

Background and Basis for Federal Retirement Thrift Investment  
Board Position Against Using TSP Investments to Advance  
Political Objectives and/or Social Goals

Legislation has been introduced in the Senate (S. 1430) which includes a Sense of the Congress resolution providing that "the Federal Retirement Thrift Investment Board should initiate efforts to provide a terror-free international investment option....and....a genocide-free international investment option." The goal of this resolution is to change behavior by the governments of Iran and Sudan.

Similar pieces of legislation have been introduced in the Senate (S. 970) and the House of Representatives (H.R. 180, H.R. 2347, and H. Res. 449). According to a June 4, 2007, story in the Washington Post (Congress Weighs Using Nest Eggs as Agents of Change), these legislative proposals include provisions intended "to pressure the TSP to reconsider [its longstanding] neutrality on political and social issues."

Longstanding TSP Board Position

The initial TSP Executive Director responded in 1989 to the first of many efforts to use TSP investments to advance political objectives and/or social goals. At that time, legislation had been introduced calling for divestment from companies doing business in Northern Ireland and South Africa. The Chairman of the House Subcommittee with jurisdiction over the TSP strongly urged the disinvestment of TSP funds in a public hearing during which he raised the topic. A copy of the complete exchange is attached.

Since that time, the Board has opposed proposals to divest based on tobacco sales, corporate governance, environmental practices, and others. We have also opposed establishing special funds for favored products and/or causes, including housing, small and minority business, sustainable/renewable energy, and others.

In 2005, the previous Executive Director responded to a hearing request for the Board position on a then-pending proposal to divest TSP investments from companies doing business in Sudan. A copy of that response is also attached.

Regarding each of these matters, the Board's position has been consistent. The terror- and genocide-free proposals raise the same fundamental concerns.

Statutory Policy Well-established After Three Years of Congressional Study and Twenty Years of Plan Operation

The TSP was created as the result of a Congressional initiative enacted after three years of careful study, including published policy forums and hearings conducted by the Senate Committee on Governmental Affairs. In the conference report accompanying the 1986 TSP enabling legislation, the Congress itself acknowledged the likelihood that it might try to introduce political issues into the TSP, but explained that the Plan was designed to prevent the success of any such effort:

....A great deal of concern was raised about the possibility of political manipulation of large pools of thrift plan money. This legislation was designed to preclude that possibility.

Concerns over the specter of political involvement in the thrift plan management seem to focus on two distinct issues. One, the Board, composed of Presidential appointees, could be susceptible to pressure from an Administration. Two, the Congress might be tempted to use the large pool of thrift money for political purposes. Neither case would be likely to occur given present legal and constitutional constraints.

The Board members and employees are subject to strict fiduciary rules. They must invest the money and manage the funds solely for the benefit of the participants. A breach of these responsibilities would make the fiduciaries civilly and criminally liable.

The structure of the funds themselves prevents political manipulation. The Government Securities Investment Fund is invested in nonmarketable special issues of the Treasury pegged to a certain average interest rate. The Fixed Income Investment Fund is composed of guaranteed investment contracts, certificates of deposit or other fixed instruments in which the Board contracts with

insurance companies, banks and the like to provide it with a fixed rate of return over a specified period of time. The Board would have no knowledge of the specific investments....

Moving from a design touting at least one fund where the Board would have "no knowledge of the specific investments" to a design offering two funds which specifically exclude the securities of certain companies based on international politics would represent a 180 degree reversal in congressional policy. It would permanently alter the "fund structure" which the Congress wisely devised to protect the TSP from political manipulation.

Legislative History Clearly Demonstrates the Rejection  
of Social Investing in the TSP

Section 8495 of the original Senate version of the bill that eventually was passed as FERSA, S. 1527, required that the Board's investment policies provide for prudent investments, low administrative costs, and "investments likely to receive broad acceptance by participants and the public, taking into consideration the views of the Employee Advisory Committee." Although this section did not explicitly mention investments designed to further social goals other than participant and beneficiary interests, at a Senate hearing on S. 1527, held September 11, 1985, it was pointed out to Senator Ted Stevens, Chairman of the Subcommittee on Post Office, Civil Service and General Services of the Senate Governmental Affairs Committee, that this language could be interpreted as an endorsement of social investing.

Senator Stevens stated that "I don't think that [social investment] should be our function" and he agreed that the language should be changed "more toward a strict economic investment." Hearing Before the Comm. on Governmental Affairs, United States Senate, on S. 1527 to Amend Title 5, U.S.C., to Establish a New Retirement and Disability Plan for Federal Employees, Postal Employees, and Member of Congress, and for Other Purposes, 99<sup>th</sup> Cong. 521 (1985). Senator Stevens' comments are consistent with the intent expressed in the Conference Report, and the language in S. 1527 suggesting that social investing would be acceptable was not incorporated in the final version of FERSA.

### Contradicts Investment Advisor Recommendation

Ennis Knupp + Associates, the TSP investment consultant, in 2006 recommended against any type of Socially Responsible Investments (SRI) for the TSP (attached). Ennis Knupp noted especially that a retirement plan sponsored by the U.S. Government "may have trouble reconciling the application of most social screens to what the plan sponsor has established as legal."

### Opens Pandora's Box

It is not possible to limit the number of additional TSP funds to these two. House committee staff has already indicated that proponents will attach a REIT fund proposal if the terror/genocide-free proposals go forward. Tobacco-free proponents have previously recommended their own TSP fund, and recent articles have generated recommendations for abortion-free, green, renewable/sustainable energy, and other targeted TSP funds. On May 24, another piece of legislation was introduced (H.R. 2419) to require the establishment of a TSP "Corporate Responsibility Fund."

If the Congress were to enact any social or political fund proposals, given the many highly focused interest groups with organized representation in Washington, it would be impossible to prevent further legislation establishing other special interest funds. The resulting balkanization would be devastating for the TSP, which for twenty years has been highly successful as a result of offering a very limited menu of widely-used, inclusive, broad-based index funds, designed solely to advance the economic and financial interests of TSP participants and their beneficiaries.

### Conclusion

The 3.7 million individuals with TSP accounts have invested their retirement savings with an explicit "no politics" commitment from the Congress. The Federal Retirement Thrift Investment Board opposes all efforts to alter this commitment and introduce political or social considerations into TSP investment policy.

Attachments