

MEMO# 22286

February 29, 2008

Institute Draft Comment Letter On The SEC's Proposal To Implement The Sudan Accountability And Divestment Act

[22286]

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TO: ACCOUNTING/TREASURERS COMMITTEE No. 4-08
CHIEF COMPLIANCE OFFICER COMMITTEE No. 3-08
COMPLIANCE ADVISORY COMMITTEE No. 3-08
SEC RULES COMMITTEE No. 16-08
SMALL FUNDS COMMITTEE No. 6-08
UNIT INVESTMENT TRUST COMMITTEE No. 3-08 RE: INSTITUTE DRAFT COMMENT LETTER
ON THE SEC'S PROPOSAL TO IMPLEMENT THE SUDAN ACCOUNTABILITY AND DIVESTMENT
ACT

As we previously informed you, in December 2007, the President signed into law the Sudan Accountability and Divestment Act of 2007 (the "Act").* The Act includes a safe harbor that protects registered investment companies from certain civil, criminal, and administrative actions based on the divestment of certain Sudanese investments provided the company discloses such divestment as prescribed by the SEC. The Commission has proposed to implement the disclosure requirements of the Act by amending Forms N-CSR and N-SAR to accommodate such disclosure. The Institute's comment letter on the Commission's proposal is attached and briefly summarized below.

Comments on the proposal are due to the Commission by Monday, March 17th. Persons with comments on the draft letter should provide them to the undersigned by phone (202-326-5825) or email (tamara@ici.org) no later than Friday, March 7th.

Consistent with the views of members during a recent conference call on the proposal, the Institute's letter supports the Commission's proposal. The letter recommends, however, three revisions to it. First, we recommend deleting the proposed requirement that any continued holdings the fund maintains in a divested holding be separately disclosed in the forms. The Institute's letter notes that this requirement is inconsistent with the Act and unnecessary due to current provisions requiring disclosure of a fund's investments.

Our second recommendation is that the Commission permit registered investment companies to file an amendment to their Forms N-CSR and N-SAR to disclose divestments occurring after the Act's enactment but before adoption of the SEC's rule implementing its disclosure requirement. The letter notes that such retroactive application of the Act is wholly consistent with the Act's purpose.

Our third recommendation is that the Commission include a sunset provision in the amendments so they automatically sunset upon sunset of the Act's provisions. (The safe harbor in the Act would sunset 30 days after the President certifies to Congress that Sudan has instituted certain specified reforms.) The letter notes that including an automatic sunset provision will avoid "disclosure creep" in the forms and avoid confusing filers using the forms after the Act's sunset.

Tamara K. Salmon
Senior Associate Counsel

[Attachment](#)

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