

**Written Statement of Rhode Island General Treasurer Frank T. Caprio
for the House Committee on Financial Services**

Respectfully submitted February 5, 2008

Mr. Chairman, Members of the Committee:

My name is Frank T. Caprio and I am the General Treasurer of Rhode Island. In this capacity, I manage Rhode Island's pension fund, which encompasses the pension systems of state employees, teachers and many municipal employees, including police officers and firefighters.

As fiduciary of a State that successfully passed divestment legislation in June 2007, I wholeheartedly support the passage of the Sudan Accountability and Divestment Act of 2007. The President's actions regarding the genocide in Sudan, up to and including the signing of this bill, have been commendable. However, his carefully worded signing statement threatens to undo all of the change that widely varying groups have worked to affect. It is essential to the improvement of the situation in Darfur for this Act to be upheld as it was intended – to authorize the process at the federal level and to remove the fear of litigation against state divestment initiatives.

As the President suggested in his signing statement, the enforcement of the Act could be subject to his administrative discretion, suggesting that he may block state divestment initiatives if they should undermine federal foreign policy. I would like to speak to why this case clearly will not occur. The Sudan Accountability and Divestment Act of 2007, far from undermining foreign policy, actually serves to tighten a loophole that acts as the true culprit of substantive risk to federal policy. Sudan is a country solely dependent on direct foreign investment. Although American companies are barred from conducting business in the country, due to the naming of Sudan as a terrorist state by the U.S. Department of State, foreign multinational companies continue to provide the Sudanese government with the revenue they desperately need to conduct their illicit activities. Indeed, a Human Rights Watch report estimated that 60-80% of the Sudanese government's oil revenue goes directly to the Sudanese military, the very entity perpetrating these crimes.

When U.S. entities make investments into these foreign companies doing business in Sudan, it directly undermines our nation's foreign policy. It is by pursuing the divestment of state funds from these foreign companies that this loophole can ultimately be closed. The passage of targeted divestment policies at the state level supports the original intent of the US sanctions: to cut off monetary support to Sudan's outlaw government. The passage of this Act provides the authorization states need to undergo this process without fear of legal recourse. Free of this concern, more states will be able to pursue divestment, an essential tool in depleting the financial assets that currently enable the Sudanese government.



The Sudan Accountability and Divestment Act of 2007 is a crucial step forward in the effort to end the Sudanese genocide. The Act provides a framework for states to follow that specifically identifies which types of business operations are to be included or excluded from the divestment provisions. The Act's structure prevents states from creating piecemeal policies by instead providing them with a model from which to create a more unified, solid, and lawful stance against the genocide in Darfur. Further, businesses that do not fall under scrutiny, as detailed in the Act, are not subject to divestment. This is an effective and essential specification, thus protecting those investments which are positively helping the people of Sudan (e.g. public infrastructure projects), by developing stability in the region.

The fact that this Act was passed in Congress by unanimous consent and has received overwhelming support at the state level sends an irrefutable message regarding the importance of the divestment movement. As Treasurer of a state that has successfully passed a Sudan divestment policy into law, I can speak to the role that Rhode Island, and all states, can effectively and responsibly assume regarding this issue. I want to reiterate what is not the role of the states – to undermine, in any way, the provisions of federal foreign policy. It is instead essential for states to work in concert with US foreign policy to supplement the goal of divestment - placing economic pressure on companies with business ties to the Sudanese government and ultimately severing the monetary means that facilitate genocide. In keeping with US foreign policy on this issue, it is incumbent upon the states to pursue divestment. Most importantly, it is the state's role to work diligently to protect its own financial interests. When a humanitarian crisis escalates to the point where taking action is not only in humanity's best interest, but also in a society's fiscal best interests, then we must act, as guardians and fiduciaries of our states' financial welfare.

I take my role as the Chairman of Rhode Island's State Investment Commission to be that of a fiduciary, responsible for the protection of the state, teacher, judicial, and municipal state employee pension dollars under my management. Under this structure, all of these funds are commingled as part of a single \$8 billion dollar fund which is invested, divested, and administered as an individual participant in the market place. Given the fund's structure, my role with the pension fund is that of an investor, not a regulator. As such I, and other Treasurers, have the ability to direct funds under our management as we see fit. Should we have the foresight to identify risks to our funds, be it the risk of exposure to sub-prime mortgages, or the questionable and reprehensible investments on the other side of the globe, it is our responsibility to act on that foresight, and to eliminate investments that pose an excessive risk to our fund.

At its very basis, divestment from Sudan represents a choice by the state to invest its money in concert with the values of its citizens. Accordingly, states possess both the right and the capacity to invest based on social, humanitarian and financial values, as long as those decisions are consistent with prudent investment standards. The targeted approach to divestment, followed successfully in Rhode Island and in other states, addresses these concerns while upholding rigorous financial standards.



When intelligent policy is found that addresses a humanitarian crisis, while mitigating financial risks, action must be taken. The targeted approach to divestment has proven to be a sound policy, ensuring fiscal responsibility, while upholding standards of humanitarian aid that can effectively help the people of Darfur. This approach targets only scrutinized companies that provide the most financial support to the Sudanese government. Again, by cutting off the monetary support from these companies, the Sudanese government subsequently loses its financial hold over the people of Darfur, taking away the funds for their genocide.

As a measure of the success of the targeted divestment movement, several major companies, including European powerhouses ABB and Siemens, have pulled out of the Sudan, citing divestment as the rationale for their withdrawal. Rhode Island originally had assets invested in two companies - Petronas Capitol LTD, an oil company that provides refined oil to Sudanese aircraft used to bomb the villages of Darfur and Rolls Royce PLC, a provider of engines used in the oil refineries in the Darfur region. However, in April 2007, Rolls Royce responded to the divestment pressure by announcing their gradual withdrawal from business dealings in Sudan, citing humanitarian concerns. It is becoming obvious that investment in Sudan carries too high a risk to justify the pursuit of business in the region. Thus, the divestment movement has influenced large, multinational companies to reconsider this increasing level of risk, by pulling out of Sudan. This is a tremendous victory and a call for states to continue on this course, leading to progress in the fight against genocide.

The passage of this Act serves to create a divestment framework, end ambiguity and galvanize the states' right to act in their own, as well as in humanity's, best interests. The President's signing statement reinstates the fear of legal action for state divestment that this Act was intended to remove. It is counterintuitive that an Act which serves to end ambiguity on the issue of Sudan divestment would be accompanied by a Presidential statement that opens the door to the ambiguity of his potential discretion. If we truly seek to protect commerce in the face of divestment, then we must uphold the tenets of this Act to its highest degree, ensuring the enforcement of a uniform procedure. We cannot afford to take an ambiguous stand on the genocide in Darfur. The Sudan Accountability and Divestment Act of 2007 displays the Federal government's power to enable States to join in a collaborative movement, allowing even the smallest state in our Nation to leverage the collective strength of the Union to put an end to one of this generation's greatest atrocities. Thank you for your time and your work.

