

Why GAO Did This Study

Recognizing the humanitarian crisis in Darfur, Sudan, Congress enacted the Sudan Accountability and Divestment Act (SADA) in 2007. This law supports U.S. states' and investment companies' decisions to divest from companies with certain business ties to Sudan. It also seeks to prohibit federal contracting with these companies. This testimony (1) identifies actions that U.S. state fund managers and investment companies took regarding Sudan-related assets, (2) describes the factors that these entities considered in determining whether and how to divest, and (3) determines whether the U.S. government has contracted with companies identified as having certain Sudan-related business operations and assesses compliance with SADA's federal contract prohibition provision. This testimony is based on a GAO report ([GAO-10-742](#)), for which GAO surveyed states, analyzed investment data, assessed federal contracts, and interviewed government officials.

What GAO Recommends

The related GAO report recommends that the SEC consider issuing a rule requiring companies that trade on U.S. exchanges to disclose their business operations tied to Sudan, as well as possibly other state sponsors of terrorism. The SEC's Division of Corporation Finance agreed to present GAO's recommendation to the commission.

SUDAN DIVESTMENT

U.S. Investors Sold Assets but Could Benefit from Additional Information about Companies' Ties to Sudan

What GAO Found

Since 2006, U.S. state treasurers and public pension fund managers have divested or frozen about \$3.5 billion in assets primarily related to Sudan in response to their states' laws and policies; U.S. investment companies, which also sold Sudan-related assets, most commonly cited normal business reasons for changes in their holdings. State fund managers GAO surveyed indicated that their primary reason for divesting or freezing Sudan-related assets was to comply with their states' laws or policies. Thirty-five U.S. states have enacted legislation or adopted policies affecting their investments related to Sudan, primarily in response to the Darfur crisis and Sudan's designation by the U.S. government as a state sponsor of terrorism. GAO also found that the value of U.S. shares invested in six key foreign companies with Sudan-related business operations declined by almost 60 percent from March 2007 to December 2009. The decline cannot be accounted for solely by lower stock prices for these companies, indicating that U.S. investors, on net, decided to sell shares in these companies. Investors indicated that they bought and sold Sudan-related assets for normal business reasons, such as maximizing shareholder value.

U.S. states and investment companies have often considered three factors when determining whether and how to divest. First, they have considered whether divesting from Sudan is consistent with fiduciary responsibility—generally the duty to act solely and prudently in the interest of a beneficiary or plan participant. Second, they have considered the difficulty in identifying authoritative and consistent information about companies with Sudan-related business operations. GAO analyzed three available lists of these companies and found that they differed significantly from one another. Although information directly provided by companies through public documents, such as Securities and Exchange Commission (SEC) disclosures, is a particularly reliable source of information, federal securities laws do not require companies specifically to disclose business operations in state sponsors of terrorism. The SEC has the discretionary authority to adopt a specific disclosure requirement for this information but has not exercised this authority. Third, investors have considered the effect that divestment might have on operating companies with Sudan-related business activities, such as prompting companies interested in promoting social responsibility to leave Sudan, creating room for companies that do not share that interest to enter the Sudanese market.

GAO's analysis, including a review of a nonrandom selection of contracts, indicates that the U.S. government has complied with SADA's contract prohibition provision. Specifically, the U.S. government has contracted with only one company identified on a widely used list of companies with business ties to Sudan, and the contracts awarded to this company did not violate SADA. The U.S. government has contracted with subsidiaries and affiliates of companies with business ties to Sudan, as SADA permits.