

**National Association of State Auditors, Controllers and Treasurers  
National Association of State Retirement Administrators  
National Conference of State Legislatures  
National Council on Teacher Retirement**

January 22, 2008

Nancy M. Morris, Secretary  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-0609

RE: File Number S7-27-07, CONCEPT RELEASE ON MECHANISMS TO ACCESS  
DISCLOSURES RELATING TO BUSINESS ACTIVITIES IN OR WITH COUNTRIES  
DESIGNATED AS STATE SPONSORS OF TERRORISM

Dear Ms. Morris:

This letter is in response to the Securities and Exchange Commission (SEC) request for comments about whether to develop mechanisms to facilitate greater access to companies' disclosures concerning their business activities in or with countries designated as State Sponsors of Terrorism.

These comments are being submitted on behalf of the National Association of State Auditors, Comptrollers and Treasurers ("NASACT"), the National Association of State Retirement Administrators (NASRA), the National Conference of State Legislatures ("NCSL"), and the National Council on Teacher Retirement (NCTR). Members of our organizations represent state and local governments and officials in every State, commonwealth and territory in the nation. With over \$3 trillion in assets held in trust by their public employee retirement systems alone, they have investments in nearly every major public corporation and global financial marketplace. Accordingly, our members have a strong interest in ensuring that they are not inadvertently acting in conflict with the foreign policy and humanitarian goals of the United States, thereby subjecting themselves to excessive investment risk.

In order to incorporate such considerations in our investment decisions in a prudent manner, our organizations have previously sought the assistance of the SEC as well as the Departments of State, Treasury and Commerce in identifying those corporations that, by virtue of their business or business ties in terrorist sponsoring countries, are acting contrary to U.S. foreign policy and humanitarian interests. (See attached June 3, 2005 letter from representatives of 50 public employee retirement systems.) However, such information continues to be unavailable from the Federal government.

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We have noted in the past how the situation in Sudan illustrates the problems that currently exist in the absence of such information. Sudan is a Federally-designated State Sponsor of Terrorism, and the Sudanese government has engaged in activities that the United States has identified as "genocide." However, while Federal law imposes a broad trade embargo on Sudan, not all business is prohibited, and the government of Southern Sudan is specifically exempt from such sanctions. As the Commission notes, over the last several years a large number of state governments, universities, pension funds (including a number of our members), and other institutional investors, as well as individual investors, have made attempts to ensure that their invested funds do not directly or indirectly support terrorism. While they have repeatedly sought authoritative Federal information relating to public company business activities in or with Sudan and/or other State Sponsors of Terrorism that conflict with U.S. foreign policy or humanitarian policies, such information is still not available.

In an October 26, 2007 letter to the U.S. Senate, Principal Deputy Assistant Attorney General Brian A. Benczkowski, reaffirmed the need for such information:

“As a practical matter, only the Federal government has the ability (primarily through its access to intelligence and its knowledge of broader diplomatic strategies) to understand how a particular economic action (here, divestment from, for example, European companies) could affect United States foreign policy with European governments on Darfur and other issues. Put simply, State and local governments lack both the Federal government's ability to know when it is necessary to approach an issue with kid gloves rather than an iron fist, and the Federal government's obligation to ensure that the proper approach is used when necessary to protect national interests. And it is inconsistent with all of the reasons that the Constitution rests foreign affairs authority with Congress and the President - and not the States - in the first place.”

Most recently, the President has signed into law the "Sudan Accountability and Divestment Act of 2007," (PL 110-174), which specifically provides the authority to require divestment from companies that State or local governments determine are conducting (or have direct investments in) business operations in Sudan that include power production activities, mineral extraction activities, oil-related activities, or the production of military equipment. However, the new law requires that any determination that a company falls into one of the targeted groups is to be made utilizing "credible information available to the public.”

The lack of such information has been and will continue to be a significant problem for concerned investors, which will only be exacerbated as divestment efforts are expanded to include other State Sponsors of Terrorism, such as Iran. Therefore, we commend the SEC for its efforts to enhance access to company disclosures on this topic. We also appreciate the Commission's difficulties that it experienced last June with incomplete, inaccurate, and untimely disclosure in connection with its web site feature designed to facilitate such access.

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However, we do not believe that simply providing access, no matter how enhanced or redesigned, to information regarding business activities in or with State Sponsors of Terrorism contained in companies' various public filings made with the Commission is sufficient to permit investors to determine whether, and the extent to which, such companies, by virtue of their business or business ties in terrorist sponsoring countries, are acting contrary to U.S. foreign policy and humanitarian interests.

Therefore, filing disclosures alone will not be sufficient in our view. The degree to which a public company's business activities may support terrorism or may be inconsistent with U.S. foreign policy or U.S. national interests is the information that we believe our members would consider most important in making an investment decision or that would significantly alter the total mix of information available to them. While it is true that non-governmental organizations (NGOs) and for-profit ventures have produced lists for purposes of divestment from Sudan, we continue to believe that the United States Government is the only credible and centralized authority to identify, monitor, and report on the nature and extent to which domestic and international companies are operating in Sudan and other states that sponsors terrorism, and thereby may be acting contrary to U.S. foreign policy and humanitarian objectives.

Creation of such a list, we believe, remains an essential predicate to any successful identification of such companies, and will enhance investors' capability to make prudent investment decisions. We realize that the Commission does not view its role as determining the degree to which a public company's business activities may support terrorism or may be inconsistent with U.S. foreign policy or U.S. national interests. However, we believe that such a judgment should not be effectively delegated to NGOs, no matter how respected or well-intended they may be, or to others vendors of information whose interests in the matter are motivated more by profit than the foreign policy concerns of the United States.

In this regard, we would note that the new Sudan Accountability and Divestment Act also requires that a Federal contractor must now certify to its contracting officer that the contractor does not conduct business operations in Sudan covered by the new law. Perhaps the Commission should consider a similar approach, whereby companies filing with the SEC could similarly certify, subject to some penalty, that they do not engage in such business operations in Sudan. A list of such companies would be an important step in the right direction.

We appreciate this opportunity to offer our views on this matter of much importance to our memberships. If you have any questions in connection with this filing, please feel free to contact our Federal representatives: for NASACT, Ms. Cornelia Chebinou at 202-624-5451; for NASRA, Ms. Jeannine Markoe Raymond at 202-624-1417; for NCSL, Diana Hinton Noel at 202-624-7779; and for NCTR, Mr. Leigh Snell at 703-684-5236.

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Sincerely,

Robert Kinney Poynter,  
Executive Director  
National Association of State Auditors, Controllers and State Treasurers

Glenda Chambers  
Executive Director  
National Association of State Retirement Administrators

Carl Tubbesing  
Deputy Executive Director  
National Conference of State Legislatures

Jim Mosman  
Executive Director  
National Council on Teacher Retirement

Attachment

June 3, 2005

E. Anthony Wayne, Interim Under Secretary  
for Economic, Business and  
Agricultural Affairs  
U.S. Department of State  
2201 C Street, NW  
Washington, D.C. 20520

Stuart A. Levy, Under Secretary  
Office of Terrorism and  
Financial Intelligence  
U.S. Department of the Treasury  
1500 Pennsylvania Ave., NW  
Washington, D.C. 20220

Peter Lichtenbaum, Acting Under Secretary  
for Industry and Security and  
Assistant Secretary for  
Export Administration  
Bureau of Industry Security  
U.S. Department of Commerce  
14<sup>th</sup> Street and Constitution Ave, NW  
Washington, D.C. 20230

Alan L. Beller, Director  
Division of Corporate Finance  
U.S. Securities and Exchange  
Commission  
450 Fifth Street  
Washington, D.C. 20549

Dear Gentlemen:

In the interests of public pension funds in the United States, and on behalf of those listed below, we are writing to request your assistance in identifying any publicly traded companies that are of concern to the United States government for doing business with, or having business ties to, entities that support terrorism or threaten U.S. humanitarian goals. As large institutional investors, we have investments in nearly every major public corporation and global financial marketplace. We need your assistance in identifying those corporations that are supporting terrorism so that we may ensure that we are not inadvertently acting in conflict with the foreign policy and humanitarian goals of the United States, thereby subjecting our members to excessive investment risk. Some of us have made this request previously and we reiterate it here, as we continue to face increasingly complex investment decisions.

The situation in Sudan is illustrative of the current landscape. Sudan is not only a federally designated terrorist sponsoring country, but is also embroiled in domestic conflicts in which the Sudanese government has engaged in activities that the U.S. government has identified as "genocide." In recent months, it has been suggested that companies that do business in Sudan may thereby be furthering or condoning the egregious human rights violations currently occurring in that country. Federal law imposes a broad trade embargo on Sudan, but not all business is prohibited. In addition, several state legislatures are considering measures that, in various ways, restrict investment in companies that do business or have financial ties with Sudan. We need adequate information to determine whether companies in which our public pension funds are invested are doing business in Sudan so that we, as fiduciaries, can make informed investment decisions.

It is our understanding that private entities have attempted to identify companies doing business in terrorist sponsoring countries, including Sudan. We believe, however, that

the U.S. government is the only credible and centralized authority to identify, monitor, and report domestic and international companies that are operating in such countries and thereby may be acting contrary to U.S. foreign policy and humanitarian objectives.

Existing laws require your agencies to identify, monitor and sanction companies with business or financial ties to terrorist sponsoring countries, including Sudan. For example, in the case of the Securities and Exchange Commission, Congress has specifically mandated that it establish a process to identify companies operating in terrorist sponsoring countries and ensure that their activities and operations are disclosed to investors.

At this time, no comprehensive list or report of such companies has been created. Creation of such a list is a necessary first step in identifying companies whose activities may be contrary to U.S. foreign policy and humanitarian interests. Accordingly, we respectfully request that your agency, working in conjunction with other appropriate federal agencies and departments, publicly disclose the identity of companies that, by virtue of their business or business ties in terrorist sponsoring countries, are acting contrary to U.S. foreign policy and humanitarian interests, and that you report other information on such companies that will enhance investors' capability to make prudent investment decisions.

This is a matter of extreme importance to the Trustees of the undersigned pension funds. We hope that you will consider this matter with the same level of import that we have.

Thank you for your consideration.

**Gail Stone**

Executive Director  
Arkansas Public Employees Retirement System

**David Malone**

Executive Director  
Arkansas Teacher Retirement System

**Fred Buenrostro**

Chief Executive Officer  
California Public Employees' Retirement System

**Jack Ehnes**

Chief Executive Officer  
California State Teachers' Retirement System

**Meredith Williams**

Executive Director  
Colorado Public Employees' Retirement Association

**Ruth Ryerson**  
Chief Executive Officer  
Fire and Police Pension Association of Colorado

**Howard J. Rifkin, Deputy Treasurer**  
State of Connecticut

**Darlene Perez**  
Administrator  
Connecticut Teachers' Retirement Board

**David Shimabukuro**  
Administrator  
Hawaii State Employees' Retirement System

**Donna Mueller**  
Chief Executive Officer  
Iowa Public Employees' Retirement System

**Alan H. Winkle**  
Executive Director  
Public Employee Retirement System of Idaho

**Louis Kosiba**  
Executive Director  
Illinois Municipal Retirement Fund

**Kevin Huber**  
Chief Financial Officer  
Chicago Teachers' Pension Fund

**Edward M. Smith, Chairman**  
Illinois State Board of Investment

**Jon Bauman**  
Executive Director  
Illinois Teachers' Retirement System

**Robert V. Knox**  
Executive Secretary  
State Employees' Retirement System of Illinois

**James M. Hacking**  
Executive Director  
State Universities Retirement System of Illinois

**Robert D. Newland**  
Interim Executive Director  
Indiana State Teachers' Retirement Fund

**Gary Harbin**  
Executive Secretary  
Kentucky Teachers' Retirement System

**William P. Hanes, Esq.**  
Executive Director  
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**Robert L. Rust**  
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**Bonita "Bonnie" Brown, CPA**  
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**Thomas Lee**  
Executive Director/Secretary to the Board  
State Retirement and Pension System of Maryland

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Chief Investment Officer  
Public Employees' Retirement System of Mississippi

**Gary Findlay**  
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Missouri State Employees' Retirement System

**William R. Schwartz**  
Executive Secretary  
Missouri Local Government Employees Retirement System

**M. Steve Yoakum**  
Executive Director  
Public School Retirement System of Missouri



**Terry Slattery**

Executive Director  
Public Employees Retirement Association of New Mexico

**Frederick. J. Beaver**

Director, Division of Pensions and Benefits  
State of New Jersey

**Stephen A McGuire**

Pension Fund Manager  
Employees' Retirement System of Jersey City

**Alan G. Hevesi**

Comptroller  
New York State Common Retirement Fund

**George M. Philip**

Executive Director and CIO  
New York State Teachers' Retirement System

**Damon Asbury**

Executive Director  
State Teachers Retirement System of Ohio

**Bill Estabrook**

Executive Director  
Ohio Police & Fire Pension Fund

**Laurie Fiori Hacking**

Executive Director  
Ohio Public Employees Retirement System

**James R. Winfree**

Executive Director  
School Employees Retirement System of Ohio

**Richard A. Curtis**

Executive Director  
Ohio Highway Patrol Retirement System

**Tom Spencer**

Executive Director  
Oklahoma Public Employees Retirement System

**Peggy G. Boykin, CPA**  
Executive Director  
South Carolina Retirement Systems

**Ed Hennessee**  
Director  
Tennessee Consolidated Retirement System

**Ronnie Jung**  
Executive Director  
Teacher Retirement System of Texas

**Gene Glass**  
Director  
Texas County & District Retirement System

**Ann S. Fuelberg**  
Executive Director  
Employees Retirement System of Texas

**Gary Anderson**  
Executive Director  
Texas Municipal Retirement System

**Robert Newman**  
Executive Director  
Utah Retirement Systems

**Sandra J. Matheson**  
Director  
Washington State Department of Retirement Systems

**Eric Stanchfield**  
Secretary  
Wisconsin Department of Employee Trust Funds

**David Mills**  
Executive Director  
State of Wisconsin Investment Board

**Thomas Mann**  
Director  
Wyoming Retirement System

cc: Condoleezza Rice  
Secretary of State  
U.S. Department of State

John W. Snow, Secretary  
U.S. Department of the Treasury

Carlos M. Gutierrez  
Secretary of Commerce  
Office of the Secretary

William H. Donaldson, Chairman  
U.S. Securities and Exchange Commission

Cecelia D. Blye, Director  
Office of Global Security Risk  
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Charles Fishkin, Director  
Office of Risk Assessment  
U.S. Securities and Exchange Commission

Robert W. Werner, Director  
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