

Genocide-free Investing

2012 Proxy Vote at JPMorgan Chase



Investors / **Against Genocide**

Executive summary

2012 is the second year that Investors Against Genocide has coordinated a shareholder proposal for consideration by JPMorgan Chase's shareholders. The proposal states:

Shareholders request that the Board institute transparent procedures to avoid holding investments in companies that, in management's judgment, substantially contribute to genocide or crimes against humanity, the most egregious violations of human rights, and to assist customers in avoiding the inadvertent inclusion of investments in such companies in their portfolios. These procedures may include time-limited engagement if management believes it can change the behavior of problem companies.

The full text of this year's proposal is included on page 8. The proposal was updated to respond to JPMorgan Chase's 2011 statement of opposition.¹

In 2011 institutions supporting the proposal included: AFSCME Employees Pension Plan,² Bridgeway Funds,³ Calvert Investments,⁴ Christian Brothers Investment Services,⁵ Connecticut Retirement Plans and Trust Funds,⁶ Consulting Group Capital Markets Funds,⁷ Domini Social Investment Trust,⁸ Epiphany Funds,⁹ Green Century Funds,¹⁰ New York City Pension Funds,¹¹ OneAmerica Funds,¹² Parnassus Investments,¹³ Professionally Managed Portfolios,¹⁴ Schroder Global Series Trust,¹⁵ Trillium Asset Management,¹⁶ T. Rowe Price,¹⁷ Turner Funds,¹⁸ and Trust for Professional Managers.¹⁹

We request a vote **FOR** the proposal for the following reasons:

- JPMorgan's current policies are not addressing the issue of genocide. Despite having adopted a variety of policies addressing social concerns and being a signatory to the UN Principles for Responsible Investment, in 2011 JPMorgan increased its holdings of PetroChina, a company widely recognized as contributing to genocide in Sudan. That investment, while legal, works against the spirit of U.S. sanctions.
- The proposal is narrowly crafted, and only targets investments in the few companies supporting extreme cases of human rights abuses. It sets a very high bar for when action by JPMorgan management would be required, focusing only on companies that "substantially contribute to genocide or crimes against humanity."
- The proposal would not be overly difficult for JPMorgan to implement, would allow flexibility for JPMorgan's range of businesses, and would not prevent JPMorgan from assisting clients that choose to invest in companies that contribute to genocide. The other financial institutions that have implemented genocide-free investment policies demonstrate that the proposal is feasible.
- Genocide-free investing is good business and is popular among investors. Numerous shareholder votes and market research have demonstrated that shareholders do not want their savings invested in companies tied to genocide. Implementing the proposal would enhance JPMorgan's image.
- The proposed genocide-free investing policy is needed to align JPMorgan investments with shareholder values so that investors can be confident that they are not inadvertently complicit in genocide and crimes against humanity.

These points are explained in detail below. Please contact us at 617-517-6310 or JPMorgan@InvestorsAgainstGenocide.org for further discussion.

Many financial institutions are already supporting the genocide-free shareholder proposal at JPMorgan Chase

Why shareholders should vote for the genocide-free investing shareholder proposal at JPMorgan Chase on May 15, 2012

JPMorgan's current policies are not addressing investments tied to genocide

JPMorgan claims that its existing policies and procedures appropriately address the concern raised by the shareholder proposal. However, the company's investments show that its existing policies do not adequately respond to the problem of investments in companies that help to fund genocide.

Genocide is an ongoing problem that must be addressed. For example, the government of Sudan has waged genocide against its own people for decades, not only in the western region, Darfur, but in other regions as well. Although South Sudan gained its independence in July 2011, the government of Sudan continues its campaign of ethnic cleansing north of the border with South Sudan, in the South Kordofan (Nuba Mountains) and Blue Nile regions of Sudan. In the last few months, the UN estimates that new government-sponsored violence and obstruction of aid has displaced 400,000²⁰ civilians in South Kordofan and Blue Nile and killed thousands. Hundreds of thousands have scattered to safer terrain, but are suffering from near famine conditions and ongoing aerial and artillery bombardments by the Sudan Armed Forces and militias. The government of Sudan is employing the same method of attacks on civilians and systematic ethnic cleansing as it used earlier in Darfur and South Sudan. Sudan's President Omar al-Bashir and other government leaders have been indicted by the International Criminal Court for genocide and crimes against humanity, but they are still in power in Sudan and in positions that allow them to continue to perpetrate similar crimes.

Although federal sanctions prevent most U.S. companies from operating in Sudan, many financial institutions continue to invest in one or more of the four foreign oil companies partnering with the government of Sudan and providing its primary source of revenue, thereby helping fund the government of Sudan's genocide. These four companies are PetroChina/CNPC²¹ (China), China Petroleum & Chemical Corporation/Sinopec²² (China), ONGC (India) and Petronas (Malaysia).^{23,24}

Many investors applaud JPMorgan for its environmental, social and governance (ESG) commitments, such as the company's Human Rights Statement, signing the United Nations Environment Program Finance Initiative, adopting the Wolfsberg Principles, supporting the Extractive Industries Transparency Initiative, and adopting the United Nations Principles for Responsible Investing (UN PRI). As a signatory²⁵ to the UN PRI,²⁶ JPMorgan has agreed to:

- a) "incorporate ESG issues into investment analysis and decision-making processes" and
- b) "better align investors with broader objectives of society."

However, JPMorgan's existing human rights and good governance policies do not result in avoiding investments connected to genocide. In fact, JPMorgan has continued to buy shares of companies with ties to the genocide in Sudan even after becoming aware of the connection. A September 14, 2011 filing²⁷ shows that the company held 1,193,150,903 H-shares of PetroChina worth \$1.5 billion, an 11% increase over the company's reported²⁸ PetroChina share holdings as of January 12, 2010. PetroChina, through its closely related parent, China National Petroleum Company (CNPC), is internationally recognized^{29,30} as Sudan's largest partner in its oil industry which provides the funds used by the government to commit genocide.

Genocide is an ongoing problem that deserves consideration in investment policy

The proposal is consistent with JPMorgan's endorsement of the UN Principles for Responsible Investment

In its 2011 and 2012 responses to the shareholder proposal, JPMorgan has not disputed PetroChina's connection to funding genocide. Nonetheless, JPMorgan continues to increase its investments. The PetroChina example is a red flag highlighting the need for a clearer and more effective investment policy to avoid investments that fund genocide.

JPMorgan's investment in PetroChina is an example of the need for more effective policies

Numerous investment companies and governments have tried engaging with PetroChina over the last decade. These efforts have proven futile. For example, TIAA-CREF made a statement on January 4, 2010³¹ indicating that it was terminating its fruitless efforts to engage with PetroChina and divesting its shares.

JPMorgan emphasizes³² that it fully abides by the "letter and spirit" of U.S. government legal restrictions. However, through its investments in PetroChina, JPMorgan undermines the objective of U.S. economic sanctions. Since 2002,³³ U.S. law³⁴ includes a provision that the "President should take all necessary and appropriate steps to deny the Government of Sudan access to oil revenues." President Bush's Executive Order #13412³⁵ explicitly prohibited "all transactions by United States persons relating to the petroleum or petrochemical industries in Sudan, including, but not limited to, oilfield services and oil or gas pipelines." Therefore, ExxonMobil is precluded from supporting the government of Sudan by helping to develop its oil industry, but JPMorgan has more than a billion dollars invested in PetroChina, the publicly traded arm of CNPC that provides these same services to the government of Sudan.

The proposal is narrowly crafted and would affect only the few companies supporting extreme cases of human rights abuse

The shareholder proposal focuses on a small, well defined, and non-controversial segment of the investing universe. It sets a very high bar for when action by management would be required, focusing only on companies that "substantially contribute to genocide or crimes against humanity." These few companies are a tiny fraction of the universe of available investments, and Gary Brinson's classic asset allocation study³⁶ showed that avoiding a few companies need not have a significant effect on investment performance.

Only a very few companies would be affected by the proposal

Some might express concern that adopting such a proposal would lead to a "slippery slope" that would force the company to adopt divestment policies against inappropriate and unintended targets. However, the genocide-free investing proposal was carefully constructed to focus only on the most extreme human rights abuses, genocide³⁷ and crimes against humanity,³⁸ both of which are defined terms in international law, both of which are universally recognized as egregious human rights abuses, and neither of which applies to lesser order problems on the imagined "slippery slope."

Reasonable people may not agree on the definition of "socially responsible" and "ethical investing" but few want to invest in companies complicit in genocide. The proposal focuses on these few worst offenders. It gives JPMorgan management control and flexibility in defining the supporting procedures and in applying the procedures to particular companies by asking for a policy to address only companies "that, in management's judgment, substantially contribute" to genocide or crimes against humanity.

Implementing the genocide-free investing proposal can have a significant positive impact now and in the future. It is generally accepted that divestment pressure was critical in achieving positive change in South Africa.³⁹ Similarly, many experts believe that divestment pressure helped end Sudan's war against what is now South Sudan.⁴⁰ The proposed genocide-free investment policy would have a positive effect, not only on current crises, but may also prevent future ones by limiting the interest in stock and bond offerings of companies tied to the most serious human rights abuses. Financial institutions, by instituting a simple investment policy, would exert their considerable influence to encourage companies to demonstrate good records regarding the most severe human rights problems.

The proposal can have a significant positive impact now and in the future

The proposal would not be overly difficult to implement, would allow flexibility for JPMorgan's many businesses, and would not prevent JPMorgan from assisting clients that choose to invest in genocide

JPMorgan's recommendation against the proposal states that the "vast majority" of its PetroChina shares are attributable to its custody business "where we do not own the shares outright but instead hold them for our customers" and that they trade them "only as directed by our customers." While true, this argument glosses over the many opportunities the company has to guide and inform its investment decisions and those of its customers. In those cases where JPMorgan has influence, it can recommend genocide-free investments or at least provide information about the problem of investments tied to genocide and crimes against humanity. The proposed policy would not prevent JPMorgan from assisting clients that knowingly choose to invest in companies funding genocide, but it would protect those who, against their values, are inadvertently doing so because of JPMorgan decisions.

The proposal allows JPMorgan management flexibility in how to implement, taking into account the range of its businesses

Numerous respected organizations such as the Conflict Risk Network, MSCI (including KLD, ISS and Risk Metrics), Sustainalytics, IW Financial, and EIRIS are able to provide JPMorgan management with the research they need to identify problem companies. There may be disagreement among these sources about the full list of offenders but there is widespread agreement about the worst offenders. For example, every major organization that has taken action to avoid complicity in the Sudan genocide divested from PetroChina. By saying that management need take action only on those "substantially contributing" to genocide, the proposal makes it easy to focus on just these worst offenders. Therefore, identifying the few companies that "substantially contribute" to genocide or crimes against humanity is not a complex task.

There is no need for JPMorgan to invest in those few problem companies. Comparable investments can be found, even in index funds, since index funds need not invest in every security in the index in order to statistically track index performance. No sound financial, fiduciary, or legal reasons prevent JPMorgan from having a genocide-free investment policy.

Unlike JPMorgan, thirty states, more than 60 colleges, and numerous other financial firms, have already demonstrated the feasibility of taking strong action. TIAA-CREF has established a leadership position by articulating and implementing a clear policy on investments tied to genocide.^{41,42} Other large financial institutions, such as American Funds,⁴³ Allianz's NFJ, Berkshire Hathaway,^{44,45} and T. Rowe Price,⁴⁶ have sold their complete holdings in oil companies involved with Sudan (though some have not publicly stated their reasons for so doing).

Many asset managers are already avoiding investments tied to genocide

JPMorgan has full flexibility and control over how to define the details of the requested genocide-free investing policy. One way to implement the proposal would be to build procedures based on U.S. sanctions, so that JPMorgan could rely on the U.S. government to identify the few countries warranting special consideration while focusing its own research on identifying the companies to be targeted. For example, the policy could seek to restrict investments in countries targeted by U.S. sanctions if: 1) the sanctions prevent U.S. companies from doing business or making investments in those countries, AND 2) the sanctions are due at least in part to serious human rights violations. Note that this approach would go further than what is required by U.S. law, since U.S. sanctions often limit operations of U.S. companies, while rarely restricting foreign competitors from the same business. The US Department of the Treasury's Office of Foreign Asset Control (OFAC) maintains and publishes the list and details of U.S. sanctions.⁴⁷ Today, the only countries that meet these criteria would be Sudan, Burma, Iran, Ivory Coast, and Cuba. This list of sanctioned countries could then be used by JPMorgan to identify companies that are funding and furthering government-sponsored human rights abuses through their commercial involvement.

JPMorgan could get guidance from U.S. sanctions about which countries and industries deserve additional due diligence

Genocide-free investing is good business, is popular among investors, and would enhance JPMorgan's image

Beginning in 2008, shareholder proposals for genocide-free investing have appeared on the proxy ballots of large mutual funds, including Fidelity,^{48,49,50,51,52,53} Vanguard,⁵⁴ Putnam,⁵⁵ and American Funds.⁵⁶ As a result, many millions of shareholders have been informed about the issue and meaningful numbers have voted in favor of genocide-free investing. In one vote at Fidelity, 31%⁵⁷ of shareholders supported the measure despite active opposition from management. In the 2011 vote at JPMorgan, the genocide-free investing shareholder proposal received 7.69% shareholder support.⁵⁸ Given that institutional investors hold 74% of the shares of JPMorgan⁵⁹ and that many institutional barriers operate against shareholder action, this result demonstrates a strong and significant level of support.

Shareholder votes and Sudan divestment measures have raised the profile of the problem of investments connected to genocide. In addition to the financial institutions that have taken steps to avoid investing in genocide, private pensions have also taken significant steps. For example, in May 2010, the Unitarian Universalist Association (UUA) announced⁶⁰ it was moving its \$178 million pension account from Fidelity to TIAA-CREF because of "Fidelity's persistent refusal to consider human rights in their investment choices." Further, the national and financial media have written extensively⁶¹ on the topic, thereby helping to build awareness of the problem.

Market research done by KRC Research in 2007⁶² and 2010⁶³ highlights strong public concern for the issue:

- 84% of respondents say they will withdraw their investments from American companies that do business with companies that directly or indirectly support genocide.⁶⁴
- 88% would like their mutual funds to be genocide-free.⁶⁵
- 95% of those earning \$50,000 or more would like their mutual funds to be genocide-free.⁶⁶

The proposal is in line with the vast majority of Americans who want to avoid investments with ties to genocide

- 82% say they would advise friends, family and co-workers against buying products or services, or investing in American companies that invest in a foreign company that directly or indirectly provides revenue to a government that perpetrates genocide.⁶⁷

Other leading indicators of broad-based support for genocide-free investing include:

- Beginning in 2005, 30 states⁶⁸ have divested from companies supporting Sudan, as have over 60 colleges and universities.⁶⁹
- In December 2007, Congress unanimously passed the Sudan Accountability and Divestment Act.⁷⁰
- During the 2008 presidential election, candidates from both parties⁷¹ divested from mutual funds holding stock in one or more of the oil companies supporting the Government of Sudan, including President Obama⁷² and Senator McCain;⁷³ and
- In November 2010, the House Financial Services Subcommittee on International Monetary Policy and Trade held a hearing⁷⁴ on “Investments Tied to Genocide: Sudan Divestment and Beyond.”

JPMorgan and other banks have suffered extremely unfavorable publicity in the wake of the recent financial crisis. JPMorgan can build positive public opinion by demonstrably taking affirmative action on the genocide-free investing proposal.

The proposed policy is needed to align JPMorgan investments with shareholder values

Some might argue that there are other ways for shareholders to address concerns about JPMorgan’s investments. They might, for example, elect new directors or move their investments to another firm. The reality is that neither of these approaches are satisfactory alternatives for many investors.

In theory, an approach for addressing human rights concerns would be to hold directors of the fund accountable through the election of trustees. However replacing a majority of the trustees by shareholder action is an overly broad approach and has a remote chance of success. By contrast, the approach taken by the proposal is straightforward – it asks shareholders to support reasonable procedures to guide the firm’s investment approach.

Investing elsewhere is also an unattractive option since investors face multiple hurdles when attempting, on their own, to make genocide-free investments. Few people research the details of their investments and banking relationships; they simply trust their investment company to make sound choices on their behalf. Individual investors who do attempt this research discover that it is a daunting task to determine which companies have ties to genocide, so that they can avoid those companies. Further complicating the task are the facts that even “recent” reports of a company’s portfolio holdings are likely to be months out of date and individuals have no assurance that investment managers will not invest in the problem companies in the future.

Only if management makes a commitment to genocide-free investing and implements supporting procedures can investors be confident that they are not inadvertently complicit in supporting genocide and crimes against humanity.

Genocide-free investing is popular

Investors need assistance making genocide-free investments

Conclusion

JPMorgan Chase has been slow to adjust its investment policies in response to the well known and much publicized genocide in Sudan. The “genocide-free” shareholder proposal, asks JPMorgan Chase to begin to make a reasonable effort “to avoid holding investments in companies that, in management’s judgment, substantially contribute to genocide or crimes against humanity.” Acting now, on this extreme situation will prepare the company to address humanitarian crises that may appear in the future.

Some investors believe that, in general, they should not support prescriptive shareholder proposals. However, in the face of long-term ongoing genocide and JPMorgan Chase’s continuing practice of holding large investments tied to genocide, we believe that the 2012 proposal deserves support.

In conclusion:

- JPMorgan has not acted or improved its policy since opposing the “genocide-free investing” shareholder proposal last year.
- The proposal allows JPMorgan management flexibility about how to implement the proposal, taking into account the range of its businesses and fact-specific evaluations of companies and crises.
- The proposal is consistent with JPMorgan's endorsement of the UN Principles for Responsible Investment.
- The proposal is consistent with the objectives and the spirit of U.S. economic sanctions in Sudan.
- The proposal is in line with the wishes of the vast majority of Americans who want to avoid investments with ties to genocide.

The proposal is needed to encourage JPMorgan to adjust its investment policy

The genocide-free investing proposal deserves support

About Investors Against Genocide

Investors Against Genocide is a citizen-led initiative, dedicated to convincing mutual funds and other investment firms to make an ongoing commitment to genocide-free investing. Investors Against Genocide works with individuals, financial firms, pension and endowment managers and government officials to encourage investment firms to change their investing strategy to avoid investments in companies that substantially contribute to genocide or crimes against humanity. Investors Against Genocide is staffed by volunteers and is a project of the Massachusetts Coalition to Save Darfur Inc., a 501(c)(3) non-profit charitable organization, incorporated in the state of Massachusetts.

Genocide-free Investing: Full text of the shareholder proposal at JPMorgan Chase on May 15, 2012

WHEREAS: JPMorgan Chase & Co (“JPMorgan”) has not released a genocide-free investing policy. As a result, individuals, through their JPMorgan shares and funds, may inadvertently invest in companies helping to fund genocide because of investment decisions made by JPMorgan. We believe that:

- 1) Investors do not want their investments connected to genocide.
 - a) Reasonable people may disagree about socially responsible investing, but few people want their savings connected to genocide.
 - b) In the face of the most extreme human rights crises, investment companies share responsibility, along with government, to act.
 - c) In KRC Research’s 2010 study, 88% of respondents said they would like their mutual funds to be genocide-free.
 - d) Millions of people have voted for shareholder proposals similar to this one, submitted by supporters of Investors Against Genocide, despite active management opposition.
- 2) The company’s current policies are inadequate because JPMorgan:
 - a) Is a large shareholder of PetroChina, reporting 1,193,150,903 H-shares worth \$1.5 billion as of September 14, 2011. JPMorgan has not denied that PetroChina, through its closely related parent, China National Petroleum Company, is among the worst offenders helping fund ongoing genocide in Sudan.
 - b) Claims it “supports fundamental principles of human rights across all our lines of business” and that “existing policies and procedures appropriately address these issues” yet recently increased holdings of PetroChina after being made aware of PetroChina’s connection to genocide.
 - c) Unnecessarily risks tarnishing its brand by connecting it to genocide.
- 3) As a signatory to the UN Principles for Responsible Investment, JPMorgan agrees, as the UN PRI states, to:
 - a) “incorporate ESG issues into investment analysis and decision-making processes” and
 - b) “better align investors with broader objectives of society.”Therefore, given this commitment, JPMorgan should seek to avoid investments connected to genocide.
- 4) There are no sound financial, fiduciary, or legal reasons that prevent JPMorgan from having a genocide-free investment policy.
 - a) Ample competitive investment choices exist, even for index funds.
 - b) Avoiding a small number of problem companies need not have a significant effect on performance, as shown in Gary Brinson’s classic asset allocation study.
 - c) Even the most conservative legal concerns can be addressed by disclosure in the prospectus.
 - d) Management can easily obtain independent assessments of problem companies and their connection to genocide.
 - e) TIAA-CREF is an example of a large financial institution that avoided investments connected to genocide by divesting from PetroChina due to PetroChina’s relationship with the Government of Sudan.
- 5) Investor pressure can help influence foreign governments, as in South Africa. Similar divestment pressure on Talisman Energy helped end the conflict in South Sudan.

RESOLVED: Shareholders request that the Board institute transparent procedures to avoid holding investments in companies that, in management's judgment, substantially contribute to genocide or crimes against humanity, the most egregious violations of human rights, and to assist customers in avoiding the inadvertent inclusion of investments in such companies in their portfolios. These procedures may include time-limited engagement if management believes it can change the behavior of problem companies.

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*Cover photo, courtesy of Mia Farrow: Darfuri women, displaced to IDP camps after the destruction of their villages.