

FUNCTION: General Policies and Procedures
ACTIVITY: Sudan Divestiture

POLICY: ORS 293.814 states, in part:
(1): The Oregon Investment Council and the State Treasurer, in the State Treasurer’s role as investment officer for the council, shall act reasonably and in a manner consistent with ORS 293.721 and 293.726 to try to ensure that subject investment funds are not invested in any company that the council knows is doing business in Sudan for as long as the Sudanese government’s campaign of human rights violations, atrocities or genocide continues in Sudan.

(2): Divestment and reinvestment of subject investment funds . . . shall be accomplished . . . without monetary loss to the funds through reasonable, prudent and productive investments in companies and institutions generating returns that are comparable to the returns generated by the companies subject to the divestment.

ORS 293.815 states, in part:
The Oregon Investment Council and the State Treasurer, in the State Treasurer’s role as investment officer for the council, shall make reasonable efforts to investigate all companies in which the council has invested subject investment funds to determine whether any of those companies are doing business in Sudan. If the State Treasurer determines that a company is doing business in Sudan, the State Treasurer shall give notice to the company that the council will withdraw subject investment funds that are invested in the company as provided in ORS 293.813 . . .

DEFINITIONS:

- (1) “**Company**” means any sole proprietorship, organization, firm, association, corporation, utility, partnership, venture, public franchise, franchisor, franchisee or its wholly owned subsidiary that exists for profit-making purposes or otherwise to secure economic advantage.
- (2) “**Doing business**” means maintaining equipment, facilities, personnel or any other apparatus of business or commerce in Sudan, including the ownership or possession of real or personal property located in Sudan.
- (3) “**Investment**” or “**invest**” means the commitment of funds or other assets to a company, including a loan or other extension of credit made to that company, or the ownership or control of a share or interest in that company or of a bond or other debt instrument issued by that company.
- (4) “**Subject investment funds**” means:
 - (a) The Public Employees Retirement Fund referred to in ORS 238.660;
 - (b) The Industrial Accident Fund referred to in ORS 656.632;

- (c) The Common School Fund referred to in ORS 327.405;
 - (d) The Oregon War Veterans' Fund referred to in ORS 407.495; and
 - (e) Investment funds of the State Board of Higher Education available for investment or reinvestment by the Oregon Investment Council.
- (5) **“Sudan”** means the Republic of the Sudan and any territory under the administration, legal or illegal, of Sudan, including but not limited to the Darfur region.

EXEMPTIONS:

The actions outlined in ORS 293.814 and 293.815 do not apply to:

- (1) Investments in companies that are engaged solely in the provision of goods and services intended to relieve human suffering or to promote welfare, health, education or religious or spiritual activities;
- (2) Investments in United States companies authorized by the federal government to do business in Sudan; or
- (3) Investments in companies that are engaged solely in journalistic activities.

PROCEDURES:

- (1) The Treasurer's staff may engage the services of a specialized research firm to identify companies doing business in Sudan, in accordance with Oregon law, based on their professional judgment. External managers, for the subject investment funds, shall be directed to notify identified companies that they will withdraw subject investment funds invested on behalf of the OIC and, when in their professional judgment it is prudent to do so, divest from those companies so that there is no monetary loss to the fund and in accordance with the prudent and productive investor standards established by ORS 293.721 and ORS 293.726.

If a research firm is retained:

- A) The Treasurer's staff shall provide external managers with the initial Oregon list of companies doing business in Sudan and any updates to the list, as they are identified by the research firm retained.
 - B) External managers may challenge the inclusion of a company on the Oregon list, by providing the Treasurer's staff their research and conclusion about a subject company. Treasurer's staff will forward the information to the research firm for consideration. In any case, external managers are not required to sell any security if, in their professional judgment, it would be imprudent to do so under ORS 293.721 and ORS 293.726.
- (2) The State Treasurer's staff will continue a dialogue with the OIC's proxy voting agent to ensure that ballot issues related to the disclosure of Sudan investments are properly addressed.
- (3) Subject investment funds that are managed directly by the State Treasurer's staff will be subject to the same divestment standards, if it is determined that any funds are invested in a nonexempt company doing business in Sudan.

- (4) Managers of nondiscretionary portfolios in which subject investment funds are invested will be directed to identify whether such portfolios include companies meeting the divestment standards of ORS 293.811 to 293.817. The State Treasurer's staff will determine whether participation in any portfolio involving companies subject to divestment may be discontinued without monetary loss to the fund in a manner consistent with ORS 293.721 and 293.726, and act accordingly.

REPORTING:

- (1) External managers shall provide the State Treasurer written notice of companies to which they have given notice consistent with ORS 293.811 to 293.817.
- (2) As required by ORS 293.817, on or before January 15 of each year, the State Treasurer will report to the Legislative Assembly in the manner provided by ORS 192.245 on actions taken by the State Treasurer and the OIC pursuant to the provisions of ORS 293.811 to 293.817. The State Treasurer will consult with the council in preparing the reports.

SAMPLE FORMS, DOCUMENTS, OR REPORTS (Attached):

- A. [Presidential Executive Order No. 13067: "Blocking Sudanese Government Property and Prohibiting Transactions with Sudan," Signed by President Clinton, November 3, 1997.](#)
- B. [Overview of U.S. Sudanese Sanctions Regulations, U.S. Department of the Treasury, Office of Foreign Assets Control.](#)