

HB

92

Nancy Manly

From: Rowland, Mindy B (GOV) [mindy.rowland@alaska.gov]
Sent: Monday, February 23, 2009 4:33 PM
To: Nancy Manly; Dirk Moffatt
Cc: Gallagher, Gerald L (GOV)
Subject: RE: House State Affairs Committee - Amendments to HB 92 plus report on Sudan Company Rankings

Hi Nancy and Dirk

Dirk had asked me the Governor's Office position on these amendments. As discussed several times, we oppose the first two A.1 and A.2. We do not see any issues with A.3 or A.4.

Let me know if you have any questions.

Thanks
Mindy

Mindy Rowland
Deputy Legislative Director
Office of Governor Sarah Palin
465-3994

From: Nancy Manly [mailto:Nancy_Manly@legis.state.ak.us]
Sent: Monday, February 23, 2009 3:12 PM
Subject: House State Affairs Committee - Amendments to HB 92 plus report on Sudan Company Rankings

Attached are four amendments to HB 92 Divest Investments in Sudan – up in House State Affairs Committee tomorrow morning. Please print off and bring to committee. Thanks.

Nancy Manly, Chief of Staff and
House State Affairs Committee Aide *for*
Representative Bob Lynn
House District 31
907-465-2794 Fax: 907-465-4316

Alaska State Legislature



Chairman
State Affairs Committee

Member
Judiciary Committee
Labor & Commerce Committee
Health & Social Services Committee
Military & Veterans Affairs Committee

Finance Subcommittees
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety

A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative_Bob_Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol, #104
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

FAX

To: Legal Services

Fax #: 465-2029

From: Nancy Manly 465-2794
Alaska State Capitol, room 104
Juneau, AK 99801-1182

of Pages (including cover): 3

Phone: 907-465-4931

Fax: 907-465-4316

Re DRAFT House STA CS to HB 92

Please draft a House STA CS to HB 92 adding the following amendments (attached):

- 1) 26-GH1049\A.3
- 2) 26-GH1049\A.4

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE GRUENBERG

TO: HB 92

- 1 Page 5, line 26:
- 2 Delete all material.
- 3 Insert "For actions taken, or inaction done in good faith, in compliance with
- 4 AS 37.10.072, the"

Comment: This is a technical correction to ensure that exemptions, immunity and indemnification apply only for activities done in connection with AS 37.10.072 (the previous section of this bill). Current language could be read as providing exemption, immunity, or indemnification for any inaction done in good faith.

AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE PETERSEN

TO: HB 92

1 Page 2, line 14, following "Sudan.":

2 Insert "Divestment of an ownership interest in a company shall occur within 90 days
3 after it is placed on the list created and updated under (c) of this section if the investment is
4 managed by the commissioner or fiduciary."

5

6 Page 2, line 16, following "divest":

7 Insert ", within 90 days after receiving the direction,"

HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/28/09

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to certain investments of the Alaska permanent fund, the state's
2 retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred
3 compensation program for state employees in companies that do business in Sudan, and
4 restricting those investments; and providing for an effective date."

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 * **Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
7 to read:

8 FINDINGS. The legislature finds that

9 (1) since 1997, the federal government has imposed fiscal sanctions against
10 the Government of Sudan for acts of terrorism and atrocities directed against civilians in the
11 Darfur region of Sudan;

12 (2) the fiscal sanctions described in (1) of this section are monitored through
13 the United States Department of the Treasury's office of foreign assets control;

14 (3) the State of Alaska controls significant financial assets through

1 investments in the Alaska permanent fund and funding of the State of Alaska retirement
2 systems, supplemental annuity plans, and deferred compensation, among other funds;

3 (4) it is a fundamental responsibility of the State of Alaska to decide where,
4 how, and by whom financial resources in its control are invested, taking into account
5 numerous pertinent factors; and

6 (5) the investment of financial resources in business firms and financial
7 institutions with ties to the repressive regime in the Sudan is inconsistent with the moral and
8 political values of the people of Alaska.

9 * **Sec. 2.** AS 37.10 is amended by adding new sections to read:

10 **Sec. 37.10.072. Sudan divestment.** (a) The commissioner or any fiduciary of a
11 fund subject to this title may not invest in and if owned, shall cause the fund to divest
12 ownership in the publicly traded securities of a company that is placed by the
13 commissioner on a list of companies that conduct or have direct investments in
14 business operations in Sudan. On or before January 31 of each year, if the fund has
15 investments managed by an outside investment manager, the fiduciary shall direct the
16 investment manager not to invest in and if owned, to divest ownership in the publicly
17 traded securities of a company that is placed by the commissioner on a list of
18 companies that conduct or have direct investments in business operations in Sudan.

19 (b) If an investment in a fund under (a) of this section is managed as a
20 commingled investment or other business structure in which the fund is not the sole
21 owner of the investment interest or the investment is an index fund, the provisions of
22 (a) of this section do not apply. The commissioner shall require that, on or before
23 January 31 of each year, the fiduciary submit letters to the managers of commingled
24 investments requesting the manager to consider removing from the commingled
25 investment any company on the list of companies that conduct or have direct
26 investments in business operations in Sudan.

27 (c) The commissioner shall create and update on or before December 31 of
28 *Section* each year a list of companies that conduct or have direct investments in business
29 operations in Sudan.

30 (d) The commissioner shall make reasonable efforts to investigate all publicly
31 traded companies to determine whether the company conducts or has direct

1 investments in business operations in Sudan. In conducting the investigation, the
2 commissioner may use the following:

3 (1) credible publicly available information regarding companies with
4 active business operations compiled by nonprofit organizations, research firms,
5 international organizations, and government entities;

6 (2) information supplied by institutional investors that have divested
7 from companies that conduct or have direct investments in business operations in
8 Sudan.

9 (e) The commissioner shall provide written notice and an opportunity to
10 comment in writing to each company identified as a company that conducts or has
11 direct investments in business operations in Sudan under (d) of this section.

12 (f) The commissioner shall add a company identified under (d) of this section
13 to the list of companies that conduct or have direct investments in business operations
14 in Sudan not earlier than 90 days after providing written notice under (e) of this
15 section, unless the company demonstrates to the commissioner that it does not conduct
16 or have direct investments in business operations in Sudan.

17 (g) The commissioner shall make every effort to avoid erroneously adding a
18 company to the list of companies that conduct or have direct investments in business
19 operations in Sudan. The commissioner shall verify that the company conducts or has
20 direct investments in business operations in Sudan before adding it to the list of
21 companies that conduct or have direct investments in business operations in Sudan.

22 (h) On or before January 31 of each year, the commissioner shall advise the
23 president of the senate, the speaker of the house, and the United States presidential
24 special envoy for Sudan of the companies on the list of companies that conduct or
25 have direct investments in business operations in Sudan.

26 (i) The commissioner of revenue may adopt regulations under AS 44.62 to
27 carry out the purposes of the section.

28 (j) In this section

29 (1) "business operations"

30 (A) means power production activities, mineral extraction
31 activities, oil-related activities, or the production of military equipment;

1 (B) does not include operations that the company can
2 demonstrate

3 (i) are conducted under contract directly and
4 exclusively with the regional government of southern Sudan;

5 (ii) are conducted under a license from the United
6 States Department of the Treasury, office of foreign assets control, or
7 are expressly exempted under federal law from the requirement to be
8 conducted under such a license;

9 (iii) consist of providing goods or services to
10 marginalized populations of Sudan;

11 (iv) consist of providing goods or services to an
12 internationally recognized peacekeeping force or humanitarian
13 organization;

14 (v) consist of providing goods or services that are used
15 only to promote health or education; or

16 (vi) have been voluntarily suspended;

17 (2) "commissioner" means the commissioner of revenue;

18 (3) "Government of Sudan"

19 (A) means the government in Khartoum, Sudan, which is led
20 by the National Congress Party, formerly known as the National Islamic Front,
21 or any successor government formed on or after October 13, 2006;

22 (B) includes the coalition National Unity Government agreed
23 upon in the Comprehensive Peace Agreement for Sudan;

24 (C) does not include the regional government of southern
25 Sudan;

26 (4) "marginalized populations of Sudan" means adversely affected
27 groups in regions authorized to receive assistance under sec. 8(c), P.L. 109-344
28 (Darfur Peace and Accountability Act of 2006) and marginalized areas in northern
29 Sudan described in sec. 4(9), P.L. 109-344;

30 (5) "military equipment"

31 (A) means weapons, arms, military supplies, and equipment

1 that readily may be used for military purposes;

2 (B) includes radar systems or military-grade transport vehicles,
3 supplies, or services sold or provided directly to a force actively participating
4 in armed conflict in Sudan;

5 (6) "mineral extraction activities"

6 (A) means exploring, extracting, processing, transporting, or
7 wholesale selling or trading of elemental minerals, associated metal alloys,
8 oxides, or ore;

9 (B) includes activities involving gold, copper, chromium,
10 chromite, diamonds, iron, iron ore, silver, tungsten, uranium, and zinc;

11 (7) "oil-related activities" means

12 (A) exporting, extracting, producing, refining, processing,
13 exploring for, transporting, selling, or trading oil; and

14 (B) constructing, maintaining, or operating a pipeline, refinery,
15 or other oilfield infrastructure;

16 (8) "power production activities"

17 (A) means a business operation that involves a project
18 commissioned by the National Electricity Corporation of Sudan or other
19 similar entity of the Government of Sudan whose purpose is to facilitate power
20 generation and delivery;

21 (B) includes establishing power-generating plants or
22 hydroelectric dams, selling or installing components for the project, or
23 providing service contracts related to the installation or maintenance of the
24 project.

25 **Sec. 37.10.073. Divestment exemptions, immunity, and indemnification.**

26 For actions taken in compliance with AS 37.10.072 or inaction done in good faith, the
27 commissioner of revenue, fiduciary, and the commissioner of revenue's or fiduciary's
28 agents, attorneys, trustees, officers, employees, staff, custodians, research firms, and
29 investment managers under contract, and board members complying with
30 AS 37.10.220 or AS 37.13.120 are

31 (1) exempt from any conflicting state statutory or common law

1 obligations, including any obligations with respect to choice of asset managers,
2 investment funds, or investments for the public fund's securities portfolios;

3 (2) immune from liability under state or local law;

4 (3) indemnified and held harmless by the State of Alaska from claims,
5 demands, suits, actions, damages, judgments, costs, charges, and expenses, including
6 costs and attorney fees, and against all liability, losses, and damages of any nature that
7 the commissioner, fiduciary, and the commissioner's or fiduciary's agents, attorneys,
8 trustees, officers, employees, staff, custodians, research firms, and investment
9 managers under contract may at any time sustain by reason of any decision to restrict,
10 reduce, or eliminate investments made in compliance with AS 37.10.072; and

11 (4) immune from adverse licensing actions under AS 08.

12 * **Sec. 3.** AS 37.10.220 is amended by adding a new subsection to read:

13 (d) The board shall comply with AS 37.10.072.

14 * **Sec. 4.** AS 37.13.120 is amended by adding a new subsection to read:

15 (f) The board shall comply with AS 37.10.072.

16 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 REPEAL. Sections 1, 3, and 4 of this Act and AS 37.10.072, enacted by sec. 2 of this
19 Act, are repealed on the earliest of the day after

20 (1) the commissioner of revenue gives written notice to the revisor of statutes
21 and the lieutenant governor that the President of the United States has certified to Congress
22 that the Government of Sudan has honored its commitments to

23 (A) abide by the United Nations Security Council Resolution 1769
24 (2007);

25 (B) cease attacks on civilians;

26 (C) demobilize and demilitarize the Janjaweed and associated militias;

27 (D) grant free and unfettered access for delivery of humanitarian
28 assistance; and

29 (E) allow for the safe and voluntary return of refugees and internally
30 displaced persons;

31 (2) the United States Congress or the President of the United States, through

1 legislation or executive order, declares that the Sudan divestment authorized in AS 37.10.072
2 interferes with the conduct of United States foreign policy; or

3 (3) P.L. 110-174 (Sudan Accountability and Divestment Act of 2007) is
4 repealed.

5 * Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 NOTICE. Not later than 30 days after the enactment of this Act, the Department of
8 Law is directed to submit written notice to the attorney general of the United States describing
9 this Act.

10 * Sec. 7. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 92
(H) Publish Date: 1/28/09

Identifier (file name): _____ Dept. Affected: Revenue
Title DIVEST INVESTMENTS IN SUDAN RDU AK Permanent Fund Corporation
Sponsor _____ Component AK Permanent Fund Corporation
Requester _____ Component Number 109

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill would require that APFC divest any securities of publicly traded companies that are held in actively managed separate (non-commingled) funds. This bill would also require that APFC send letters to managers of actively traded commingled funds requesting that they consider divesting the listed securities. Based on consultations with external managers and other public funds, APFC does not anticipate any additional costs from the divestment process. APFC investment and finance staff will be able to absorb the compliance and correspondence activities into their regular workload. APFC will not incur any administrative costs in developing the divestment list, as the Commissioner of Revenue is responsible for this task under the proposed legislation.

Prepared by: Michael J. Burns
Division Alaska Permanent Fund Corporation

Phone 907-796-1522

Date/Time January

Approved by: _____

Date _____

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 92
 (H) Publish Date: 1/28/09

Identifier (file name): 0049-DOR-TRS-1-16-09
 Title: Sudan Divestiture
 Sponsor: Rules Committee
 Requester: Governor Palin
 Dept. Affected: Revenue
 RDU: Treasury
 Component: ARMB/ARMB Custody/Treasury
 Component Number: 2813/2812/121

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

The bill requires the fiduciaries of state investment funds to divest of certain investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. No appropriation is required as implementation will be carried out through existing personal services and custodial resources. The effect this bill will have on investment performance is unknown.

Prepared by: Pamela Green, Comptroller
 Division: Treasury Division
 Approved by: Jerry Burnett, Deputy Commissioner
 Department of Revenue

Phone: 465-2300
 Date/Time: Thursday; 12 noon
 Date: 1/15/2009

Compliance Procedures relating to Prospective Sudan Divestiture Legislation January 28, 2009

The first column below contains procedures the compliance team would employ if the Governor's Sudan Legislation passes as written. The next two columns identify changes to the procedure if either House Bill passes.

Governor's Bill	House Bill 5	House Bill 45
<p><u>The following procedures must be completed prior to each December 31 (steps 1-4 must start prior to September 30 to meet Dec 31 deadline):</u></p> <ol style="list-style-type: none"> 1. <u>Annually</u>, prepare an initial list of companies that conduct or have direct investments in business operations in Sudan as defined by the legislation. 2. Send a written notice to listed companies advising they have been identified as a company that conducts or has direct investments in business operations in Sudan. The notice will offer the company 90 days to respond in writing to clarify its activities in Sudan. 3. If within 90 days the company demonstrates that it does not conduct or have direct investments in business operations in Sudan*, the company will <u>not</u> be added to the "Prohibited Investments" list. Otherwise, it will be added to the "Prohibited Investments" list. *The company will have to provide evidence to support their claims. 4. Compile the official "Prohibited Investments" list based on information obtained in steps 1-3. 	<p><u>Quarterly</u>, prepare/update list.</p> <p>Send letters only to companies in which the fund has direct holdings: -<u>Active Business operations</u> will get a letter of divestiture offering 90 days to respond. -<u>Inactive business operations</u> will get a letter requesting to refrain from active operations and be removed from list.</p>	<p><u>Quarterly</u>, prepare/update list.</p> <p>Send letters only to companies in which the fund has direct holdings: -<u>Active Business operations</u> will get a letter of divestiture offering 90 days to respond. -<u>Inactive business operations</u> will get a letter requesting to refrain from active operations and be removed from list.</p>

<p>The following procedures must be completed prior to each January 31:</p>		
<p>5. Identify companies on the Prohibited Investments list in which the fund has direct investments. Funds excluded from this step are: 1) commingled investments or other business structure in which the fund is not the sole owner of the investment interest and 2) index funds.</p>	<p>Does not exclude Passive commingled and wholly owned Index funds from this step.</p>	<p>Does not exclude Passive commingled and wholly owned Index funds from this step.</p>
<p>6. Provide the updated Prohibited Investments list to all investment managers (internal and external) advising them not to invest in the publicly traded securities of a company that is placed on the list and notify all investment managers to immediately divest ownership in the publicly traded securities of the companies on the Prohibited Investments list.</p>	<p>For funds managed internally, the securities shall be immediately sold. <u>For funds managed externally, at least 50% shall be divested within 9 months and the balance shall be divested during the next 6 months.</u></p>	<p>This bill's language is contradictory. The intention seems to have been the same as HB5 but instead implies that internal and external funds should be immediately sold but also that for all internal and external funds, 50% should be divested within 9 months and the balance over the following 6 months.</p>
<p>7. Send letters to all managers of commingled investments requesting they consider removing from the commingled investment any company on the Prohibited Investments list.</p>		
<p>8. Provide the President of the Senate, the Speaker of the House and the U.S. Presidential Special Envoy for Sudan the Prohibited Investments list.</p>	<p>By February 1, create and file a report with the legislature, attorney general, and the U.S. Presidential Special Envoy for Sudan summarizing activities under this section. The report must include the most recently updated list of scrutinized companies.</p>	<p>By February 1, create and file a report with the legislature, attorney general, and the U.S. Presidential Special Envoy for Sudan summarizing activities under this section. The report must include the most recently updated list of scrutinized companies.</p>

State of Alaska

Department of Revenue

Commissioner's Office



SARAH PALIN, GOVERNOR

333 Willoughby Avenue, 11th Floor

P.O. Box 110400

Juneau, Alaska 99811-0405

Phone: (907) 465-2300

Fax: (907) 465-2394

January 28, 2009

The Honorable Bob Lynn
Alaska State Legislature
State Capitol, Room 104
Juneau, AK 99801

Dear Representative Lynn:

I am requesting that the Senate World Trade Committee hear HB92. This bill relates to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments. This bill requires the fiduciaries of state investment funds to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan, as defined by the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

Section 1 of the bill enumerates a number of legislative findings and intent related to the genocide in the Darfur region of Sudan and the need for divestment to address this issue.

Sections 2 – 4 of the bill require the commissioner of revenue, the Alaska Retirement Management Board of Trustees, and the Alaska Permanent Fund Board of Trustees to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. These sections are drafted to comply with the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174. Section 2 of the bill also provides for immunity and indemnification for the state's investment fund fiduciaries in connection with the implementation of a Sudan divestment policy. There is authority for the notion that divestment policies are not consistent with the prudent investor standard (see, e.g., 1998 Inf. Op. Att'y Gen. at 198 (663-98-0297; Aug. 12); Alaska State Senate, Rural Research Agency, Alaska's Permanent Fund: Legislative History, Intent and Operations at 39-40 (Jan. 1986)). Accordingly, these provisions are important to protect the fiduciaries of the state's investment funds from any challenge or liability that may result from implementation of this bill.

Section 5 of the bill provides for sunset of the divestment provisions of this bill upon the earlier of three occurrences: (1) if the sunset provisions in sec. 12 of the Sudan Divestment and Accountability Act of 2007 are satisfied, (2) if Congress or the President declares that Sudan divestment policies interfere with United States foreign policy; or (3) if the Sudan Divestment and Accountability Act of 2007 is repealed.

Section 6 of the bill requires notice of the enactment of this measure to the United States Attorney General. This provision is required by sec. 3(c) of the Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

Section 7 provides for an immediate effective date for the bill

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to be 'PG' followed by a long horizontal line that tapers to a point on the right.

Patrick Galvin
Commissioner

SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3500
FAX (907) 465-3532
WWW.GOV.STATE.AK.US

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 23, 2009

The Honorable Mike Chenault
Speaker of the House
Alaska State Legislature
State Capitol, Room 208
Juneau, AK 99801-1182

Dear Speaker Chenault:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill relating to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments. This bill requires the fiduciaries of state investment funds to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan, as defined by the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

On September 21, 2004, addressing the United Nations General Assembly, President George W. Bush stated, "[A]t this hour, the world is witnessing terrible suffering and horrible crimes in the Darfur region of Sudan, crimes my government has concluded are genocide." On September 25, 2006, Congress reaffirmed that "the genocide unfolding in the Darfur region of Sudan is characterized by acts of terrorism and atrocities directed against civilians, including mass murder, rape, and sexual violence committed by the Janjaweed and associated militias with the complicity and support of the National Congress Party-led faction of the Government of Sudan." The federal government has imposed sanctions against the Government of Sudan since 1997. These sanctions are monitored through the U.S. Treasury Department's Office of Foreign Assets Control (OFAC).

The investment of funds in business firms and financial institutions with ties to the repressive regime in Sudan is inconsistent with the moral and political values of the people of Alaska. It is a fundamental responsibility of the state of Alaska to decide where, how, and by whom financial resources in its control should be invested, taking into account numerous pertinent factors. The people of Alaska condemn the human rights abuses, enslavement and genocide in Sudan and declare these atrocities to be

The Honorable Mike Chenault
January 23, 2009
Page 2

contrary to the fundamental principles of human rights and standards of justice and individual freedoms.

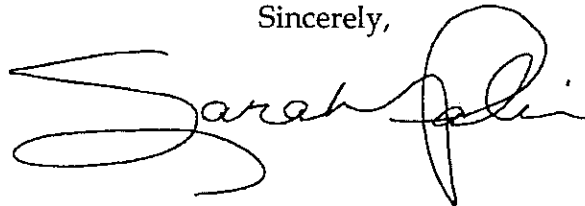
The bill will require the commissioner of the Department of Revenue, the Alaska Retirement Management Board of Trustees, and the Alaska Permanent Fund Board of Trustees to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. These provisions are drafted to comply with the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174, which includes notice of the enactment of this measure to the United States Attorney General.

The bill also provides for immunity and indemnification for the state's investment fund fiduciaries in connection with the implementation of a Sudan divestment policy. There is authority for the notion that divestment policies are not consistent with the prudent investor standard (*see, e.g.,* 1998 Inf. Op. Att'y Gen. at 198 (663-98-0297; Aug. 12); Alaska State Senate, Rural Research Agency, *Alaska's Permanent Fund: Legislative History, Intent and Operations* at 39-40 (Jan. 1986)). Accordingly, these provisions are important to protect the fiduciaries of the state's investment funds from any challenge or liability that may result from implementation of this bill.

Further, the bill provides for sunset of the divestment provisions of this bill upon the earlier of three occurrences: 1.) if the sunset provisions in sec. 12 of the Sudan Divestment and Accountability Act of 2007 are satisfied, 2.) if Congress or the President declares that Sudan divestment policies interfere with United States foreign policy; or 3.) if the Sudan Divestment and Accountability Act of 2007 is repealed.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large loop at the end of the last name.

Sarah Palin
Governor



GENOCIDE INTERVENTION

— NETWORK —

Have a hand in stopping genocide

1333 H Street NW, Washington, DC 20005

PHONE (202) 481-8220
FAX (800) 991-2024
E-MAIL info@GenocideIntervention.net
WEB SITE www.GenocideIntervention.net

Sudan Company Rankings

IMPORTANT: NOT VALID AFTER February 28, 2009

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A Report by
The Sudan Divestment Task Force

UPDATED November 30, 2008

Contributors to this rankings report include the Sudan Divestment Task Force research team, various fiduciaries that have engaged companies on this list, and non-profit groups and think tanks with information on Sudan. All research has been confirmed by at least two individuals unless indicated. Analytical review of certain companies has been provided by [Calvert](#).

BACKGROUND INFORMATION

The *Sudan Company Rankings* report is intended to serve as a listing of all companies that the Sudan Divestment Task Force (SDTF) has determined warrant scrutiny by investors because of their business operations in Sudan. SDTF has reviewed over 800 companies with connections to Sudan, and concludes that the subset of companies listed in this document warrant further investigation.

Please note that not all companies in this document warrant divestment. Rather, some currently are candidates only for shareholder engagement. Details regarding the distinction between companies warranting divestment, and those warranting engagement, appear below.

CRITERIA

In contrast to other models of divestment that advocate targeting all non-humanitarian business connections to Sudan, SDTF only places a company in this document if it generally:

- 1. Has a business relationship with the government, a government-created project, or companies affiliated with a government-created project; AND**
- 2. Provides little benefit to the disadvantaged populations of Sudan; AND**
- 3. Has not developed a substantial business-practice policy that acknowledges and deals with the fact that the company may be inadvertently contributing to the Sudanese government's genocidal capacity.**

These general criteria are defined more specifically in SDTF's legislative model for targeted divestment:

www.sudandivestment.org/docs/task_force_targeted_divestment_model.pdf

and in SDTF's sample Investment Policy Statement:

www.sudandivestment.org/docs/SDTF_Investment_Policy_Statement.pdf

Nearly all of the companies SDTF targets are in the oil, mineral extraction, power, or defense industries. SDTF developed these criteria in recognition of the fact that, in general, economic investment in a country is critical for democratization and improved living standards, assuming that it is conducted in an environmentally and socially-responsible manner. We are interested only in targeting irresponsible investments that support a government committing genocide. Limiting the scope of divestment to worst offenders also serves to minimize potential impact on fiduciaries.

CRITICAL CAVEATS

1. Please note that our rankings report is updated quarterly and while our list of companies has remained generally consistent, we ask that our organization be consulted for updates before any action pursuant to our report is taken, as company rankings do shift over time.
2. As detailed below, we provide recommendations as to which companies mentioned in this document are best suited for divestment and/or continued shareholder engagement. If you do plan to divest or take action, please keep us informed.
3. As a companion to this document, SDTF produces a *Sudan Company Profiles* report that describes, in detail, the operations of each company in Sudan. Upon request, SDTF also can provide spreadsheets that contain additional investment information on the companies contained in our list, compiled from Bloomberg LP. We also have executive contacts and mailing addresses available for all companies contained in

our list. Please contact us if you would like any of these items: info@sudandivestment.org

4. SDTF stresses the importance of coordinated engagement to ensure that companies are sent a consistent and productive message. As such, we strongly encourage investors to consult the organization before embarking on or continuing with shareholder engagement with companies operating in Sudan. SDTF can also provide **template engagement letters** for all companies listed in this report. Letters are available for public funds under a legislative mandate for targeted divestment and for investors that are not under a legislative mandate. To receive template letters and to learn more about the possibility to join with other investors to collectively engage with targeted companies, please contact us at: info@sudandivestment.org

5. Please do not circulate or post this report; it soon will become outdated and we prefer that interested parties request the *Sudan Company Profiles* report directly from SDTF, so that we can adequately inform them as to the context and purpose of our document.

6. We have developed, in conjunction with InvestedInterests.com, an online screening tool (for educational purposes only) that allows individuals to screen U.S.-based mutual funds for exposure to companies that appear on our report. The tool is based on holdings of mutual funds from the previous financial quarter. Please see: <http://www.sudandivestment.org/screener.asp>

7. We have developed a partnership with Calvert regarding Sudan divestment that includes analytical support for this document. The details of the SDTF-Calvert partnership can be viewed at: www.calvert.com/sudan

8. In January 2008, the Sudan Divestment Task Force chose MSCI Barra (NYSE:MXB), a leading provider of investment decision support tools worldwide, including indices and risk and return portfolio analytics, to calculate a series of custom indices that exclude the Highest Offenders in Sudan from several standard MSCI Indices.

The custom indices are based on the MSCI EAFE, MSCI Emerging Markets, and MSCI All Country World ex US Indices. More information on the indices and related funds is available by contacting us at: info@sudandivestment.org

9. Not all companies that appear in this report are targets for divestment; some have demonstrated a willingness to change their corporate behavior in Sudan (indeed, some have already taken admirable action), and some companies have had very concerning past activity, but unknown current operations in Sudan. These companies are therefore strong candidates for continued shareholder engagement. Finally, there are several companies with highly problematic operations in Sudan but who presently have no known publicly-traded equity. These companies may nevertheless be “investible” through private placements, corporate bonds, or private equity funds. **Accordingly, SDTF has created three categories of companies below:**

- **Highest Offenders**
- **Ongoing Engagement**
- **No Publicly-Traded Equity**

The explanation for each category precedes the actual list. SDTF emphasizes that all companies, regardless of category, should be engaged before any divestment decision is made.

CHANGES SINCE LAST REPORT

Updates as of November 30, 2008

- Companies that came off our list entirely in this period:
 - **Concordia Maritime** (Sweden) - company has confirmed that it has no current operations in or relating to Sudan.
- Changes to corporate structure:
 - **Sinopec Group** (China) - added Kingdream PLC (majority-owned publicly traded company), Sinopec Yizheng Chemical Fibre Company Ltd. (majority-owned publicly traded subsidiary), Odmurtneft BRD (majority-owned publicly traded company), and Sinopec Finance (wholly-owned subsidiary, bonds issued).
 - **AviChina Industry & Technology Company Ltd.** (China) - removed Harbin Dongan Auto Engine Co.

Updates as of August 31, 2008

- Companies that came off our list entirely in this period:
 - **Rolls Royce PLC** (UK) - company has confirmed that it has no current operations in or relating to Sudan.
- New No Publicly Traded Equity companies:
 - **GIAD Industrial City** (Sudan)
 - **Mubadala Development Company** (UAE)

RANKED CATEGORIES OF COMPANIES WARRANTING SCRUTINY

NOTE: Before reading this ranked list, please see the "Critical Background Information" notice above.

CATEGORY ONE: HIGHEST OFFENDERS

Companies in this category have the most problematic operations in Sudan according to the SDTF model of targeted divestment:

www.sudandivestment.org/docs/task_force_targeted_divestment_model.pdf

and/or the SDTF sample Investment Policy Statement:

www.sudandivestment.org/docs/SDTF_Investment_Policy_Statement.pdf

In general, these companies have proven to be largely unresponsive to engagement by shareholders or unwilling to alter problematic practices in Sudan. While SDTF strongly recommends engagement with all companies before any divestment decision is made, SDTF considers companies in this category to be likely candidates for divestment at present time. This classification is based both on these companies' operations in Sudan, and on the companies' responses over the past 15 months to SDTF and to the fiduciaries with whom SDTF interacts.

The companies in this category are ranked, with the worst offenders listed at the top and the relatively less problematic offenders listed at the bottom. However, all companies in this category are likely candidates for divestment. Since the targeted divestment model targets both parent companies and majority-owned subsidiaries of problematic companies, these affiliates have been included in the list below.

CHINA NATIONAL PETROLEUM CORPORATION (CNPC)	
PETROCHINA (majority-owned publicly traded subsidiary, bonds issued) CNPC HONG KONG (majority-owned publicly traded subsidiary)	Country: China Industry Sector: Oil

PETROLIAM NASIONAL BERHAD (PETRONAS) BONDS ISSUED

PETRONAS GAS (majority-owned publicly traded subsidiary)

PETRONAS DAGANGAN (majority-owned publicly traded subsidiary)

MISC BERHAD (majority-owned publicly traded subsidiary)

OPTIMAL OLEFINS (MALAYSIA) SDN BERHAD (majority-owned subsidiary, bonds issued)

PETRONAS FERTILIZER (KEDAH) SDN BERHAD (wholly-owned subsidiary, bonds issued)

PETRONAS ASSETS SDN BERHAD (wholly-owned subsidiary, bonds issued)

PETRONAS CAPITAL LIMITED (wholly-owned subsidiary, bonds issued)

MIDCITI RESOURCES SDN BHD (majority-owned subsidiary, bond issued)

Country: Malaysia

Industry Sector: Oil

OIL AND NATURAL GAS CORP. LTD. (ONGC)

MANGALORE REFINERY AND PETROCHEMICALS LTD (majority-owned publicly traded subsidiary)

Country: India

Industry Sector: Oil

CHINA PETROCHEMICAL CORPORATION (SINOPEC GROUP)**KINGDREAM PLC (majority-owned publicly traded company)****CHINA PETROLEUM AND CHEMICAL CORPORATION (SINOPEC CORP) (majority-owned publicly traded subsidiary, bonds issued)****SINOPEC SHANGHAI PETROCHEMICAL CO. LTD. (majority-owned publicly traded subsidiary, bonds issued)****SINOPEC KANTON HOLDINGS (majority-owned publicly traded subsidiary)****SINOPEC YIZHENG CHEMICAL FIBRE COMPANY LTD. (majority-owned publicly traded subsidiary)****ODMURTNEFT BRD (majority-owned publicly traded company)****SINOPEC FINANCE (wholly-owned subsidiary, bonds issued)****Country: China****Industry Sector: Oil****LUNDIN PETROLEUM AB****LUNDIN INTERNATIONAL SA (majority-owned publicly traded subsidiary)****Country: Sweden****Industry Sector: Oil****AREF INVESTMENT GROUP****Country: Kuwait****Industry Sector: Oil****MOHAMMED ABDULMOHSIN AL-KHARAFI & SONS COMPANY****EGYPT KUWAIT HOLDING COMPANY (majority-owned publicly traded subsidiary)****Country: Kuwait****KUWAIT FOOD COMPANY (majority-owned publicly traded subsidiary)****Industry Sector: Oil**

RANHILL BERHAD	
	Country: Malaysia Industry Sector: Oil

DIETSWELL ENGINEERING	
	Country: France Industry Sector: Oil

MUHIBBAH ENGINEERING BERHAD	
	Country: Malaysia Industry Sector: Oil

KENCANA PETROLEUM BERHAD	
	Country: Malaysia Industry Sector: Oil

KEJURUTERAAN SAMUDRA TIMUR BHD (KSTB)	
	Country: Malaysia Industry Sector: Oil

AVICHINA INDUSTRY & TECHNOLOGY COMPANY LTD (AVICHINA)	
JIANGXI HONGDU AVIATION (HONGDU AVIAITION) (majority-owned publicly traded subsidiary) HAFEI AVIATION INDUSTRY (majority-owned publicly traded subsidiary) JIANGXI CHANGHE AUTOMOBILE CO (majority-owned publicly traded subsidiary)	Country: China Industry Sector: Aircraft/Automotive

HARBIN POWER EQUIPMENT COMPANY LIMITED	
	Country: China Industry Sector: Power/Energy

ABB	
	Country: Switzerland Industry Sector: Power/Energy

WÄRTSILÄ OYJ	
	Country: Finland Industry Sector: Power/Energy

BHARAT HEAVY ELECTRICALS LTD <i>BONDS ISSUED</i>	
	Country: India Industry Sector: Power/Energy

DONGFENG AUTOMOBILE COMPANY LIMITED	
	Country: China Industry Sector: Automotive

INDIAN OIL CORPORATION LTD (IOCL) <i>BONDS ISSUED</i>	
LANKA IOC LIMITED (majority-owned publicly traded subsidiary) BONGAIGAON REFINERY & PETROCHEMICALS LTD (BRPL) (majority-owned publicly traded subsidiary) CHENNAI PETROLEUM CORPORATION LIMITED (CPCL) (majority-owned publicly traded subsidiary)	Country: India Industry Sector: Oil

SCOMI GROUP BERHAD <i>BONDS ISSUED</i>	
SCOMI ENGINEERING BERHAD (majority-owned publicly traded subsidiary)	Country: Malaysia
KMCOB CAPITAL BERHAD (majority-owned subsidiary, bonds issued)	Industry Sector: Oil

ALSTOM <i>BONDS ISSUED</i>	
WUHAN BOILER CO (majority-owned publicly traded subsidiary)	Country: France
	Industry Sector: Power/Energy

PECD BERHAD <i>BONDS ISSUED</i>	
	Country: Malaysia
	Industry Sector: Oil

ELECTRICITY GENERATING PUBLIC COMPANY LIMITED (EGCO)	
KHANOM ELECTRICITY GENERATING CO LTD (majority-owned subsidiary, bond issued)	Country: Thailand
	Industry Sector: Power/Energy

CATEGORY TWO: ONGOING ENGAGEMENT

The companies in this category are businesses that SDTF either finds concerning or has found concerning in the past, but that do not unambiguously, at present time, meet the criteria for divestment according to the SDTF model of targeted divestment:

www.sudandivestment.org/docs/task_force_targeted_divestment_model.pdf

and/or the SDTF sample Investment Policy Statement:

www.sudandivestment.org/docs/SDTF_Investment_Policy_Statement.pdf

In general, these companies do not meet fully the criteria for divestment according to the SDTF model or Investment Policy Statement due to one of the following reasons:

- A. The company has engaged shareholders and is remedying past problematic actions, and SDTF is simply monitoring responsible follow-up actions pledged by the company.
- B. Further clarification is needed regarding the exact nature of present operations in Sudan in order to help determine the extent to which those operations are confounding versus ameliorating the genocide in Darfur.

Additionally, this category contains companies whose current operations are unknown, but may have demonstrated problematic "highest offender" activity in the past.

SDTF therefore considers companies in this category to be targets for continued shareholder engagement, and emphasizes the importance of engaging companies in this category. The vast majority of companies that have improved their behavior in Sudan transited through this category; removal from Category Two is often a result of sustained shareholder engagement.

The companies in this category are ranked, with the worst offenders in the category listed at the top and those that are relatively less problematic, or only potentially problematic, listed at the bottom. However, all companies in this category are likely candidates for ongoing engagement at present time. Because these companies are presently candidates for engagement and because it is more efficient for fiduciaries to target only one affiliate of a problematic company for engagement, the parent companies and/or majority-owned subsidiaries of the companies below have not been listed for this category.

BHARAT ELECTRONICS LIMITED

Company may have sold defense equipment to the government of Sudan.

Country: India

Industry Sector: Defense

CHINA NORTH INDUSTRIES CORPORATION (NORINCO)

In 2006, company's weapons were found in Darfur among Chadian rebels supported by the government of Sudan. Current operations of company in Sudan need to be clarified.

Country: China
Industry Sector: Military

SUDAN TELECOMMUNICATIONS COMPANY (SUDATEL)

Company previously was complicit in Darfur genocide.

Country: Sudan
Industry Sector: Telecomm

SARAS S.P.A.

Company recently refined a shipment of Sudanese crude oil.

Country: Italy
Industry Sector: Oil

KAMAZ

Company sells trucks, has dealership in Sudan. It is unclear as to whether the company sells military vehicles in Sudan.

Country: Russia
Industry Sector: Automotive

TOTAL SA

Company owns oil block, however, operations are currently inactive.

Country: France
Industry Sector: Oil

GDF SUEZ

Company is involved in power production in Sudan. Clarification is needed to determine whether project is substantially benefiting marginalized populations of Sudan.

Country: France
Industry Sector: Power

SHANGHAI POWER TRANSMISSION AND DISTRIBUTION CO. LTD.

Company is involved in power production in Sudan. Clarification is needed to determine whether project is substantially benefiting marginalized populations of Sudan.

Country: China
Industry Sector: Power

BOUSTEAD HEAVY INDUSTRIES CORPORATION

Current operations of company in Sudan need to be clarified.

Country: Malaysia

Industry Sector: Oil

ATLAS COPCO AB

Unclear whether company's mining equipment is used for problematic mining operations in Sudan.

Country: Sweden

Industry Sector: Mining

NAM FATT CORPORATION BERHAD

History of oil-related engineering contracts in Sudan. Status of legal settlement regarding dispute over previous Sudan contract is unclear.

Country: Malaysia

Industry Sector: Oil

RELIANCE INDUSTRIES (RIL)

Oil company has aggressively bid for oil concessions in Sudan. Currently bidding for open concession in Block 12B.

Country: India

Industry Sector: Oil

MAN AG

Company has been involved in the sale of large-scale diesel engines in Sudan. It is currently unclear how much of those sales have been to problematic entities.

Country: Germany

Industry Sector: Oil and
Power/Energy

NIPPON OIL CORPORATION

Japan's largest oil refiner, the company recently made a large oil purchase in Sudan. It is unclear whether the purchase was made directly from the government of Sudan or a third-party.

Country: Japan

Industry Sector: Oil

SCHLUMBERGER

Company has pledged to take "Substantial Action." Shareholder follow-up and due diligence is needed.

Country: France

Industry Sector: Oil

LA MANCHA RESOURCES

Company has pledged to take "Substantial Action." Shareholder follow-up and due diligence is needed.

Country: Canada
Industry Sector: Mining

PETROFAC

Company has pledged to take "Substantial Action." Shareholder follow-up and due diligence is needed.

Country: UK
Industry Sector: Oil

BRINKLEY MINING PLC

Company has a provisional license to explore for uranium in southern Sudan; clarification needed to ensure the government of Sudan is not involved in and will not profit from the company's operations

Country: UK
Industry Sector: Mining

MITSUI ENGINEERING & SHIPBUILDING COMPANY LIMITED (MES)

Company's wholly-owned subsidiary has completed work for the oil industry in Sudan. Current operations need to be clarified.

Country: Japan
Industry Sector: Oil

MERCATOR LINES

Current operations of company in Sudan need to be clarified.

Country: India
Industry Sector: Shipping

BOLLORÉ GROUP

Current operations of company in Sudan need to be clarified.

Country: France
Industry Sector: Oil

CATEGORY THREE: NO PUBLICLY-TRADED EQUITY

The companies in this category are either private firms or wholly - owned by a government. They are listed alphabetically, and have not been ranked. In general, they currently demonstrate "Highest Offender" behavior. There are exceptions, however, and readers should note that some companies in this category have pledged to take "Substantial Action" (see notations).

While companies in this category do not have any publicly - traded equity that SDTF is aware of at present time, fiduciaries may be exposed to these companies through private placements, corporate bonds, or private equity funds.

AFRICA ENERGY

Country: Nigeria
Industry Sector: Oil

AL-QAHTANI & SONS GROUP OF COMPANIES

Country: Saudi Arabia
Industry Sector: Oil

ANSAN WIKFS/SHAHER TRADING COMPANY

Country: Yemen
Industry Sector: Oil

APS ENGINEERING COMPANY

Country: Italy
Industry Sector: Oil

ARCADIA PETROLEUM

Country: UK
Industry Sector: Oil

ASCOM GROUP SA	
	Country: Moldova Industry Sector: Oil

CHINA HYDRAULIC AND HYDROELECTRIC CONSTRUCTION GROUP (SINOHYDRO) BONDS ISSUED	
	Country: China Industry Sector: Power

CHINA INTERNATIONAL WATER & ELECTRIC CORPORATION (CWE)	
	Country: China Industry Sector: Power

DELTA PETROL/TOWER HOLDINGS	
	Country: Turkey/Luxembourg Industry Sector: Oil

EDGO GROUP	
	Country: Jordan Industry Sector: Oil

EXPRESS PETROLEUM AND GAS COMPANY	
	Country: Nigeria Industry Sector: Oil

GIAD INDUSTRIAL CITY	
	Country: Sudan Industry Sector: Automotive

HI TECH PETROLEUM GROUP CO. LTD.	
	Country: Sudan Industry Sector: Oil

K&K CAPITAL GROUP (KKCG)	
	Country: Czech Republic Industry Sector: Oil

KUWAIT FOREIGN PETROLEUM EXPLORATION COMPANY (KUFPEC)	
	Country: Kuwait Industry Sector: Oil

LAHMEYER	
	Country: Germany Industry Sector: Power/Energy

MOHAN ENERGY CORP	
	Country: India Industry Sector: Power/Energy

MOTT MACDONALD	
Company has pledged to take "Substantial Action."	Country: UK Industry Sector: Oil and Power/Energy

MUBADALA DEVELOPMENT COMPANY	
	Country: UAE Industry Sector: Oil

PESCHAUD & CIE INTERNATIONAL	
	Country: France Industry Sector: Oil

PETROLIN	
	Country: Gabon Industry Sector: Oil

PETRONEEDS SERVICE INTERNATIONAL COMPANY	
	Country: Sudan Industry Sector: Oil

PETROSA	
	Country: South Africa Industry Sector: Oil

PT PERTAMINA PERSERO (PERTAMINA)	
	Country: Indonesia Industry Sector: Oil

SHANDONG ELECTRIC POWER CONSTRUCTION CORPORATION (SHANDONG ELECTRIC POWER GROUP)	
	Country: China Industry Sector: Power/Energy

SNOWY MOUNTAIN ENGINEERING CORPORATION	
	Country: Australia Industry Sector: Power

SUDAN PETROLEUM COMPANY (SUDAPET)	
	Country: Sudan Industry Sector: Oil

TAMOIL	
	Country: Libya Industry Sector: Oil

TRAFIGURA BEHEER	
	Country: Netherlands Industry Sector: Oil

VITOL GROUP	
	Country: Switzerland Industry Sector: Commodities

ZAVER PETROLEUM COMPANY	
	Country: Pakistan Industry Sector: Oil