

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 249 and 274

[Release Nos. 34-57306; IC-28148; File No. S7-02-08]

RIN 3235-AK05

DISCLOSURE OF DIVESTMENT BY REGISTERED INVESTMENT COMPANIES IN ACCORDANCE WITH SUDAN ACCOUNTABILITY AND DIVESTMENT ACT OF 2007

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission is proposing amendments to its forms under the Securities Exchange Act of 1934 and the Investment Company Act of 1940 that would require disclosure by a registered investment company that divests, in accordance with the Sudan Accountability and Divestment Act of 2007, from securities of issuers that the investment company determines, using credible information that is available to the public, conduct or have direct investments in certain business operations in Sudan. The Sudan Accountability and Divestment Act limits civil, criminal, and administrative actions that may be brought against a registered investment company that divests itself from such securities, provided that the investment company makes disclosures in accordance with regulations prescribed by the Commission.

DATES: Comments should be submitted on or before March 17, 2008.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/proposed.shtml>);
- Send an e-mail to rule-comments@sec.gov. Please include File Number S7-02-08 on the subject line; or
- Use the Federal eRulemaking Portal (<http://www.regulations.gov>). Follow the instructions for submitting comments.

Paper Comments:

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number S7-02-08. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/proposed.shtml>). Comments also are available for public inspection and copying in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 am and 3:00 pm. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Devin F. Sullivan, Attorney, Office of Disclosure Regulation, Division of Investment Management, at (202) 551-6784, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-5720.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (“Commission”) is proposing for comment amendments to Form N-CSR¹ and Form N-SAR² under the Securities Exchange Act of 1934 (“Exchange Act”)³ and the Investment Company Act of 1940 (“Investment Company Act”).⁴

I. DISCUSSION

We are proposing amendments to Form N-CSR and Form N-SAR that would, if adopted, require disclosure by a registered investment company that divests, in accordance with the Sudan Accountability and Divestment Act of 2007 (“Sudan Divestment Act”),⁵ from securities of issuers that the investment company determines conduct or directly invest in certain business operations in Sudan.

The Sudan Divestment Act

On December 31, 2007, the President signed the Sudan Divestment Act into law. Among other things, the Sudan Divestment Act provides that no person may bring any civil, criminal, or administrative action against any registered investment company, or any employee, officer, director, or investment adviser of the investment company, based solely upon the investment company divesting from, or avoiding investing in, securities issued by persons that the investment company determines, using credible information that is available to the public, conduct or have direct investments in certain business

¹ 17 CFR 294.331 and 274.128.

² 17 CFR 294.330 and 274.101.

³ 15 U.S.C. 78a et seq.

⁴ 15 U.S.C. 80a-1 et seq.

⁵ Pub. L. 110-174, 121 Stat. 2516 (2007).

operations in Sudan.⁶ This limitation on actions does not apply to a registered investment company, or any of its employees, officers, directors, or investment advisers, unless the investment company makes disclosures about the divestments in accordance with regulations prescribed by the Commission.⁷ To that end, the Sudan Divestment Act requires us to prescribe regulations not later than 120 days after enactment that require disclosure by each registered investment company that divests itself of securities in accordance with the Act. The Sudan Divestment Act states that these rules shall require this disclosure to be included in the next periodic report filed under Section 30 of the Investment Company Act following the divestment.⁸

Proposed Amendments

To implement the Sudan Divestment Act, we are proposing to require each registered investment company that divests securities in accordance with the Sudan Divestment Act to disclose the divestment on the next Form N-CSR or Form N-SAR that it files following the divestment. Management investment companies would provide the disclosure on Form N-CSR, and unit investment trusts would provide the disclosure on Form N-SAR.⁹ We are proposing to require disclosure of information that would identify the securities divested and the magnitude of the divestment. This would include the issuer's name; exchange ticker symbol; Committee on Uniform Securities Identification Procedures ("CUSIP") number; total number of shares or, for debt securities, principal

⁶ Section 4(a) of the Sudan Divestment Act [to be codified at 15 U.S.C. 80a-13(c)(1)].

⁷ Section 4(a) of the Sudan Divestment Act [to be codified at 15 U.S.C. 80a-13(c)(2)(B)].

⁸ Section 4(b) of the Sudan Divestment Act.

⁹ Proposed Item 6(b) of Form N-CSR; proposed Item 133 of Form N-SAR.

amount divested; and dates that the securities were divested.¹⁰ In addition, if the registered investment company continues to hold any securities of the divested issuer, it would be required to disclose the exchange ticker symbol; CUSIP number; and total number of shares or, for debt securities, principal amount of such securities, held on the date of filing.¹¹ This requirement is intended to provide information about whether or not a registered investment company has a continuing position in the issuer whose securities were divested.

Proposed Instructions to Form N-CSR and Form N-SAR clarify that while a registered investment company is not required to disclose divestments of securities of an issuer that conducts or has direct investments in certain business operations in Sudan, the limitation on actions provided in the Sudan Divestment Act does not apply with respect to a divestment that is not disclosed.¹²

In addition, proposed Instructions to Form N-CSR and Form N-SAR state that a registered investment company that divests securities in accordance with the Sudan Divestment Act during the period that begins on the fifth business day before the date of filing a Form N-CSR or Form N-SAR and ends on the date of filing may disclose the divestment in either that filing or an amendment thereto. The amendment would be required to be filed not later than five business days after the date of filing the Form

¹⁰ Proposed Item 6(b)(1)-(5) of Form N-CSR; proposed Item 133.A.-E. of Form N-SAR. We are also proposing technical amendments to Form N-SAR to change cross-references to Item 132 to reflect the addition of Item 133.

¹¹ Proposed Item 6(b)(6) of Form N-CSR; proposed Item 133.F. of Form N-SAR.

¹² Proposed Instruction 1. to proposed Item 6(b) of Form N-CSR; proposed Instructions to Item 133 of Form N-SAR.

