

CITY OF BALTIMORE

SHEILA DIXON, Mayor



FIRE AND POLICE EMPLOYEES'  
RETIREMENT SYSTEM

THOMAS P. TANEYHILL, CPA, Executive Director  
7 E. Redwood Street  
19th Floor  
Baltimore, Maryland 21202

October 1, 2009

The Honorable President and Members  
of the Baltimore City Council  
Attn: Karen Randle, Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

**Re: Report to the City Council  
Concerning Sudan Investments  
Fire & Police Employees' Retirement System**

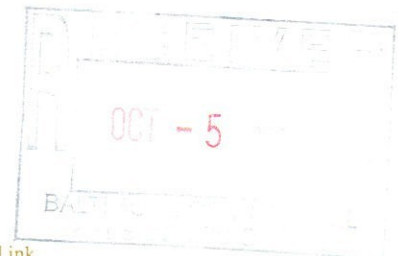
On behalf of the Board of Trustees of the Fire and Police Employees' Retirement System (F&P), the following report is submitted to the Baltimore City Council as required by Baltimore City Code Article 22, Section 35(a)(1)(vii) (Ordinance 07-570 of 2007).

The Board of Trustees is pleased to report that no Sudan related investments are currently held in F&P actively managed separate accounts and the Board has not had to divest of any Sudan related investments over the last year.

The securities held in F&P investment manager accounts are compared each month to the list of companies on the Sudan listing as reported by the Risk Metrics Group, formerly the Institutional Shareholders Services (ISS). The companies listed are those that reportedly do business with the Sudan government. As of August 31, 2009, the F&P does not hold in any actively managed account any securities of Sudan related companies as reported on the Risk Metrics Group listing.

Legislative History and Report Requirements

Ordinance 07-570 of 2007 became law following passage by the City Council and the approval of Mayor Dixon on November 27, 2007. The purpose of the Ordinance is to authorize divestment of public pension or retirement funds from Sudan or from companies doing business in or with Sudan; it defines certain terms, specifies certain criteria and considerations, requires certain reports and provides for the automatic termination of the Ordinance. The Ordinance became effective according to Section 4 of its provisions on April 1, 2008, the first day of the second quarter after the date it was enacted.



Ordinance 07-570 of 2007 established Baltimore City Code Article 22, Section 35(a)(1) of the F&P plan provisions. Section 35(a)(1)(vii) requires that by October 1 of each year the F&P Board of Trustees submit a report to the Baltimore City Council concerning Sudan divestment that provides:

1. all divestment actions taken by the Board of Trustees in accordance with the ordinance,
2. a list of those companies doing business in Sudan and of those securities or instruments issued by Sudan, as reported to the Board by its investment managers and from which the Board has not divested, and
3. other developments relevant to investment in companies doing business in Sudan.

#### Identification of Sudan Related Companies

Section 35(a)(1)(iii) provides that for examination of each management portfolio for Sudan related investments, the manager (and the Board of Trustees) shall reference the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) list of sanctioned companies, the Institutional Shareholders Services (ISS) list of Sudan related companies, or other list as approved by the F&P Board of Trustees.

The Treasury Department OFAC regulations list Sudanese specially designated nationals (SDNs) which are individuals and entities owned or controlled by or who act on behalf of the Government of Sudan. It is highly improbable that any investment management firm hired by the F&P Board of Trustees would hold shares or securities of companies on the OFAC Sudanese list or would conduct business with any individual on the OFAC Sudanese list.

Since passage of Ordinance 07-570, the Institutional Shareholders Services Company sold their social issue services which include the Sudan related companies list to the Risk Metrics Group. The Risk Metrics Group continues to provide the same Sudan service listing as previously issued by ISS. The F&P Board of Trustees previously approved utilization of the ISS list and continues to utilize the Risk Metrics listing for determination of Sudan related investments. The latest Risk Metrics Group Sudan Focus list, issued August 31, 2009, is attached to this report.

#### Actively Managed Separate Accounts Considered for Divestment Action

Section 35(a)(1)(iii) provides that the F&P Board of Trustees may take divestment action in "actively managed separate accounts" with regard to:

1. any bank or financial institution that makes loans to the Republic of Sudan,

2. a national corporation of Sudan, and
3. the stocks, securities, or other obligations of any company doing business in or with Sudan.

Excluded from divestment consideration are manager accounts that by definition in the law are not "actively managed separate accounts." Actively managed separate accounts do not include: indexed funds, private equity funds, hedge funds, real estate funds, other comingled funds, and passively managed funds. Therefore, the F&P's non-actively managed accounts are not included in this report.

### **Sudan Accountability and Divestment Act of 2007**

The U.S. Sudan Accountability and Divestment Act of 2007 (P.L. 110-174) (the "Act"), signed into law by President Bush on December 31, 2007, provides authority for State and local governments and certain registered investment companies to adopt and enforce measures requiring divestment from companies having business operations in Sudan that include operations in 4 sectors – oil extraction, power production, mineral extraction, and military equipment manufacture – and provides a safe harbor from federal preemption claims for such divestment activity.

The Act provides protection for divestment only under the following conditions:

1. The divestment action is based on a determination "using credible information available to the public" that the company is conducting business operations in Sudan.
2. "Business operations" must fall under the above-enumerated types of business operations.
3. The Act excludes from this definition any entities whose business operations:
  - a) are "conducted under contract directly and exclusively with the regional government of southern Sudan;"
  - b) are conducted pursuant to a license from the Department of the Treasury's Office of Foreign Assets Control or otherwise exempted under Federal law;
  - c) "consist of providing goods or services to marginalized populations of Sudan;"

- d) involve "providing goods or services to an internationally recognized peacekeeping force or humanitarian organization;" or
  - e) "consist of providing goods or services that are used only to promote health or education;".
4. The Act also excludes companies that have voluntarily suspended any such business operations.
  5. The State or local government must provide written notice and an opportunity to comment in writing to each company to whom a divestment measure is applied.
  6. The State or local government must refrain from divestment until after 90 days after the date on which written notice is provided to the company.
  7. The State or local government may not divest from a company that demonstrates that it does not conduct or have direct investments in the 4 prohibited "business operations" categories.

Any State or local government enacting a divestment law or taking any divestment measure after January 1, 2008 must give notice of the action to the U.S. Justice Department no later than 30 days after adoption or action.

The divestment protections of the Act will terminate 30 days after the date the President certifies to Congress that the "Government of Sudan" as defined in the Act has honored its commitment to:

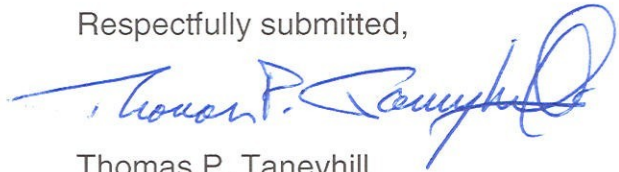
1. abide by United Nations Security Council Resolution 1769 (2007);
2. cease attacks on civilians;
3. demobilize and demilitarize the Janjaweed and associated militias;
4. grant free and unfettered access for delivery of humanitarian assistance;  
and
5. allow for the safe and voluntary return of refugees and internally displaced persons.

As concerns the City's Sudan divestment legislation, it is clear that, in order to be constitutional, any divestment statute, regardless of when enacted, must conform to the requirements of the Act on or after January 1, 2008. As present, the City's Sudan divestment law is wider reaching and does not include the protections for targeted companies set forth in the Act. What is less than clear is whether an existing Sudan divestment law such as the City's which does not conform to the Act has to be rewritten before any divestment can take place or whether the City's retirement

systems would be required to divest under the existing law to the extent it can be applied in a manner which conforms to the Act. It is thus advisable that the City Council amend its Sudan divestment law to conform to the Act and provide the U.S. Justice Department notice of the amended legislation.

Please let me know if I can provide any further information.

Respectfully submitted,



Thomas P. Taneyhill  
Executive Director

Cc: The Honorable William H. Cole, Councilman, Acting Chair, Taxation, Finance,  
and Economic Development Committee of the Baltimore City Council  
Angela Gibson, Mayor's Legislative Liaison to the City Council  
The Honorable Members of the Board of Trustees, Fire and Police Employees'  
Retirement System

## Fire and Police Retirement System of Baltimore City

## Sudan Focus List

As of August 31, 2009

Entity_name	Ticker	Cusip	Sedol	Isin	Country
ABB Ltd.	ABB	000375204	2748472	US0003752047	Switzerland
Alcatel Lucent	ALU	013904305	2216593	US0139043055	France
Alstom	ALO	F0259M475	B0DJ8Q5	FR0010220475	France
AREF Investment Group Co	AIG	M1491S108	6131335	KW0EQ0200398	Kuwait
Areva	CEI	F84742109	4174116	FR0004275832	France
AviChina Industry & Technology	02357	Y0485Q109	6707899	CNE1000001Y8	Hong Kong
Bharat Electronics Ltd	500049	Y0881Q117	6139715	INE263A01016	India
Bharat Heavy Electricals Ltd.	500103	Y0882L117	6129523	INE257A01018	India
Bolloré	BOL	F10659112	4572709	FR0000039299	France
China Petroleum & Chemical Corp.	SNP	16941R108	2639189	US16941R1086	Hong Kong
CNPC Hong Kong Ltd.	00135	G2237F100	6340078	BMG2237F1005	Bermuda
Dietswell	ALDIE	F3063G106	B1NTYL9	FR0010377127	France
Dongfeng Motor Group Company Ltd	00489	Y21042109	B0PH5N3	CNE100000312	Hong Kong
Egypt Kuwait Holding Company	EKHO	M3400B101	B0QMD00	EGS69082C013	Egypt
Electricity Generating Public Co Ltd	EGCO	Y22834108	6304632	TH0465010005	Thailand
Finmeccanica SPA	FNC	T4502J151	B0DJNG0	IT0003856405	Italy
Harbin Power Equipment Co.	01133	Y30683109	6422761	CNE1000003C0	China
I.C.S.A (INDIA) LTD	531524	Y3857H111	6540629	INE306B01029	India
Indian Oil Corporation Ltd	IOC	Y3925Y112	6253767	INE242A01010	India
Jinan Diesel Engine Co Ltd	000617	Y4444L102	6486109	CNE000000MS3	China
Kejuruteraan Samudra Timur BHD	SAMUDRA	Y4640L104	B0M9M97	MYL718500001	Malaysia
Kencana Petroleum Bhd	KENCANA	Y4599R102	B1L72X3	MYL512200006	Malaysia
La Mancha Resources Inc.	LMA	503548109	2584290	CA5035481095	Canada
Mangalore Refinery & Petrochemicals Ltd.	500109	Y5763P137	6121530	INE103A01014	India
MISC Berhad (Formerly Malaysia International Shipping Corpor	MISC	Y6080H105	6557997	MYL381600005	Malaysia
MMC Corporation Bhd (frmly Malaysia Mining Corp. Bhd)	MMCCORP	Y60574103	6556648	MYL219400008	Malaysia
Muhibbah Engineering (M) Bhd	MUHIBAH	Y6151L100	6609304	MYL570300003	Malaysia
Nam Fatt Corporation Bhd	NAMFATT	Y6199H103	6621159	MYL490100004	Malaysia
Oil & Natural Gas Corporation Ltd.	500312	Y64606117	6139362	INE213A01011	India
PECD BHD	PECD	Y6784F108	B033B13	MYL509300009	Malaysia
Petrochina Company Limited	PTR	71646E100	2568841	US71646E1001	China
Petrofac Ltd	PFC	G7052T101	B0H2K53	GB00B0H2K534	Jersey
Petronas Dagangan Bhd	PETDAG	Y6885A107	6695938	MYL568100001	Malaysia
Petronas Gas Bhd	PETGAS	Y6885J116	6703972	MYL603300004	Malaysia
PSL Ltd.	526801	Y7116B112	6707918	INE474B01017	India
Ranhill Bhd	RANHILL	Y7189A108	6328717	MYL503000001	Malaysia
Reliance Industries Ltd.	500325	Y72596102	6099626	INE002A01018	India
Sarawak Energy Bhd (Formerly Sarawak Enterprise Corp. Bhd.)	SARAWAK	Y7529H102	6286439	MYL235600003	Malaysia
Schlumberger Ltd.	SLB	806857108	2779201	AN8068571086	Netherlands Antilles
Scomi Engineering Bhd. (Formerly Bell & Order Bhd *B&O)	SCOMIEN	Y7541G108	6098452	MYL736600007	Malaysia
Scomi Group Bhd	SCOMI	Y7677T106	B00PKJ3	MYL715800008	Malaysia
Sinopec Kantons Holdings Ltd	00934	G8165U100	6162692	BMG8165U1009	Hong Kong
Sinopec Shanghai Petrochemical Co. (formerly Shanghai Petrochemical Co Ltd)	SHI	82935M109	2800059	US82935M1099	China
Sudan Telecom Co. Ltd. (SUDATEL)	SUDATEL	V88273103	B17N376	SD000A0F5KV7	Sudan
Wartsila Oyj	WRT1V	X98155116	4525189	FI0009003727	Finland