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Duke Trustees Approve Guidelines on Socially Responsible Investing

The guidelines consider both the ethical issues and financial concerns that have marked discussions about socially responsible investing at Duke and other campuses

Saturday, February 28, 2004 | DURHAM, N.C. -- The Duke University Board of Trustees on Saturday adopted guidelines for investing the university's resources in a socially responsible manner.

The trustees agreed to a process for responding to requests from students and others for Duke to take financial actions to express its concern about issues ranging from the Middle East conflict to slavery in Sudan.

The guidelines follow months of discussion among the trustees, campus administrators, students and faculty, including Duke's Academic Council. The trustees discussed an earlier version of the guidelines at their Dec. 5 meeting.

"During the past year or so, we've received several thoughtful requests from students and others that Duke use its investments to take a public stand on an issue," said Duke President Nannerl O. Keohane. "Previously, notably during the debate over apartheid in South Africa, Duke had a system for responding to such requests, but that system fell into disuse as interest faded. Now, as requests are arising again, the board has reconsidered the issue and adopted guidelines for how it and the administration should respond."

The guidelines consider both the ethical issues and financial concerns that have marked discussions about socially responsible investing at Duke and other campuses.

"We recognize that sometimes a corporation's policies or practices can cause substantial social injury," the guidelines state, noting that "corporate actions may violate domestic or international laws intended to protect individuals and/or groups against deprivation of health, safety, or civil, political, and human rights." Accordingly, the university may give weight to "corporate policies or practices [that] cause substantial social injury" when considering investments not governed by the Employee Retirement Income Security Act.

At the same time, according to the guidelines, the "primary fiduciary responsibility" of the trustees is to produce a favorable

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financial return on Duke's resources and thereby produce the funds needed to support the university's activities. Before considering a symbolic financial action, therefore, the trustees will expect the university community to engage in "substantive discourse" on an issue, and to express "broad concern that substantial social injury is being caused." They also will look to the University Priorities Committee, the president and the senior officers to recommend such action.

The trustees may then consider instructing Duke Management Company, the nonprofit corporation that manages Duke's investment assets, to take "appropriate action," which could include divesting a company's securities.

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The following is complete text of the Guideline on Socially Responsible Investing:

To fulfill its educational and humanitarian purposes, Duke University must manage its investment assets wisely. Thus the primary fiduciary responsibility of the Board of Trustees in overseeing the management of the University's investment assets must be to maximize the financial return on those resources, taking into account the amount of risk appropriate for the University.

At the same time, the University wishes to be a good corporate citizen and a responsible and ethical investor. The authority of its Board of Trustees to take ethical factors into account when setting investment policies and practices derives from the very stewardship responsibilities which attend the ownership of endowment securities. We recognize that sometimes a corporation's policies or practices can cause substantial social injury -- that they may have a gravely injurious impact on employees, consumers, and/or other individuals or groups that results from specific actions by a company. For example, corporate actions may violate domestic or international laws intended to protect individuals and/or groups against deprivation of health, safety, or civil, political, and human rights.

Thus for investments not governed by the Employee Retirement Income Security Act (ERISA), when the Board of Trustees judges that corporate policies or practices cause substantial social injury, it will give weight to this factor in investment practices related to corporate securities.

Actions the University takes may or may not materially affect an offending corporation, but such actions may have significant symbolic value. When the University community has engaged in substantive discourse on an issue and expressed broad concern that substantial social injury is being caused by such policies or practices, either the president and senior officers or members of

the University community may ask the University Priorities Committee (UPC) to examine it in depth. Upon receiving a recommendation from the UPC, the president and senior officers, if they concur, will forward that recommendation to the Board of Trustees.

Where the Board of Trustees finds that a company's activities or policies cause substantial social injury, and that a desired change in the company's activities would have a direct and material effect in alleviating such injury, it may instruct the Duke University Management Company (DUMAC) to take appropriate action, including the exercise of the University's practicable shareholder rights to seek modification of the company's activities to eliminate or reduce the injury, using such means as

- a) direct correspondence with management
- b) proxy votes
- c) sponsoring shareholder resolutions.

If the Board of Trustees further concludes that the company has been afforded reasonable opportunity to alter its activities, and that divestment will not impair the capacity of the University to carry out its educational mission (for example, by causing significant adverse action on the part of governmental agencies), then it may instruct DUMAC and its managers to divest the securities in question within a reasonable period of time.

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