

Investors Against Genocide

Draw the line at investing in genocide

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SHAREHOLDERS MISLED BY STATEMENT OF OPPOSITION AT AMERICAN FUNDS, SAYS INVESTORS AGAINST GENOCIDE

Millions of shareholders still vote in favor of genocide-free investing proposal

Los Angeles, CA – November 24, 2009 - Shareholders at American Funds, like those at an earlier vote at Vanguard, were misled by the company's statement of opposition to a shareholder proposal advanced by [Investors Against Genocide](#), according to the Boston-based non-profit organization responsible for the anti-genocide shareholder action. The proposal asks the Board to "institute procedures to prevent holding investments in companies that, in the judgment of the Board, substantially contribute to genocide or crimes against humanity, the most egregious violations of human rights." American Funds and Vanguard both opposed the proposal.

Affirmative votes for the proposal ranged from 8.5% to 11.8% at today's vote at American Funds and from 7% to 17% at the vote at Vanguard on July 2. In contrast, the proposal has received as much as 31% at Fidelity and 24% at Putnam in earlier votes.

While both Fidelity and Putnam were straightforward in their opposition to the proposal, both American Funds and Vanguard stressed that they already have policies in place to address companies with links to human rights abuses. However, both companies continue to hold PetroChina, the Chinese oil company considered to be the worst offender in helping to fund the genocide in Darfur.

American Funds statement of opposition which was included in its proxy materials stated, "Any human rights issues that may affect companies are considered by our investment professionals as part of the investment management process." It concludes stating, "We believe considering these issues on a company-by-company basis and as part of the investment management process is preferable ... to having the fund boards make these decisions."

According to Eric Cohen, Chairperson of Investors Against Genocide, since American Funds' Trustees have not set guiding policies on human rights for its funds, there are none. "American Funds continues to invest hundreds of millions of dollars in the worst company supporting Sudan," explains Cohen. "This result is a serious failure from an investment firm that makes strong claims about its extensive global research effort. Clearly, American Funds investment professionals are not adequately addressing even the most egregious human right problems as part of their investment management process."

Another issue discussed during the American shareholders meeting was a serious gap in SEC regulations which may have led to an unfair voting process. Securities law requires proxies to clearly and impartially identify all the matters to be voted on. However, concerns were raised that the voting instructions issued by [Broadridge](#), a company providing brokerage processing services to at least 50% of American Funds shareholders, did not clearly describe Question 8, the shareholder proposal advanced by [Investors Against Genocide](#). According to Rule 14a-4(a)(3) of the Securities Exchange Act of 1934, the proxy "shall identify clearly and impartially each separate matter intended to be acted upon, whether or not related to or conditioned on the approval of other matters, and whether proposed by the registrant or by security holders." The essence of this rule is to help ensure a fair vote, according to Cohen. "Since Rule 14a-4 does not appear to apply to Broadridge, there is a gaping hole in the SEC regulations," he states. The spirit of this law has clearly been violated."

In advance of the meeting, Investors Against Genocide shared its concerns with American Funds and sent a [letter](#) outlining the problem to the SEC. An SEC official confirmed that the agency shares IAG's concerns and that a broad [review of the proxy voting process is underway](#).

According to Investors Against Genocide, proxies issued directly by American Funds met the SEC standard by

clearly indicating that the vote was about preventing holding companies that substantially contribute to genocide. However, according to American Funds, 50 – 60% of its shareholders hold their shares in street name and receive proxy materials through Broadridge. The voting instructions issued by Broadridge to those American Funds shareholders simply referenced “a shareholder proposal described in the proxy statement.” All the other seven questions were clearly described in Broadridge’s voting instructions. Broadridge’s online voting instructions were similarly vague. Given that the voting process encourages shareholders to vote with management across the board, and that the issue on genocide was not clearly flagged to voters, many shareholders did not know that they had an opportunity to vote on a matter of important social significance.

In an additional voting problem, two shareholders say they received calls from employees of American Funds’ proxy-solicitation firm, D.F. King & Co, who made it hard for them to record their votes in favor of the proposal by phone. The shareholders complained that they felt pressured to vote in management’s favor. These complaints mirrored similar complaints reported made about D.F. King’s solicitation techniques which were reported by [Reuters](#) during the recent shareholder vote at Fidelity. In response to these and other complaints, American issued a letter to its advisors which was [filed](#) with the SEC and has also promised to further investigate the problem.

Even without this recent problem in voting fairness, the voting process is unfairly skewed in management’s favor. Since shareholder proposals are rarely submitted to mutual funds, mutual fund shareholders are not accustomed to voting on an issue opposed by management. Shareholders frequently do not vote at all, assuming that the ballot questions are simply procedural. Those shareholders that do vote frequently check off the box that indicates that they vote according to all management recommendations without reading each question. When management opposes a shareholder resolution, rather than remain neutral, those people’s votes are considered an “AGAINST” vote even though they may not have read the entire ballot. In addition, broker non-votes and abstentions are often counted as if they were votes against the proposal. “Unlike a political election, where the will and sentiment of the people is easily discernible, the shareholder voting process is heavily weighted in the mutual fund company’s favor,” said Cohen.

The shareholder proposal seeks to address American Funds ongoing investments in companies which help to fund genocide. American Funds lack of action stands in stark contrast to the responses of other large investment firms such as TIAA-CREF and iShares. On November 12, iShares announced that it will develop an iShares Genocide-Free Exchange Traded Fund (ETF). The company plans to rely on a reputable third-party index provider to identify companies around the world that they believe are strongly connected to genocide to screen out of an established, broad-based international benchmark. On March 26, TIAA-CREF [announced its decision](#) to vigorously engage problem companies partnering with the Government of Sudan and to divest from those companies if they continue to substantially contribute to genocide or crimes against humanity. TIAA-CREF’s policy applies to the ongoing genocide in Darfur, Sudan as well as to future genocides. This policy at TIAA-CREF is a clear victory for the cause of genocide-free investing. As a result of this significant commitment from TIAA-CREF, Investors Against Genocide withdrew its shareholder proposal from the proxy ballot for TIAA-CREF’s July shareholders meeting.

A [2007 study by KRC Research](#) demonstrated that Americans are overwhelmingly opposed to being financially connected to genocide. In the study, 71% of respondents said companies should take extreme cases of human rights abuses, such as genocide, into account rather than base investment decisions solely on economic criteria. In that same study, 77% said they would switch to a different investment company if they learned that those managing their funds had significant investments in firms that were active in Sudan.

Reflecting the broad public support against investing in genocide, both Houses of Congress unanimously passed the Sudan Accountability and Divestment Act (SADA). Signed into law by President Bush on December 31, 2007, SADA provides explicit support for fiduciaries to divest from Sudan. Additionally 27 states and 61 colleges and universities have divested from targeted companies with ties to the Sudanese government.

In September 2008, the Congressional Human Rights Caucus held a [briefing](#) on genocide-free investing focusing on the problem of US financial institutions making large investments in genocide. Plans are underway for [formal Congressional committee hearings](#) on genocide-free investing in 2010.

Hundreds of thousands have been killed and 3.0 million have been driven from their homes in Darfur. This humanitarian crisis has been labeled by the US government as the first genocide of the 21st century. The government of Sudan has continued to pursue genocide in Darfur for over six years, using as much as 70% of its oil revenue to provide arms and funding for the genocide, rather than economic development for the poor

people of Sudan. Although federal law prevents most US companies from operating in Sudan, American financial institutions, notably mutual fund companies, are major investors in the Chinese, Indian, and Malaysian oil companies involved in Sudan that are helping to fund this genocide. As a result, ordinary investors, through their mutual funds, family savings, and pension plans entrusted to these financial institutions are inadvertently investing in genocide.

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Investors Against Genocide is a non-profit organization dedicated to convincing mutual fund and other investment firms to change their investing strategy so as to avoid complicity in genocide. The organization works with individuals, companies, organizations, financial institutions, the press, and government agencies to build awareness and to create financial, public relations, and regulatory pressure for investment firms to change. The ultimate goals are that the Government of Sudan ends its deadly genocide in Darfur and that investment firms avoid investing in genocide. For more information, visit www.investorsagainstgenocide.org.