



EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

December 30, 2009

The Honorable Calvin Say, Speaker
House of Representative
Twenty-Fifth State Legislature
State Capitol, Room 431
Honolulu, Hawaii 96813

Dear Speaker Say:

Subject: Act 192, SLH 2007- Relating to the Employees' Retirement System

The provisions in Act 192, section 5, require the Employees' Retirement System to provide an annual report to the Legislature regarding its direct holdings in companies that provide significant practical support for genocide activities being conducted by the Sudanese government in the Darfur region. The report is to include a summary of correspondence with companies engaged by the public fund; all investments sold, redeemed, divested, or withdrawn; all prohibited investments; and, any progress made. You may also electronically view the report at <http://hawaii.gov/budget/LegReports/> pursuant to Act 231, Session Laws of Hawaii 2001.

If you have any questions on this matter, please call Mr. Rodney June, ERS' Chief Investment Officer, at 586-1727.

Sincerely,

/s/

LINDA LINGLE

Enclosure



EXECUTIVE CHAMBERS
HONOLULU

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GOVERNOR

December 30, 2009

The Honorable Colleen Hanabusa, President
Senate
Twenty-Fifth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear President Hanabusa:

Subject: Act 192, SLH 2007- Relating to the Employees' Retirement System

The provisions in Act 192, section 5, require the Employees' Retirement System to provide an annual report to the Legislature regarding its direct holdings in companies that provide significant practical support for genocide activities being conducted by the Sudanese government in the Darfur region. The report is to include a summary of correspondence with companies engaged by the public fund; all investments sold, redeemed, divested, or withdrawn; all prohibited investments; and, any progress made. You may also electronically view the report at <http://hawaii.gov/budget/LegReports/> pursuant to Act 231, Session Laws of Hawaii 2001.

If you have any questions on this matter, please call Mr. Rodney June, ERS' Chief Investment Officer, at 586-1727.

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/s/

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**EMPLOYEES' RETIREMENT SYSTEM
OF THE STATE OF HAWAII
DIRECT HOLDINGS IN SUDAN SCRUTINIZED COMPANIES**

Act 192, Session Laws of Hawaii 2007, expresses the State's desire to not participate in ownership of companies that provide significant practical support for genocide activities being conducted by the Sudanese government in the Darfur region.

The Board of Trustees of the Employees' Retirement System recognizes the intent of Act 192 and will abide by its requirements. The Board, however, must also apply a decision framework to act for the exclusive benefit of ERS' Plan participants. In this respect, the Board recognized that divestment activities could potentially increase the portfolio's idiosyncratic investment risk. Divestment guidelines and procedures, codified in the ERS' *Sudan Investment Policy* ("Policy"), were therefore developed to minimize the impact of the Sudan divestment policy upon the investment results of the ERS portfolio. The Sudan divestment policy is intended to also avoid:

- Discriminating against companies whose Sudan-related business activities are supported by the U.S. government;
- Discriminating against companies whose Sudan-related business activities do not support genocide activities;
- Unnecessarily harming U.S. companies and jobs; and
- Compromising the Board of Trustees' duties to the beneficiaries of the ERS.

The ERS was required to make its best efforts to identify all of its direct holdings in scrutinized companies within 180 days after July 1, 2007. Those efforts were to include:

- Reviewing publicly available information regarding companies with business operations in Sudan provided by nonprofit organizations and other appropriate parties;
- Contacting ERS' asset managers with investments in scrutinized companies; and
- Contacting other institutional investors that have divested from or engaged with companies that have business operations in Sudan.

Each year thereafter, Act 192 requires the ERS to provide to the legislature a publicly-available report that includes activity under section 4, to include: 1) A summary or correspondence with

companies engaged by the public fund; 2) All investments sold, redeemed, divested, or withdrawn; 3) All prohibited investments; and, 4) Any progress made. The ERS respectfully reports all pertinent activity in 2009 related to Sudan Scrutinized Companies as outline in Act 192:

I. Summary of correspondence with companies engaged by public fund:

The ERS relied on the *Sudan Company Report* prepared by the Genocide Intervention Network to determine “scrutinized companies,” that have certain business activities in Sudan which may determine their status as a “highest offender.” Highest offenders are subject to possible divestment in accordance with the Policy.

Before taking any action against the company, the ERS Board considers any additional information they may provide. The ERS will send a letter to the scrutinized company to inform them of their Sudan-related activities, and encourage them to explain the nature of their scrutinized active business operations within 90 days. If the company continues to engage in scrutinized active business operations after ninety days following the first engagement by ERS, the Board will consider divestment or other corrective actions to the extent possible with due consideration from among other things, return on investment, diversification, and the ERS’ other legal obligations. Failure to respond to the ERS letter may lead to divestment action.

Two highest offender security positions (ABB Ltd and China Petroleum and Chemical Corporation) were held in the ERS portfolio at some point in 2009. The ABB Ltd. positions were acquired prior to the beginning of 2009 and therefore subject to eventual divestment by Board action; these positions were still being held by two investment managers in 2009 in accordance with the divestment period as prescribed by the Policy. The China Petroleum and Chemical Corporation position was traded into the ERS portfolio in error and removed from the portfolio several days later. Accordingly, no letters were sent to any Highest Offender companies during the 2009 calendar year.

II. All Investment Sold, Redeemed, Divested or Withdrawn

<u>Action</u>	<u>Company Divested</u>	<u>Market Value</u> ¹
Sold: January 14 and 15, 2009	ABB Ltd.	\$226,395.15
Sold: February 25 and 26, 2009	China Petroleum and Chemical Corporation ²	\$804,689.48

¹ Market Value in US Dollars at time of divestment

² Security was traded into the ERS portfolio in error on February 20, 2009.

III. All Prohibited Investments

Companies held in the 2009 calendar year

ABB Ltd.
China Petroleum & Chemical Corporation

IV. Any Progress Made

<u>Company</u>	<u>Status</u>
ABB Ltd.	Two investment managers holding ABB Ltd. were notified of Board divestment action in December 2008. One investment manager divested the ERS positions in January 2009. The other investment manager (awaiting favorable divestment conditions) held the ERS positions in accordance with the Policy. ABB Ltd. was ultimately removed from Highest Offenders list on April 3, 2009; thus, divestment by the latter investment manager was unnecessary.
China Petroleum & Chemical Corporation	Reversal of inadvertent purchase of this security on February 25 and 26, 2009.