

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.

N-CSR or Form N-SAR.¹³ This flexibility is intended to lessen the compliance burdens associated with divestment transactions that occur shortly before a registered investment company files a Form N-CSR or Form N-SAR.

Finally, the proposed Instructions provide that, for purposes of determining when a divestment should be reported, if a registered investment company divests its holdings in a particular security in a related series of transactions, the company may deem the divestment to occur at the time of the final transaction in the series.¹⁴ As a result, a registrant could choose either to report each transaction in the next Form N-CSR or Form N-SAR filed following the individual transaction or to report the entire series of transactions in the next Form N-CSR or Form N-SAR filed following the final transaction in the series. This flexibility is intended to reduce opportunities for third parties to exploit information about ongoing divestments through predatory trading practices, such as trading ahead of, or “front-running,” a registered investment company’s divestment. The proposed Instructions require a registered investment company that chooses to report the entire series of transactions following the final transaction to separately state each date on which securities were divested and the total number of shares or, for debt securities, principal amount divested, on each such date. This is intended to ensure that that the same information will be disclosed whether the series of transactions is reported in multiple filings after each transaction or on a single filing after the entire related series of transactions that comprises the divestment is complete.

¹³ Proposed Instruction 2. to proposed Item 6(b) of Form N-CSR; proposed Instructions to Item 133 of Form N-SAR.

¹⁴ Proposed Instruction 3. to proposed Item 6(b) of Form N-CSR; proposed Instructions to Item 133 of Form N-SAR.

II. REQUEST FOR COMMENTS

The Commission requests comment on the amendments proposed in this release, whether any further changes to our rules or forms are necessary or appropriate to implement the objectives of our proposed amendments, and on other matters that might have an effect on the proposals contained in this release, including the following:

- Are Form N-CSR and Form N-SAR the appropriate locations for disclosure? Should registered investment companies include disclosure about divestments in accordance with the Sudan Divestment Act in reports that are provided directly to shareholders instead of, or in addition to, including it in Form N-CSR and Form N-SAR, which are filed with the Commission and publicly available but not provided directly to shareholders?
- What information should we require registered investment companies to disclose about divestments in accordance with the Sudan Divestment Act? Is any of the information that we propose to require unnecessary? Should we require disclosure of any other information?
- Should we require a registered investment company to make the proposed disclosures about securities of an issuer that it retains after divesting other securities of that issuer?
- The provisions of the Sudan Divestment Act concerning registered investment company divestments terminate 30 days after the President certifies to Congress that the Government of Sudan has undertaken certain actions.¹⁵ Should the proposed amendments to Form N-CSR and Form N-SAR include a

¹⁵ Section 12 of the Sudan Divestment Act.

similar sunset provision? Or is this unnecessary because, for example, following any such termination under the Sudan Divestment Act, there could no longer be divestments in accordance with the Sudan Divestment Act and therefore no disclosure would be called for under the proposed amendments?

- Should we, as proposed, permit 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 to disclose the divestment in either that filing or an amendment thereto that is filed not later than five business days after the date of filing the Form N-CSR or Form N-SAR? Should either the period prior to filing a Form N-CSR or Form N-SAR or the period for filing an amendment be shorter or longer, such as two business days or 10 business days?
- Should we, as proposed, permit a divestment that occurs in a related series of transactions to be reported after the final transaction? Should we define or limit this flexibility in any way, e.g., by defining “related series of transactions” or limiting the length of the period during which transactions may occur and be considered “related?”
- Should our amendments address divestments that occur after the enactment of the Sudan Divestment Act and before the effective date of our amendments? Should we, for example, permit a registered investment company that makes a divestment in accordance with the Sudan Divestment Act between December 31, 2007, and the effective date of the amendments, and that files a Form

N-CSR or Form N-SAR after the divestment but before the effective date of the amendments, to disclose the divestment on an amendment to that Form N-CSR or Form N-SAR filed no later than five business days after the effective date of the amendments? Should the period for filing the amendment be shorter or longer, such as two business days or 10 business days after the effective date of the amendments?

III. PAPERWORK REDUCTION ACT

The new form amendments contain “collection of information” requirements within the meaning of the Paperwork Reduction Act of 1995 (“PRA”).¹⁶ We are submitting the proposal to the Office of Management and Budget (“OMB”) for emergency review in accordance with the PRA.¹⁷ Because the Sudan Divestment Act mandates that the Commission prescribe regulations not later than 120 days after the date of enactment, the Commission is requesting, pursuant to 44 U.S.C. 3507(j)(1), that OMB authorize the collections of information no later than April 29, 2008, which is 120 days after enactment. The titles for the collections of information are “Form N-CSR under the Investment Company Act of 1940 and Securities Exchange Act of 1934, Certified Shareholder Report,” and “Form N-SAR under the Investment Company Act of 1940, Semi-Annual Report for Registered Investment Companies.”

Form N-CSR (OMB Control No. 3235-0570) under the Exchange Act and the Investment Company Act¹⁸ is used by registered management investment companies filing certified shareholder reports. Form N-SAR (OMB Control No. 3235-0330) under

¹⁶ 44 U.S.C 3501 et seq.

¹⁷ 44 U.S.C. 3507(j); 5 CFR 1320.13.

¹⁸ 17 CFR 249.331 and 17 CFR 274.128.

the Exchange Act and the Investment Company Act¹⁹ is used by registered investment companies to file periodic reports with the Commission. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

A. Summary of Proposed Rules

The Sudan Divestment Act, enacted on December 31, 2007, requires the Commission 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.²⁰ 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.²¹

To implement the Sudan Divestment Act, we are proposing amendments that would, if adopted, 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.²² 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; CUSIP number; total number of shares or, for debt securities, principal amount divested; and

¹⁹ 17 CFR 249.330 and 17 CFR 274.101.

²⁰ Section 4(b) of the Sudan Divestment Act.

²¹ Id.

²² Proposed Item 6(b) of Form N-CSR; proposed Item 133 of Form N-SAR.

dates that the securities were divested.²³ 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.²⁴ Compliance with the proposed form amendments would be necessary to obtain the benefit of the limitation on civil, criminal, and administrative actions provided in the Sudan Divestment Act. The information provided will not be kept confidential.

B. Reporting and Cost Burden Estimates

The compliance burden estimates for the proposed collections of information are based on several assumptions. The compliance burden for the proposed amendments to Form N-CSR and Form N-SAR would be the reporting burden of collecting information necessary to make the disclosures under new Item 6(b) of Form N-CSR and new Item 133 of Form N-SAR. We estimate that the new collections of information would result in an increase of one-half burden hour per filing. Further, we believe that the number of registered investment companies that hold securities in companies conducting or directly investing in certain business operations in Sudan, and that will divest from these securities in accordance with the Sudan Divestment Act, will be relatively small. We estimate that approximately 15% of all registered investment company portfolios have an objective of investing internationally.²⁵ Based on a conservative assumption that each of these portfolios will make a divestment in accordance with the Sudan Divestment Act

²³ Proposed Item 6(b)(1)-(5) of Form N-CSR; proposed Item 133.A.-E. of Form N-SAR.

²⁴ Proposed Item 6(b)(6) of Form N-CSR; proposed Item 133.F. of Form N-SAR.

²⁵ This estimate is based on analysis done by the Division of Investment Management staff of publicly available data.

prior to each filing it makes on Form N-CSR or Form N-SAR, we estimate that approximately 15% of the filings on Form N-CSR and Form N-SAR will include disclosures of divestments in accordance with the Sudan Divestment Act. We request comment on these estimates.

Based on a burden hour estimate of one-half hour per filing for each respondent that makes disclosures under the proposed amendments, we estimate that registered management investment companies filing Form N-CSR will incur approximately 510 annual burden hours,²⁶ and unit investment trusts will incur approximately 10 annual burden hours,²⁷ to comply with the proposed form amendments.

The total annual burden hours for Form N-CSR, revised to include the burden hours expected from the proposed form amendments, are estimated to be 138,662.5 burden hours, an increase of 510 burden hours from the current annual burden of 138,152.5 hours. The total annual burden hours for Form N-SAR, revised to include the burden hours expected from the proposed form amendments, are estimated to be 107,213 burden hours, an increase of 10 burden hours from the current annual burden of 107,203 hours.

C. Request for Comment

We request comments to: (a) evaluate whether the proposed amendments to our existing information collections are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility;

(b) evaluate the accuracy of our estimates of the burden of the proposed form

²⁶ 6,743 annual and semi-annual filings on Form N-CSR x 15% of filings on Form N-CSR x ½ burden hour = approximately 510 total burden hours (rounded to the nearest 10).

²⁷ 90 filings on Form N-SAR x 15% of filings on Form N-SAR x ½ burden hour = approximately 10 total burden hours (rounded to the nearest 10).

amendments; (c) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; and (d) evaluate whether there are ways to minimize the burden of the proposals on those who respond, including through the use of automated collection techniques or other forms of information technology.

Persons submitting comments on the collection of information requirements should direct the comments to the Office of Management and Budget, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and should send a copy to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090, with reference to File No. S7-02-08. Requests for materials submitted to OMB by the Commission with regard to these collections of information should be in writing, refer to File No. S7-02-08, and be submitted to the Securities and Exchange Commission, Public Reference Room, 100 F Street, NE, Washington, DC 20549-1520. We have requested, pursuant to 44 U.S.C. 3507(j), that OMB authorize the collections of information not later than April 29, 2008.

IV. COST/BENEFIT ANALYSIS

The Commission is sensitive to the costs and benefits imposed by its rules. Our proposed amendments to Form N-CSR and Form N-SAR would, if adopted, 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.

A. Benefits

In proposing these form amendments, we intend to implement the Sudan Divestment Act's mandate for rulemaking by the Commission. The proposed amendments meet the Sudan Divestment Act's directive that the Commission "prescribe regulations, in the public interest and for the protection of investors, to require disclosure by each registered investment company that divests itself of securities in accordance with section 13(c) of the Investment Company Act of 1940."²⁸ Disclosure under the proposed form amendments would make applicable to a registered investment company, and its employees, officers, directors, and investment advisers, the limitation on actions provided by the Sudan Divestment Act. The proposed amendments also would make important information about divestments in accordance with the Sudan Divestment Act available to investors, including information identifying the securities divested, the dates of divestment, and any securities of the issuer that the registered investment company continues to hold.

We request comment on these and any other potential benefits.

B. Costs

While the proposed form amendments may lead to some additional costs for registered investment companies, we believe that these costs should be minimal. Our proposed amendments to Form N-CSR and Form N-SAR would, if adopted, 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. Registered investment companies retain records of

²⁸ Section 4(b) of the Sudan Divestment Act.

securities transactions that, we believe, would permit them to readily identify and disclose, for divestments made in accordance with the Sudan Divestment Act, the securities divested, the dates of divestment, and any securities of the issuer retained by the investment company. Further, to ease the burden of information collection and disclosure, we have included a proposed instruction in Form N-CSR and Form N-SAR stating 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 that is filed not later than five business days after the date of filing the Form N-CSR or Form N-SAR.²⁹ We believe that this flexibility may lessen the compliance burdens associated with reporting divestments that occur shortly before a registered investment company files a Form N-CSR or Form N-SAR.

For purposes of the PRA, we estimate that it would take approximately 510 annual burden hours³⁰ to comply with the proposed amendments to Form N-CSR and approximately 10 annual burden hours³¹ to comply with the proposed amendments to Form N-SAR, for an aggregate of approximately 520 total annual burden hours to comply with the proposed form amendments. We estimate that this additional burden would

²⁹ Proposed Instruction 2. to proposed Item 6(b) of Form N-CSR; proposed Instructions to Item 133 of Form N-SAR.

³⁰ See supra note 26.

³¹ See supra note 27.

equal total costs of approximately \$145,000 annually.³² We believe that the potential, incremental costs of disclosing divestments in accordance with the Sudan Divestment Act on Form N-CSR and Form N-SAR are justified by the fact that such disclosures would make applicable to a registered investment company, and its employees, officers, directors, and investment advisers, the limitation on actions provided by the Sudan Divestment Act. These disclosures also would make important information about divestments in accordance with the Sudan Divestment Act available to investors, including information identifying the securities divested, the dates of divestment, and any securities of the issuer that the registered investment company continues to hold.

We request comment on the magnitude of these potential costs, including our estimates, and whether there are any other additional potential costs.

C. Request for Comments

We request comment on all aspects of this cost-benefit analysis, including identification of any additional costs or benefits of, or suggested alternatives to, the proposed form amendments. Commenters are requested to provide empirical data and other factual support for their views to the extent possible.

³² This cost increase is estimated by multiplying the total annual hour burden (520 hours) by the estimated hourly wage rate of \$279.50 and rounding to the nearest 1,000. The estimated wage figure is based on published rates for compliance attorneys and senior programmers, modified to account for an 1800-hour work-year and multiplied by 5.35 to account for bonuses, firm size, employee benefits, and overhead, yielding effective hourly rates of \$270 and \$289, respectively. See Securities Industry Association, Report on Management & Professional Earnings in the Securities Industry 2007 (Sept. 2007). The estimated wage rate is further based on the estimate that attorneys and programmers would divide time equally, resulting in a weighted wage rate of \$279.50 (($\$270 \times .50$) + ($\$289 \times .50$)).

V. CONSIDERATION OF BURDEN ON COMPETITION; PROMOTION OF EFFICIENCY, COMPETITION, AND CAPITAL FORMATION

Section 23(a)(2) of the Exchange Act³³ requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. Section 23(a)(2) also prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, Section 2(c) of the Investment Company Act,³⁴ Section 2(b) of the Securities Act of 1933,³⁵ and Section 3(f) of the Exchange Act³⁶ require the Commission, when engaging in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation.

The proposed form amendments are intended to implement the Sudan Divestment Act's requirement that we 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. Disclosure provided in response to the proposed amendments would make applicable to a registered investment company, and its employees, officers, directors, and investment advisers, the limitation on actions provided by the Sudan Divestment Act. These disclosures also would make important information about divestments in accordance with the Sudan Divestment Act available to investors,

³³ 15 U.S.C. 78w(a)(2).

³⁴ 15 U.S.C. 80a-2(c).

³⁵ 15 U.S.C. 77b(b).

³⁶ 15 U.S.C. 78c(f).

including information identifying the securities divested, the dates of divestment, and any securities of the issuer that the registered investment company continues to hold.

These proposed amendments may improve efficiency. Disclosure provided in response to the proposed amendments, if adopted, could increase efficiency at registered investment companies by making applicable to a registered investment company, and its employees, officers, directors, and investment advisers, the limitation on actions provided by the Sudan Divestment Act. These disclosures also could promote efficiency because they make important information about divestments in accordance with the Sudan Divestment Act available to investors, including information identifying the securities divested, the dates of divestment, and any securities of the issuer that the registered investment company continues to hold. Making such information available to investors may enable them to make more informed investment decisions.

The proposed amendments may promote competition. We anticipate that our proposed form amendments may promote competition because they may make it easier for registered investment companies to choose whether or not to offer portfolios that include holdings in companies that conduct or directly invest in certain business operations in Sudan. Thus, the proposed form amendments may facilitate competition by making it easier for registered investment companies to offer different types of portfolios that appeal to different investors. We do not anticipate that the proposed amendments will impose a measurable burden on competition. We also do not anticipate that the proposed form amendments will have a significant impact on capital formation.

We request comment on whether the proposed form amendments, if adopted, would promote efficiency, competition, and capital formation. We also request comment

on whether the proposed amendments would impose a burden on competition.

Commenters are requested to provide empirical data and other factual support for their views if possible.

VI. INITIAL REGULATORY FLEXIBILITY ANALYSIS

This Initial Regulatory Flexibility Analysis (“Analysis”) has been prepared in accordance with the Regulatory Flexibility Act.³⁷ It relates to the Commission’s proposed form amendments under the Exchange Act and the Investment Company Act that would 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.

A. Reasons for, and Objectives of, Proposed Amendments

The purpose of the proposed form amendments is to implement the Sudan Divestment Act’s requirement that the Commission adopt rules requiring disclosure of divestments made in accordance with the Act. Disclosure provided in response to the proposed amendments would make applicable to a registered investment company, and its employees, officers, directors, and investment advisers, the limitation on actions provided by the Sudan Divestment Act. These disclosures also would make important information about divestments in accordance with the Sudan Divestment Act available to investors, including information identifying the securities divested, the dates of divestment, and any securities of the issuer that the registered investment company continues to hold.

³⁷ 5 U.S.C. 601 *et seq.*

B. Legal Basis

The Commission is proposing amendments to Forms N-CSR and N-SAR pursuant to authority set forth in Sections 10(b), 13, 15(d), 23(a), and 36 of the Exchange Act [15 U.S.C. 78j(b), 78m, 78o(d), 78w(a), and 78mm] and Sections 8, 13(c), 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-8, 80a-13(c), 80a-24(a), 80a-29, and 80a-37].

C. Small Entities Subject to the Rule

The proposed form amendments would affect registered investment companies that are small entities. For purposes of the Regulatory Flexibility Act, an investment company is a small entity if it, together with other investment companies in the same group of related investment companies, has net assets of \$50 million or less as of the end of its most recent fiscal year.³⁸ Approximately 160 registered investment companies currently meet this definition.³⁹

D. Reporting, Recordkeeping, and Other Compliance Requirements

The proposed amendments to Form N-CSR and Form N-SAR would, if adopted, 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.

For purposes of the PRA, we estimate that it would take approximately 510 annual burden hours to comply with the proposed amendments to Form N-CSR and approximately 10 annual burden hours to comply with the proposed amendments to Form

³⁸ 17 CFR 270.0-10.

³⁹ This estimate is based on analysis by the Division of Investment Management staff of publicly available data.

N-SAR, for an aggregate of approximately 520 total annual burden hours to comply with the proposed form amendments. We estimate that this additional burden would equal total costs of approximately \$145,000 annually.

E. Duplicative, Overlapping, or Conflicting Federal Rules

We believe that there are no rules that duplicate, overlap, or conflict with the proposed amendments.

F. Agency Action to Minimize the Effect on Small Entities

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objective, while minimizing any significant adverse impact on small issuers. In connection with the proposed amendments, the Commission considered the following alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the proposed amendments for small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the proposed amendments, or any part thereof, for small entities.

The Commission believes that special compliance or reporting requirements for small entities, or an exemption from coverage for small entities, would not be appropriate or consistent with investor protection or the requirements of the Sudan Divestment Act. Disclosure provided in response to the proposed amendments would make applicable to a registered investment company, and its employees, officers, directors, and investment advisers, the limitation on actions provided by the Sudan Divestment Act. These disclosures also would make important information about divestments in accordance with

the Sudan Divestment Act available to investors, including information identifying the securities divested, the dates of divestment, and any securities of the issuer that the registered investment company continues to hold. Different disclosure requirements or different timetables for registered investment companies that are small entities do not appear to be consistent with the requirements of the Sudan Divestment Act. Finally, in this proposed rulemaking, we do not consider using performance rather than design standards to be consistent with the statutory requirement that we adopt rules for the protection of investors.

We have endeavored through the proposed amendments to minimize the regulatory burden on all registered investment companies, including small entities, while meeting the requirements of the Sudan Divestment Act. Small entities should benefit from the Commission's reasoned approach to the proposed amendments to the same degree as other registered investment companies.

G. Request for Comments

The Commission encourages the submission of written comments with respect to any aspect of this analysis. Comment is specifically requested on the number of small entities that would be affected by the proposed amendments and the likely impact of the proposal on small entities. Commenters are asked to describe the nature of any impact and provide empirical data supporting the extent of the impact. These comments will be considered in the preparation of the Final Regulatory Flexibility Analysis, if the proposed amendments are adopted, and will be placed in the same public file as comments on the proposed amendments themselves.

VII. CONSIDERATION OF IMPACT ON THE ECONOMY

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996 (“SBREFA”),⁴⁰ a rule is “major” if it results or is likely to result in:

- an annual effect on the economy of \$100 million or more;
- a major increase in costs or prices for consumers or individual industries; or
- significant adverse effects on competition, investment, or innovation.

We request comment on whether our proposal would be a “major rule” for purposes of SBREFA. We solicit comment and empirical data on:

- the potential effect on the U.S. economy on an annual basis;
- any potential increase in costs or prices for consumers or individual industries; and
- any potential effect on competition, investment, or innovation.

VIII. STATUTORY AUTHORITY

The Commission is proposing amendments to Form N-SAR and Form N-CSR pursuant to authority set forth in Sections 10(b), 13, 15(d), 23(a), and 36 of the Exchange Act [15 U.S.C. 78j(b), 78m, 78o(d), 78w(a), and 78mm], and Sections 8, 13(c), 24(a), 30, and 38 of the Investment Company Act [15 U.S.C. 80a-8, 80a-13(c), 80a-24(a), 80a-29, and 80a-37].

List of Subjects

17 CFR Part 249

Reporting and recordkeeping requirements, Securities.

⁴⁰ Pub. L. No. 104-21, Title II, 110 Stat. 857 (1996).

17 CFR Part 274

Investment companies, Reporting and recordkeeping requirements, Securities.

TEXT OF PROPOSED FORM AMENDMENTS

For the reasons set out in the preamble, the Commission proposes to amend Title 17, Chapter II, of the Code of Federal Regulations as follows.

PART 249 – FORMS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for Part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a et seq., 7202, 7233, 7241, 7262, 7264, and 7265; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

PART 274 – FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

2. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78l, 78m, 78n, 78o(d), 80a-8, 80a-24, 80a-26, and 80a-29, unless otherwise noted.

* * * * *

3. Form N-SAR (referenced in §§ 249.330 and 274.101) is amended by:

- a. Revising the reference “132” in Item 6 to read “133”;
- b. Adding new Item 133;
- c. Revising the reference “132” in the fifth paragraph of General Instruction A to read “133”; and
- d. Adding an instruction to new Item 133.

The additions read as follows:

Note: The text of Form N-SAR does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N-SAR

* * * * *

133. If the Registrant has divested itself of securities in accordance with Section 13(c) of the Investment Company Act of 1940 following the filing of its last report on Form N-SAR and before filing of the current report, disclose the following information for each such divested security:

- A. Name of the issuer;
- B. Exchange ticker symbol;
- C. CUSIP number;
- D. Total number of shares or, for debt securities, principal amount divested;
- E. Date(s) that the securities were divested; and
- F. If the Registrant holds any securities of the issuer on the date of filing, the exchange ticker symbol; CUSIP number; and the total number of shares or, for debt securities, principal amount held on the date of filing.

* * * * *

Instructions to Specific Items

* * * * *

ITEM 133: Divestment of Securities in Accordance with the Sudan Accountability and Divestment Act of 2007.

This item may be used by a Registrant that divested itself of securities in accordance with Section 13(c) of the Investment Company Act, which was added by the Sudan Accountability and Divestment Act of 2007. A Registrant is not required to include

disclosure under this item; however, the limitation on civil, criminal, and administrative actions under Section 13(c) of the Investment Company Act does not apply with respect to a divestment that is not disclosed under this item.

If a Registrant divests itself of securities in accordance with Section 13(c) of the Act during the period that begins on the fifth business day before the date of filing a Form N-SAR and ends on the date of filing, it may disclose the divestment in either the Form N-SAR or an amendment thereto that is filed not later than five business days after the date of filing the Form N-SAR.

For purposes of determining when a divestment should be reported under this item, if a Registrant divests its holdings in a particular security in a related series of transactions, the Registrant may deem the divestment to occur at the time of the final transaction in the series. In that case, the Registrant should report each transaction in the series on a single Form N-SAR, but should separately state each date on which securities were divested and the total number of shares or, for debt securities, principal amount divested, on each such date.

* * * * *

4. Form N-CSR (referenced in §§ 249.331 and 274.128) is amended by:
 - a. Revising the reference “Schedule of Investments.” in the caption to Item 6 to read “Investments.”;
 - b. Designating the undesignated paragraph in Item 6 as paragraph (a);

c. Revising the reference “Instruction.” in Item 6 to read “Instruction to paragraph (a).”; and

d. Adding new paragraph (b) and new Instructions 1, 2, and 3 to paragraph (b) to Item 6.

The additions read as follows:

Note: The text of Form N-CSR does not, and these amendments will not, appear in the Code of Federal Regulations.

FORM N-CSR

* * * * *

Item 6. Investments.

(a) * * *

(b) If the registrant has divested itself of securities in accordance with Section 13(c) of the Investment Company Act of 1940 following the filing of its last report on Form N-CSR and before filing of the current report, disclose the following information for each such divested security:

- (1) Name of the issuer;
- (2) Exchange ticker symbol;
- (3) Committee on Uniform Securities Identification Procedures (“CUSIP”)

number;

- (4) Total number of shares or, for debt securities, principal amount divested;
- (5) Date(s) that the securities were divested; and

(6) If the registrant holds any securities of the issuer on the date of filing, the exchange ticker symbol; CUSIP number; and the total number of shares or, for debt securities, principal amount held on the date of filing.

Instructions to paragraph (b).

1. This Item may be used by a registrant that divested itself of securities in accordance with Section 13(c) of the Investment Company Act, which was added by the Sudan Accountability and Divestment Act of 2007. A registrant is not required to include disclosure under this Item; however, the limitation on civil, criminal, and administrative actions under Section 13(c) of the Investment Company Act does not apply with respect to a divestment that is not disclosed under this Item.

2. If a registrant divests itself of securities in accordance with Section 13(c) of the Act during the period that begins on the fifth business day before the date of filing a Form N-CSR and ends on the date of filing, it may disclose the divestment in either the Form N-CSR or an amendment thereto that is filed not later than five business days after the date of filing the Form N-CSR.

3. For purposes of determining when a divestment should be reported under this Item, if a registrant divests its holdings in a particular security in a related series of transactions, the registrant may deem the divestment to occur at the time of the final transaction in the series. In that case, the registrant should report each transaction in the

series on a single Form N-CSR, but should separately state each date on which securities were divested and the total number of shares or, for debt securities, principal amount divested, on each such date.

By the Commission.

Nancy M. Morris
Secretary

February 11, 2008