

# Investors Against Genocide

## Draw the line at investing in genocide

Presentation at the Fidelity shareholder meeting on June 18, 2008

Many would suppose that, today, 63 years after the end of the Holocaust and 14 years after the genocide in Rwanda, no company that values the public trust would attempt to profit from connections to genocide. Looking back, who would support the idea of investing in firms that sought to profit by selling Zyklon-B gas to the Nazis or machetes for the genocide in Rwanda? Looking forward, who wants their savings invested in companies that help fund genocide? Sadly, as we mark the beginning of the 6<sup>th</sup> year of the genocide in Darfur, Sudan, we see that this problem is neither theoretical nor historical. Fidelity has been one of the largest holders of PetroChina, which, through its closely related parent, China National Petroleum Company, is providing funding that the Government of Sudan uses to conduct genocide in Darfur.

Thus, ordinary individuals, through their investments in Fidelity mutual funds, inadvertently invest in companies funding genocide. Since no policy prevents these investments, holdings in these problem companies may increase or involve additional funds in the future. Mutual fund investors cannot practically avoid investing in genocide, unless the fund makes a commitment to genocide-free investing. Adopting the proposal directly resolves this problem.

Mutual funds are the most common investment vehicle for family savings and retirement plans of Americans. That's why it is so important for mutual funds to commit to genocide-free investing. As SEC Chairman Cox has said, "No investor should ever have to wonder whether his or her investments or retirement savings are indirectly subsidizing a ... genocidal state."

There is no compelling reason to invest in companies funding genocide. No fiduciary responsibility requires such investments. The universe of investment opportunities is replete with options in every sector. There are ample competitive alternatives and flexibility of investment choices, even with index funds. Fidelity's own investment seminars note that investment returns are affected much more by asset allocation choices, than by individual stock selections. So, avoiding a small number of problem companies need not result in any significant effect on performance.

Fidelity's proxy materials accurately summarize the proposal as a "shareholder proposal concerning board oversight procedures to screen out investments in companies that substantially contribute to genocide." Fidelity recommends voting against the proposal. The statement of opposition to the proposal reflects their consistent position that Fidelity portfolio managers are expected to follow only two fundamental principles – make money and obey the law. It does not attempt to deny the connection between PetroChina and genocide, nor argue that investing in genocide is somehow better. Instead, it simply notes that "this proposal would limit investments by the Fund that would be lawful under the laws of the United States."

One wonders how flexibility to invest in genocide could possibly be important to Fidelity. Nonetheless, the cold facts are that Fidelity has, for years, made large investments in companies funding genocide. While Fidelity insists on retaining its flexibility to invest in genocide, 24 states and 60 colleges made the decision to divest from Sudan; the United States Congress unanimously passed the Sudan Accountability and Divestment Act; and 200,000 people registered complaints against Fidelity for investing in genocide. Recognition of the problem is broad-based and awareness among individual investors is mounting, yet Fidelity insists on retaining its flexibility to invest in genocide. What does this say about Fidelity?

Clearly, a fundamental principle is missing from Fidelity's guiding principles, since even in the face of the ultimate crime against humanity, no ethical guidelines regulate Fidelity portfolio managers' investment choices. Investment managers may worry that they cannot hope to satisfy a varying myriad of social concerns of a broad customer base; ethical investing may mean different things to different people. However, surely there is a minimum standard upon which nearly everyone agrees. We draw the line at investing in genocide. The shareholder proposal on genocide-free investing sets this minimum standard for all mutual funds.

### **Therefore, in similar wording for the 9 funds, be it resolved:**

Shareholders request that the Board 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.

Fidelity could have taken a neutral stance on the proposal and let the shareholders decide the policy. Instead Fidelity has actively opposed it, and, in so doing, tilts the vote against the proposal. Some of the factors working to skew the vote include:

1. Large blocks of internal and institutional shares automatically voting with management.
2. Fidelity hiring a proxy solicitation firm to call shareholders and urge them to vote with management, without mentioning the shareholder proposal under consideration.
3. Electronic voting that preferentially places the option to vote with management, before displaying the issues to be voted.
4. Fidelity's policy of counting non-votes from brokers as if they were votes opposing the merits of the proposal.
5. Counting abstentions as if they were votes opposing the proposal.
6. Customer service procedures that make it difficult for shareholders to get control numbers if they lose the original paperwork.

The burden on the proposal is all the greater because, as we all know, it is common practice for ordinary investors to ignore and discard their proxy materials, thereby recording no vote, even when, as in this case, there is an issue on the ballot that is of interest and importance to ordinary Americans.

In spite of these systemic obstacles, Fidelity's opposition will ultimately fail, if not today, then in another shareholder vote in the future. The reason Fidelity will fail is simple. Fidelity's customers do not want their family savings and pension funds invested in companies that help to fund genocide, whether that genocide is occurring today in Darfur or somewhere else in the future. Today's voting is another step forward to the day when Fidelity and other mutual fund companies make a commitment to genocide-free investing. Individual investors who vote their values have the power to make that change come to fruition.

Remarkably, with 12 funds recording votes so far, support for the genocide-free investing proposal has ranged between 31 % and 19 %. This strong support is extraordinary, given that social issues typically receive single digit levels of support. So I ask Fidelity, given this strong showing, what steps will you take to respond to this large group of shareholders?

At the shareholder meeting on April 16 th, Eric Roiter, then Fidelity's general counsel, said that Fidelity wanted to listen to its shareholders and be sensitive to what shareholders want. Eric Roiter said, "We are not trying to superimpose our beliefs on our shareholders." That prompted discussion from shareholders pointing out that the voting results are skewed by Fidelity's active opposition. Trustee Cornelia Small said, "The board is actively discussing and grappling with this issue," and she committed to follow up with the Board of Trustees. At the end of the meeting on April 16th, I made a request to Fidelity's Board of Trustees that it adopt a neutral stance on the proposal, so that the vote would provide an accurate indication of what Fidelity's shareholders want.

At the shareholder meeting on May 14th, I asked, what was the response from the Board of Trustees on adopting a neutral stance on the proposal for genocide-free investing? Trustee Dennis Dirks said that "the Board was discussing the issue at great length," that he felt that the Board might reconsider its earlier decision to recommend against the proposal, and assured us that the Board would "reach some kind of conclusion on this matter shortly."

So today I again ask Fidelity, what discussions on genocide-free investing have taken place at the Board, and what decision have you reached? What is the response from the Board of Trustees on adopting a neutral stance on the proposal for genocide-free investing?

From a business perspective, I ask Fidelity to consider its situation. The combined size of the 12 funds that have already voted is \$124 billion. That number is dwarfed by the combined size of the 9 funds scheduled to vote today – \$277 billion. Taken together, these 21 funds affected by the genocide-free investing shareholder proposal represent \$402 billion of mutual fund investments, which is 41% of Fidelity's total US mutual fund assets under management. Furthermore, shareholder proposals have been submitted to additional Fidelity funds beyond these 21, with many more to follow.

Customers who notice the shareholder proposal on genocide-free investing are typically angry with Fidelity for opposing it and eager to vote for the proposal. How many customers are involved? The number of shareholders of record for the 21 funds totals approximately 17 million. So I ask Fidelity, have you calculated the cost to your business and your reputation of so unnecessarily insisting on a course of action that is making your customers angry, not by the thousands, but by the millions?

Consider this rule of thumb for customer satisfaction. A delighted customer may share good news with several others, providing excellent, free advertising for your business. On the other hand, if you make a customer unhappy, or even worse angry, he or she may well spread the bad news to 5 or 10 others. So I ask Fidelity, considering the course you have chosen – insisting on flexibility to invest in companies that substantially contribute to genocide – do you believe that course is sustainable from a business point of view?

In the US presidential campaigns, we now have presumptive nominees from both major parties. In May, ABC News reported John McCain urging all Americans to sell off any investments they have in Sudan, just one day after his wife, sold off more than \$2 million in mutual funds because of the funds' investments in companies that contribute to the genocide in Darfur. In June, Barack Obama and John McCain were both referencing Sudan divestment, with Obama highlighting the bill he submitted in the Senate calling for "genocide-free investing." If Fidelity needed any further evidence, I hope that this news is enough, with the presumptive nominees of both the Republicans and Democrats both speaking out powerfully against investments that contribute to genocide.

It is never too late to do the right thing. You have the power to halt the decline in your reputation, to call an end to the bad publicity, to break the cycle of negative and damaging references from customers and potential customers. You have the power to turn a serious business problem into a competitive advantage. If you embrace genocide-free investing, rather than actively opposing it, then you will reap the benefits of being a leader among the major mutual funds. By drawing the line at investing in genocide, you will set a standard that your competitors will either meet or suffer losing customers to you. So I ask Fidelity, will you make a commitment to genocide-free investing? If you are not yet prepared to take the bolder, right step forward, then I ask, will you at least become neutral on the proposal and let your customers tell you the right thing to do?