
32 its Janjaweed allies since the Darfur crisis began in 2003, more than 2,000,000 people
33 have been displaced from their homes, and more than 250,000 people from Darfur
34 remain in refugee camps in Chad”; and

1 WHEREAS, The Darfur crisis represents the first time the United States
2 Government has labeled ongoing atrocities a genocide; and

3 WHEREAS, The federal government has imposed sanctions against the
4 Government of Sudan since 1997, that are monitored through the United States
5 Treasury Department's Office of Foreign Assets Control (OFAC); and

6 WHEREAS, According to a former chair of the United States Securities and
7 Exchange Commission (SEC), "the fact that a foreign company is doing material
8 business with a country, government, or entity on OFAC's sanctions list is, in the SEC
9 staff's view, substantially likely to be significant to a reasonable investor's decision
10 about whether to invest in that company"; and

11 WHEREAS, Since 1993, the United States Secretary of State has determined
12 that Sudan is a country the government of which has repeatedly provided support for
13 acts of international terrorism, thereby restricting United States assistance, defense
14 exports and sales, and financial and other transactions with the Government of
15 Sudan; and

16 WHEREAS, A 2006 United States Congressional report states that "a
17 company's association with sponsors of terrorism and human rights abuses, no matter
18 how large or small, can have a materially adverse result on a public company's
19 operations, financial condition, earnings, and stock prices, all of which can negatively
20 affect the value of an investment"; and

21 WHEREAS, In response to the financial risk posed by investments in companies
22 doing business with a terrorist-sponsoring state, the SEC established its Office of
23 Global Security Risk to provide for enhanced disclosure of material information
24 regarding such companies; and

25 WHEREAS, The current Sudan divestment movement encompasses nearly 100
26 university, city, state, and private pension plans; and

27 WHEREAS, Companies facing such widespread divestment present further
28 material risk to remaining investors; and

29 WHEREAS, It is a fundamental responsibility of the State to decide where, how,
30 and by whom financial resources in its control should be invested, taking into account
31 numerous pertinent factors; and

32 WHEREAS, It is the prerogative and desire of the State, in respect to
33 investment resources in its control and to the extent reasonable, with due
34 consideration for, among other things, return on investment, on behalf of itself and its

1 investment beneficiaries, not to participate in an ownership or capital-providing
2 capacity with entities that provide significant practical support for genocide, including
3 certain international companies presently doing business in Sudan; and

4 WHEREAS, It is the judgment of the General Assembly that this Act should
5 remain in effect only insofar as it continues to be consistent with, and does not unduly
6 interfere with, the foreign policy of the United States as determined by the federal
7 government; and

8 WHEREAS, It is the judgment of the General Assembly that mandatory
9 divestment of public funds from certain companies is a measure that should be
10 employed sparingly and judiciously – a United States Congressional and Presidential
11 declaration of genocide satisfying this high threshold; now, therefore,

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – State Personnel and Pensions**

15 **SUBTITLE 1A. DIVESTMENT FROM THE REPUBLIC OF SUDAN.**

16 **21-1A-01.**

17 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
18 INDICATED.

19 (B) “ACTIVE BUSINESS OPERATIONS” MEANS ALL BUSINESS
20 OPERATIONS THAT ARE NOT INACTIVE BUSINESS OPERATIONS.

21 (C) “BUSINESS OPERATIONS” MEANS ENGAGING IN COMMERCE IN ANY
22 FORM IN SUDAN, INCLUDING ACQUIRING, DEVELOPING, MAINTAINING, OWNING,
23 SELLING, POSSESSING, LEASING, OR OPERATING EQUIPMENT, FACILITIES,
24 PERSONNEL, PRODUCTS, SERVICES, PERSONAL PROPERTY, REAL PROPERTY, OR
25 ANY OTHER APPARATUS OF BUSINESS OR COMMERCE.

26 (D) “COMPANY” MEANS ANY SOLE PROPRIETORSHIP, ORGANIZATION,
27 ASSOCIATION, CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED
28 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY
29 COMPANY, OR OTHER ENTITY OR BUSINESS ASSOCIATION, INCLUDING ALL
30 WHOLLY OWNED SUBSIDIARIES, MAJORITY-OWNED SUBSIDIARIES, PARENT

1 COMPANIES, OR AFFILIATES OF SUCH ENTITIES OR BUSINESS ASSOCIATIONS,
2 THAT EXIST FOR PROFIT-MAKING PURPOSES.

3 (E) "COMPLICIT" MEANS TAKING ACTIONS DURING ANY PRECEDING
4 20-MONTH PERIOD BEGINNING JULY 1, 2007, THAT HAVE DIRECTLY
5 SUPPORTED OR PROMOTED THE GENOCIDAL CAMPAIGN IN DARFUR,
6 INCLUDING:

7 (1) PREVENTING DARFUR'S VICTIMIZED POPULATION FROM
8 COMMUNICATING WITH EACH OTHER;

9 (2) ENCOURAGING SUDANESE CITIZENS TO SPEAK OUT AGAINST
10 AN INTERNATIONALLY APPROVED SECURITY FORCE FOR DARFUR; OR

11 (3) ACTIVELY WORKING TO DENY, COVER UP, OR ALTER THE
12 RECORD ON HUMAN RIGHTS ABUSES IN DARFUR, OR OTHER SIMILAR ACTIONS.

13 (F) "DIRECT HOLDINGS" MEANS ALL SECURITIES OF A COMPANY THAT
14 ARE HELD DIRECTLY BY THE BOARD OF TRUSTEES ON BEHALF OF THE SEVERAL
15 SYSTEMS IN AN ACCOUNT OR FUND IN WHICH THE BOARD OF TRUSTEES OWNS
16 ALL SHARES OR INTEREST.

17 (G) (1) "GOVERNMENT OF SUDAN" MEANS THE GOVERNMENT IN
18 KHARTOUM, SUDAN, THAT IS LED BY THE NATIONAL CONGRESS PARTY
19 (FORMERLY KNOWN AS THE NATIONAL ISLAMIC FRONT) OR ANY SUCCESSOR
20 GOVERNMENT FORMED ON OR AFTER OCTOBER 13, 2006, INCLUDING THE
21 COALITION NATIONAL UNITY GOVERNMENT AGREED ON IN THE
22 COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.

23 (2) "GOVERNMENT OF SUDAN" DOES NOT MEAN THE REGIONAL
24 GOVERNMENT OF SOUTHERN SUDAN.

25 (H) "INDIRECT HOLDINGS" MEANS ALL SECURITIES OF A COMPANY
26 HELD IN AN ACCOUNT OR FUND AND MANAGED BY ONE OR MORE PERSONS NOT
27 EMPLOYED BY THE BOARD OF TRUSTEES, BUT INCLUDES SHARES OR
28 INTERESTS OWNED BY THE BOARD OF TRUSTEES ON BEHALF OF THE SEVERAL
29 SYSTEMS AND OTHER INVESTORS NOT AFFILIATED WITH THE SEVERAL
30 SYSTEMS.

1 **(I) “MARGINALIZED POPULATION OF SUDAN” MEANS:**

2 **(1) THE PORTION OF THE POPULATION IN THE DARFUR REGION**
3 **THAT HAS BEEN GENOCIDALLY VICTIMIZED;**

4 **(2) THE PORTION OF THE POPULATION OF SOUTHERN SUDAN**
5 **VICTIMIZED BY SUDAN’S NORTH–SOUTH CIVIL WAR;**

6 **(3) THE BEJA, RASHIDIYA, AND OTHER SIMILARLY**
7 **UNDERSERVED GROUPS OF EASTERN SUDAN;**

8 **(4) THE NUBIAN AND OTHER SIMILARLY UNDERSERVED GROUPS**
9 **IN SUDAN’S ABYEI, SOUTHERN BLUE NILE, AND NUBA MOUNTAIN REGIONS;**
10 **AND**

11 **(5) THE AMRI, HAMADAB, MANSIR, AND OTHER SIMILARLY**
12 **UNDERSERVED GROUPS OF NORTHERN SUDAN.**

13 **(J) “MILITARY EQUIPMENT” MEANS WEAPONS, ARMS, MILITARY**
14 **SUPPLIES, AND EQUIPMENT THAT READILY MAY BE USED FOR MILITARY**
15 **PURPOSES, INCLUDING:**

16 **(1) RADAR SYSTEMS OR MILITARY–GRADE TRANSPORT VEHICLES;**
17 **AND**

18 **(2) SUPPLIES OR SERVICES SOLD OR PROVIDED DIRECTLY OR**
19 **INDIRECTLY TO ANY FORCE ACTIVELY PARTICIPATING IN ARMED CONFLICT IN**
20 **SUDAN.**

21 **(K) “MINERAL EXTRACTION ACTIVITIES” MEANS EXPLORING,**
22 **EXTRACTING, PROCESSING, TRANSPORTING, OR WHOLESALE SELLING OR**
23 **TRADING OF ELEMENTAL MINERALS OR ASSOCIATED METAL ALLOYS OR OXIDES**
24 **(ORE), INCLUDING GOLD, COPPER, CHROMIUM, CHROMITE, DIAMONDS, IRON,**
25 **IRON ORE, SILVER, TUNGSTEN, URANIUM, AND ZINC.**

26 **(L) (1) “OIL–RELATED ACTIVITIES” MEANS:**

27 **(I) OWNING RIGHTS TO OIL BLOCKS; AND**

1 (II) EXPORTING, EXTRACTING, PRODUCING, REFINING,
2 PROCESSING, EXPLORING FOR, TRANSPORTING, SELLING, OR TRADING OF OIL.

3 (2) "OIL-RELATED ACTIVITIES" DOES NOT MEAN THE RETAIL
4 SALE OF GASOLINE AND RELATED CONSUMER PRODUCTS.

5 (M) "POWER PRODUCTION ACTIVITIES" MEANS ANY BUSINESS
6 OPERATION THAT INVOLVES A PROJECT COMMISSIONED BY THE NATIONAL
7 ELECTRICITY CORPORATION OF SUDAN OR OTHER SIMILAR GOVERNMENT OF
8 SUDAN ENTITY WHOSE PURPOSE IS TO FACILITATE POWER GENERATION AND
9 DELIVERY, INCLUDING:

10 (1) ESTABLISHING POWER-GENERATING PLANTS OR
11 HYDROELECTRIC DAMS;

12 (2) SELLING OR INSTALLING COMPONENTS FOR THE PROJECT; OR

13 (3) PROVIDING SERVICE CONTRACTS RELATED TO THE
14 INSTALLATION OR MAINTENANCE OF THE PROJECT.

15 (N) (1) "SCRUTINIZED COMPANY" MEANS ANY COMPANY THAT MEETS
16 THE CRITERIA OF § 21-1A-02 OF THIS SUBTITLE.

17 (2) "SCRUTINIZED COMPANY" DOES NOT MEAN A SOCIAL
18 DEVELOPMENT COMPANY THAT IS NOT COMPLICIT IN THE DARFUR GENOCIDE.

19 (O) "SOCIAL DEVELOPMENT COMPANY" MEANS A COMPANY WHOSE
20 PRIMARY PURPOSE IS TO PROVIDE HUMANITARIAN GOODS OR SERVICES,
21 INCLUDING MEDICINE OR MEDICAL EQUIPMENT, AGRICULTURAL SUPPLIES OR
22 INFRASTRUCTURE, EDUCATIONAL OPPORTUNITIES, JOURNALISM-RELATED
23 ACTIVITIES, INFORMATION OR INFORMATIONAL MATERIALS,
24 SPIRITUAL-RELATED ACTIVITIES, SERVICES OF A PURELY CLERICAL OR
25 REPORTING NATURE, OR FOOD, CLOTHING, OR GENERAL CONSUMER GOODS
26 THAT ARE UNRELATED TO OIL-RELATED ACTIVITIES, MINERAL EXTRACTION
27 ACTIVITIES, OR POWER PRODUCTION ACTIVITIES.

28 (P) "SUBSTANTIAL ACTION" MEANS:

1 **(1) ADOPTING, PUBLICIZING, AND IMPLEMENTING A FORMAL**
2 **PLAN TO CEASE SCRUTINIZED BUSINESS OPERATIONS BY JULY 1, 2008, AND TO**
3 **REFRAIN FROM ANY SUCH NEW BUSINESS OPERATIONS;**

4 **(2) UNDERTAKING SIGNIFICANT HUMANITARIAN EFFORTS ON**
5 **BEHALF OF ONE OR MORE MARGINALIZED POPULATIONS OF SUDAN; OR**

6 **(3) THROUGH ENGAGEMENT WITH THE GOVERNMENT OF SUDAN,**
7 **MATERIALLY IMPROVING CONDITIONS FOR THE GENOCIDALLY VICTIMIZED**
8 **POPULATION IN DARFUR.**

9 **21-1A-02.**

10 **(A) A COMPANY IS A SCRUTINIZED COMPANY IF IT:**

11 **(1) (I) HAS BUSINESS OPERATIONS THAT INVOLVE CONTRACTS**
12 **FOR SUPPLIES OR SERVICES TO:**

13 **1. THE GOVERNMENT OF SUDAN;**

14 **2. COMPANIES IN WHICH THE GOVERNMENT OF**
15 **SUDAN HAS A DIRECT OR INDIRECT EQUITY SHARE;**

16 **3. THE GOVERNMENT OF SUDAN-COMMISSIONED**
17 **CONSORTIUMS OR PROJECTS; OR**

18 **4. COMPANIES INVOLVED IN THE GOVERNMENT OF**
19 **SUDAN-COMMISSIONED CONSORTIUMS OR PROJECTS;**

20 **(II) HAS ASSETS LINKED TO SUDAN THAT INVOLVE:**

21 **1. A. OIL-RELATED ACTIVITIES GREATER THAN**
22 **10% OF THE COMPANY'S TOTAL ASSETS; AND**

23 **B. OIL-RELATED OR MINERAL EXTRACTING**
24 **PRODUCTS OR SERVICES TO THE REGIONAL GOVERNMENT OF SUDAN OR A**
25 **PROJECT OR CONSORTIUM CREATED EXCLUSIVELY BY THAT REGIONAL**
26 **GOVERNMENT THAT IS LESS THAN 75% OF THE COMPANY'S TOTAL ASSETS; OR**

1 **2. A. POWER PRODUCTION ACTIVITIES GREATER**
2 **THAN 10% OF THE COMPANY'S TOTAL ASSETS;**

3 **B. LESS THAN 75% OF ALL POWER PRODUCTION**
4 **ACTIVITIES THAT PROVIDE POWER OR ELECTRICITY TO THE MARGINALIZED**
5 **POPULATIONS OF SUDAN; AND**

6 **C. FAILURE TO TAKE SUBSTANTIAL ACTION;**

7 **(2) IS COMPLICIT IN THE DARFUR GENOCIDE; OR**

8 **(3) SUPPLIES MILITARY EQUIPMENT TO SUDAN.**

9 **(B) FOR PURPOSES OF SUBSECTION (A)(3) OF THIS SECTION, A**
10 **COMPANY IS NOT CONSIDERED TO SUPPLY MILITARY EQUIPMENT TO SUDAN IF**
11 **THE COMPANY:**

12 **(1) SUPPLIES MILITARY EQUIPMENT THAT CANNOT BE USED TO**
13 **FACILITATE OFFENSIVE MILITARY ACTIONS IN SUDAN; OR**

14 **(2) IMPLEMENTS SAFEGUARDS TO PREVENT USE OF MILITARY**
15 **EQUIPMENT BY FORCES ACTIVELY PARTICIPATING IN ARMED CONFLICT.**

16 **21-1A-03.**

17 **(A) (1) AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, ON OR**
18 **BEFORE OCTOBER 1, 2007, THE BOARD OF TRUSTEES SHALL IDENTIFY ALL**
19 **SCRUTINIZED COMPANIES IN WHICH THE BOARD OF TRUSTEES HAS DIRECT OR**
20 **INDIRECT HOLDINGS.**

21 **(2) TO IDENTIFY SCRUTINIZED COMPANIES AS REQUIRED UNDER**
22 **PARAGRAPH (1) OF THIS SUBSECTION, THE BOARD OF TRUSTEES SHALL:**

23 **(I) REVIEW AND RELY ON PUBLICLY AVAILABLE**
24 **INFORMATION REGARDING COMPANIES WITH BUSINESS OPERATIONS IN SUDAN,**
25 **INCLUDING INFORMATION PROVIDED BY NONPROFIT ORGANIZATIONS,**
26 **RESEARCH FIRMS, INTERNATIONAL ORGANIZATIONS, AND GOVERNMENT**
27 **ENTITIES;**

1 **(II) CONTACT ASSET MANAGERS CONTRACTED BY THE**
2 **BOARD OF TRUSTEES ON BEHALF OF THE SEVERAL SYSTEMS, WITH BUSINESS**
3 **OPPORTUNITIES IN SUDAN; AND**

4 **(III) CONTACT OTHER INSTITUTIONAL INVESTORS THAT**
5 **HAVE DIVESTED FROM OR ENGAGED WITH COMPANIES THAT HAVE BUSINESS**
6 **OPERATIONS IN SUDAN.**

7 **(B) ON OR BEFORE NOVEMBER 1, 2007, THE BOARD OF TRUSTEES**
8 **SHALL PREPARE A LIST OF ALL SCRUTINIZED COMPANIES IDENTIFIED UNDER**
9 **SUBSECTION (A) OF THIS SECTION.**

10 **(C) THE BOARD OF TRUSTEES SHALL UPDATE THE LIST PREPARED**
11 **UNDER SUBSECTION (B) OF THIS SECTION ON A QUARTERLY BASIS.**

12 **21-1A-04.**

13 **(A) FOR PURPOSES OF THIS SECTION, ACTIVELY MANAGED**
14 **INVESTMENT FUNDS INCLUDE PRIVATE EQUITY FUNDS.**

15 **(B) (1) (I) FOR EACH COMPANY IDENTIFIED IN § 21-1A-03 OF**
16 **THIS SUBTITLE WITH ONLY INACTIVE BUSINESS OPERATIONS, THE BOARD OF**
17 **TRUSTEES SHALL:**

18 **1. SEND A WRITTEN NOTICE INFORMING THE**
19 **COMPANY OF THE PROVISIONS INCLUDED IN THIS SUBTITLE; AND**

20 **2. ENCOURAGE THE COMPANY TO CONTINUE TO**
21 **REFRAIN FROM INITIATING ACTIVE BUSINESS OPERATIONS IN SUDAN UNTIL IT**
22 **IS ABLE TO AVOID ALL SCRUTINIZED BUSINESS OPERATIONS.**

23 **(II) THE BOARD OF TRUSTEES SHALL SEND**
24 **CORRESPONDENCE DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS**
25 **PARAGRAPH EVERY 6 MONTHS.**

26 **(2) (I) FOR EACH COMPANY IDENTIFIED IN § 21-1A-03 OF**
27 **THIS SUBTITLE WITH ACTIVE BUSINESS OPERATIONS, THE BOARD OF TRUSTEES**
28 **SHALL SEND A WRITTEN NOTICE INFORMING THE COMPANY:**

1 **1. OF ITS SCRUTINIZED COMPANY STATUS; AND**

2 **2. THAT IT MAY BECOME SUBJECT TO DIVESTMENT**
3 **BY THE BOARD OF TRUSTEES.**

4 **(II) THE NOTICE SHALL OFFER THE COMPANY THE**
5 **OPPORTUNITY TO CLARIFY ITS SUDAN-RELATED ACTIVITIES AND SHALL**
6 **ENCOURAGE THE COMPANY, WITHIN 90 DAYS OF RECEIPT OF THE**
7 **CORRESPONDENCE, TO EITHER CEASE ITS SCRUTINIZED BUSINESS OPERATIONS**
8 **OR CONVERT SUCH OPERATIONS TO INACTIVE BUSINESS OPERATIONS IN ORDER**
9 **TO AVOID QUALIFYING FOR DIVESTMENT BY THE BOARD OF TRUSTEES.**

10 **(3) (I) IF WITHIN 90 DAYS OF RECEIPT OF THE**
11 **CORRESPONDENCE DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, A**
12 **COMPANY CEASES SCRUTINIZED BUSINESS OPERATIONS, THE COMPANY SHALL**
13 **BE REMOVED FROM THE BOARD OF TRUSTEES' LIST OF SCRUTINIZED**
14 **COMPANIES AND THE PROVISIONS OF THIS SUBTITLE SHALL CEASE TO APPLY**
15 **TO IT UNLESS IT RESUMES SCRUTINIZED BUSINESS OPERATIONS.**

16 **(II) IF WITHIN 90 DAYS OF RECEIPT OF THE**
17 **CORRESPONDENCE DESCRIBED IN PARAGRAPH (2)(I) OF THIS SUBSECTION, A**
18 **COMPANY CONVERTS ITS SCRUTINIZED ACTIVE BUSINESS OPERATIONS TO**
19 **INACTIVE BUSINESS OPERATIONS, THE COMPANY SHALL BE SUBJECT TO ALL**
20 **PROVISIONS IN THIS SUBTITLE AS THEY RELATE TO SCRUTINIZED COMPANIES.**

21 **(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
22 **SUBSECTION, IF, ON THE 91ST DAY OF RECEIPT OF THE CORRESPONDENCE**
23 **DESCRIBED UNDER SUBSECTION (B)(2)(I) OF THIS SECTION, THE COMPANY**
24 **CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS, THE BOARD**
25 **OF TRUSTEES SHALL SELL, REDEEM, DIVEST, OR WITHDRAW ALL PUBLICLY**
26 **TRADED SECURITIES OF THE COMPANY ACCORDING TO THE FOLLOWING**
27 **SCHEDULE:**

28 **(I) AT LEAST 50% OF ALL ASSETS HELD IN THE COMPANY**
29 **BY THE BOARD OF TRUSTEES SHALL BE REMOVED AS ASSETS UNDER**
30 **MANAGEMENT WITHIN 9 MONTHS AFTER THE COMPANY'S MOST RECENT**
31 **APPEARANCE ON THE BOARD OF TRUSTEES' LIST OF SCRUTINIZED COMPANIES;**
32 **AND**

1 **(II) 100% OF ALL ASSETS HELD IN THE COMPANY BY THE**
2 **BOARD OF TRUSTEES SHALL BE REMOVED AS ASSETS UNDER MANAGEMENT**
3 **WITHIN 15 MONTHS AFTER THE COMPANY'S MOST RECENT APPEARANCE ON THE**
4 **BOARD OF TRUSTEES' LIST OF SCRUTINIZED COMPANIES.**

5 **(2) (I) IF A COMPANY THAT CEASED SCRUTINIZED ACTIVE**
6 **BUSINESS OPERATIONS FOLLOWING RECEIPT OF CORRESPONDENCE UNDER**
7 **SUBSECTION (B)(2)(I) OF THIS SECTION RESUMES SCRUTINIZED ACTIVE**
8 **BUSINESS OPERATIONS, PARAGRAPH (1) OF THIS SUBSECTION SHALL APPLY**
9 **IMMEDIATELY.**

10 **(II) THE BOARD OF TRUSTEES SHALL SEND WRITTEN**
11 **NOTICE TO A COMPANY DESCRIBED UNDER SUBPARAGRAPH (I) OF THIS**
12 **PARAGRAPH THAT THE COMPANY HAS BEEN PLACED ON THE BOARD OF**
13 **TRUSTEES' LIST OF SCRUTINIZED COMPANIES AND THE BOARD OF TRUSTEES**
14 **WILL BEGIN DIVESTMENT PROCEDURES AS PROVIDED UNDER PARAGRAPH (1)**
15 **OF THIS SUBSECTION.**

16 **(3) THIS SUBSECTION APPLIES ONLY TO A COMPANY WHILE IT**
17 **CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS.**

18 **(D) EXCEPT AS PROVIDED IN SUBSECTION (E) OF THIS SECTION, THE**
19 **BOARD OF TRUSTEES MAY NOT ACQUIRE SECURITIES OF COMPANIES ON ITS**
20 **LIST OF SCRUTINIZED COMPANIES THAT HAVE ACTIVE BUSINESS OPERATIONS.**

21 **(E) A COMPANY THAT THE FEDERAL GOVERNMENT AFFIRMATIVELY**
22 **DECLARES TO BE EXCLUDED FROM ITS PRESENT OR ANY FUTURE FEDERAL**
23 **SANCTIONS REGIME RELATING TO SUDAN MAY NOT BE SUBJECT TO**
24 **DIVESTMENT OR INVESTMENT PROHIBITION UNDER SUBSECTIONS (C) AND (D)**
25 **OF THIS SECTION.**

26 **(F) (1) SUBSECTIONS (C) AND (D) OF THIS SECTION DO NOT APPLY TO**
27 **INDIRECT HOLDINGS IN ACTIVELY MANAGED INVESTMENT FUNDS.**

28 **(2) THE BOARD OF TRUSTEES SHALL SEND LETTERS TO ANY**
29 **MANAGER WHO IS RESPONSIBLE FOR INVESTMENT FUNDS CONTAINING**
30 **COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS AND REQUEST**
31 **THAT THE MANAGER CONSIDER REMOVING SUCH COMPANIES FROM THE FUND**

1 OR CREATE A SIMILAR ACTIVELY MANAGED FUND WITH INDIRECT HOLDINGS
2 DEVOID OF SUCH COMPANIES.

3 (3) IF THE MANAGER CREATES A SIMILAR FUND, THE BOARD OF
4 TRUSTEES SHALL REPLACE ALL APPLICABLE INVESTMENTS WITH
5 INVESTMENTS IN THE SIMILAR FUND IN AN EXPEDITED TIME FRAME
6 CONSISTENT WITH PRUDENT INVESTING STANDARDS.

7 **21-1A-05.**

8 (A) WITHIN 30 DAYS OF CREATING A LIST OF SCRUTINIZED COMPANIES
9 UNDER § 21-1A-03 OF THIS SUBTITLE, THE BOARD OF TRUSTEES SHALL
10 SUBMIT TO THE CHAIR OF THE JOINT COMMITTEE ON PENSIONS A COPY OF
11 THE LIST OF SCRUTINIZED COMPANIES.

12 (B) BEGINNING SEPTEMBER 1, 2008, AND EVERY YEAR THEREAFTER,
13 THE BOARD OF TRUSTEES SHALL SUBMIT TO THE CHAIRMAN OF THE JOINT
14 COMMITTEE AND THE UNITED STATES PRESIDENTIAL SPECIAL ENVOY TO
15 SUDAN A REPORT INCLUDING:

16 (1) A SUMMARY OF CORRESPONDENCE WITH COMPANIES
17 ENGAGED BY THE BOARD OF TRUSTEES UNDER § 21-1A-04(B) OF THIS
18 SUBTITLE;

19 (2) ALL INVESTMENTS SOLD, REDEEMED, DIVESTED, OR
20 WITHDRAWN IN COMPLIANCE WITH § 21-1A-04(C) OF THIS SUBTITLE;

21 (3) ALL PROHIBITED INVESTMENTS UNDER § 21-1A-04(D) OF
22 THIS SUBTITLE; AND

23 (4) ANY PROGRESS MADE UNDER § 21-1A-04(F) OF THIS
24 SUBTITLE SINCE SUBMITTING THE PREVIOUS REPORT.

25 **21-1A-06.**

26 THE PROVISIONS OF THIS SUBTITLE SHALL EXPIRE IF THE UNITED
27 STATES CONGRESS OR THE PRESIDENT OF THE UNITED STATES:

1 **(1) DECLARES THAT THE DARFUR GENOCIDE HAS BEEN HALTED**
2 **FOR AT LEAST 12 CONSECUTIVE MONTHS;**

3 **(2) REVOKES ALL SANCTIONS IMPOSED AGAINST THE**
4 **GOVERNMENT OF SUDAN; OR**

5 **(3) THROUGH LEGISLATION OR EXECUTIVE ORDER, DECLARES**
6 **THAT MANDATORY DIVESTMENT OF THE TYPE PROVIDED FOR UNDER THIS**
7 **SUBTITLE INTERFERES WITH THE CONDUCT OF UNITED STATES FOREIGN**
8 **POLICY.**

9 **21-1A-07.**

10 **WITH RESPECT TO ANY ACTION TAKEN IN COMPLIANCE WITH THE**
11 **PROVISIONS OF THIS SUBTITLE, INCLUDING ALL GOOD FAITH DETERMINATIONS**
12 **REGARDING COMPANIES AS REQUIRED BY THE PROVISIONS OF THIS SUBTITLE,**
13 **THE BOARD OF TRUSTEES SHALL BE EXEMPT FROM ANY CONFLICTING**
14 **STATUTORY OR COMMON LAW OBLIGATIONS, INCLUDING ANY SUCH**
15 **OBLIGATIONS REGARDING CHOICE OF ASSET MANAGERS, INVESTMENT FUNDS,**
16 **OR INVESTMENTS FOR THE SECURITIES PORTFOLIOS OF THE BOARD OF**
17 **TRUSTEES.**

18 **21-1A-08.**

19 **(A) THIS SECTION DOES NOT APPLY TO ANY COMPANY THAT HAS**
20 **CEASED SCRUTINIZED ACTIVE BUSINESS OPERATIONS.**

21 **(B) THE BOARD OF TRUSTEES MAY CEASE DIVESTING FROM**
22 **SCRUTINIZED COMPANIES AND BEGIN REINVESTING IN THESE COMPANIES ONLY**
23 **IF CLEAR AND CONVINCING EVIDENCE SHOWS THAT THE VALUE FOR ALL**
24 **ASSETS UNDER MANAGEMENT BY THE BOARD OF TRUSTEES BECOMES EQUAL**
25 **TO OR LESS THAN 99.50% OF THE VALUE OF ALL ASSETS UNDER MANAGEMENT**
26 **BY THE BOARD OF TRUSTEES, ASSUMING NO DIVESTMENT FOR ANY COMPANY**
27 **HAS OCCURRED.**

28 **(C) (1) FOR ANY CESSATION OF DIVESTMENT, REINVESTMENT, AND**
29 **SUBSEQUENT ONGOING INVESTMENT AUTHORIZED BY THIS SECTION, THE**
30 **BOARD OF TRUSTEES SHALL SUBMIT A REPORT TO THE CHAIR OF THE JOINT**
31 **COMMITTEE ON PENSIONS IN ADVANCE OF INITIAL REINVESTMENT, THE**

1 REASONS AND JUSTIFICATION, SUPPORTED BY CLEAR AND CONVINCING
2 EVIDENCE, FOR ITS DECISIONS TO CEASE DIVESTMENT, REINVEST, OR REMAIN
3 INVESTED IN COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS.

4 (2) THE REPORT SUBMITTED UNDER PARAGRAPH (1) OF THIS
5 SUBSECTION SHALL BE UPDATED EVERY 6 MONTHS.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 July 1, 2007.