The Royal Australasian College of Physicians

Senate Inquiry into the Government Investment Funds Amendment Bill 2011
Submission by The Royal Australasian College of Physicians
July 2012

Executive Summary

The Royal Australasian College of Physicians (RACP) strongly supports the Government *Investment Funds Amendment (Ethical Investment) Amendment Bill 2011* (the Bill). The RACP has strongly supported the action taken by the Australian Government over many years against tobacco use, including the global leadership demonstrated on measures such as plain packaging. Beyond the domestic environment, Australia has also been a leader in global efforts to minimise the harm from tobacco use, most notably as a signatory to the World Health Organization's Framework Convention on Tobacco Control (FCTC).

However, the Future Fund's investment in tobacco companies undermines this leadership. Tobacco is the only consumer product that will kill if taken as intended by its manufacturer, and it does so. In 2004/05 it is estimated that over 15,000 Australians died as a result of tobacco smoking and that the total cost to the Australian economy of tobacco related harms was $31.5 billion.[1] This provides a strong reason for singling out tobacco for exclusion. We believe the implementation of the *Government Investment Funds Amendment (Ethical Investments) Bill 2011* provides a sound mechanism for excluding investment in tobacco marketing companies, while respecting the independence of the Board of Guardians of the Future Fund.

Recommendations

The RACP:

1. Supports the *Government Investment Funds Amendment (Ethical Investments) Bill 2011*, insofar as the Bill:

    a. Excludes tobacco marketing companies from the investment parameters of the Board of Guardians of the Future Fund, and
    b. Requires Responsible Ministers of the Future Fund to produce Ethical Investment Guidelines to which the Board of Guardians must adhere.

2. Notes that tobacco policy must be considered as a system of actions aimed at denormalising tobacco use, where any number of positive actions can be undermined by smaller negative actions

3. Notes that the Government's investments via the Future Fund undermine the denormalisation of tobacco use at work in other policy instruments.

Introduction

The World Health Organization identifies tobacco as “the single most preventable cause of death”.[2] As physicians, we are responsible for the treatment of patients dying of tobacco-related illness. Tobacco related deaths are not pleasant and it is doubly distressing that they are almost entirely preventable. Government policy should continue to denormalise tobacco use. For this reason we call on the Future Fund to divest its interests in tobacco marketing companies.

This year marked the 50th anniversary of The Royal College of Physicians (UK) landmark publication of *Smoking and Health.*[3] *Smoking and Health* highlighted the link between tobacco smoking and the prevalence of lung cancer. In a remarkable feat of foresight, the report recommended that the UK Government should:

- Educate the public and especially school children on the hazards of smoking
- Put in place more effective restrictions on the sale of tobacco
- Restrict tobacco advertising
- Widen restriction of smoking in public places
- Increase tax on cigarettes
- Inform purchasers of the tar and nicotine content of cigarette smoke, and
- Investigate the value of anti-smoking clinics.

In 2012, each of these recommendations is common practice. The RACP believes that Australian governments at state, territory and federal levels over a number of years have made good progress on many fronts in the process of denormalising tobacco use. These measures include legislation creating smoke free environments, graphic displays on cigarette packets, raising excise tax on tobacco products, outlawing tobacco sponsorship of sport and cultural events, restricting tobacco displays as well as the passage of plain packaging legislation earlier this year.

Each of these initiatives is valuable in their own right, but are more effective as a package of policies. Changing social norms is a long-term game and requires sustained effort. In its 50th anniversary follow up report, The Royal College of Physicians (UK) noted that:

> there is clear evidence identifying the most effective policies and interventions to prevent smoking uptake, and these should be combined in a comprehensive approach, incorporating action to reduce young people’s access to tobacco and cigarettes, and continuing to denormalise smoking so that it becomes less desirable and acceptable to use tobacco.

However, all this effort (and significant cost in defending against legal challenges) is undermined by the Australian Government’s continued investment in tobacco companies via the Future Fund.

The RACP has been a strong supporter of efforts to change the Future Fund’s stance on investments in tobacco companies. We have lobbied both the previous Chair of the Board of Guardians, Mr David Murray AO and the current Chair Mr David Gonski AC. Mr Gonksi informed us of his intent to form a committee of the Board to review the Future Fund’s Environmental, Social and Governance risk management policy regularly. We welcome this development and believe that this is a crucial step in ensuring the ongoing good governance of the Future Fund.

However, we recognise that under current arrangements, the Board of Guardians is statutorily bound to pursue profit maximisation within the parameters of the Investment Mandate set by the Responsible Ministers. The Investment Mandate is currently very broad and essentially authorises any investment that is not illegal. The Sections of Part 2, which sets out the Directions, can be summarised as follows:

1. Benchmark return: The Fund must return an average of Consumer Price Index (CPI) plus 4.5 to 5.5 per cent per annum over the long term.
2. Limits for holdings of listed companies: The Board must establish a limit for holdings of listed companies, to prevent the Future Fund from triggering takeover provisions of the *Corporations Act 2001* and from taking a stake in foreign listed companies in excess of 20 per cent.
3. Telstra Corporation: Board must not take purchase equity holdings in the Telstra Corporation.
4. Board must consider impacts from its investment strategy: Future Fund activity must act in a way that: minimises negative impacts on the Australian financial markets; and is unlikely to have negative consequences of the Australian government's reputation in domestic and international markets.

The RACP strongly supports the Bill as a sound mechanism for ensuring the Future Fund and Nation Building Funds are responsible investors, including excluding investment in tobacco marketing companies, while respecting the independence of the Board of Guardians of the Future Fund.

International Commitments

The RACP notes that Australia is a signatory to the World Health Organization's FCTC. The development of Australia's position for the negotiations was led by the Commonwealth Department of Health and Ageing in consultation with a number of other departments, including Treasury and Department of Finance. As with all Australia's treaty negotiations, this was a 'whole of government' negotiating position. As a government-owned asset, we believe that the Future Fund should be cognisant of Australia's international obligations, especially the FCTC.

The objective of the FCTC is to "protect present and future generations from the devastating health, social, environmental, and economic consequences of tobacco consumption and exposure to tobacco smoke…"[4] The Guiding Principles set out in Article 4 of the FCTC identify the responsibility of governments to, among other things:

- protect all persons from tobacco smoke
- participate in international efforts to promote technology transfer, knowledge and financial assistance to establish and implement effective tobacco control strategies
- participate in multisectoral measures and responses to reduce consumption of all tobacco products
- recognise the importance of technical and financial assistance to aid the economic transition of tobacco growers and workers.

Section 7.5 of the Future Fund's Statement of Investment Policies, which covers excluded investments, states that "Australia has ratified a number of international conventions and treaties that limit certain activities. Where the Board becomes aware that the activities of an entity or funding activity may contravene such a convention or treaty, the Board will consider the exclusion or removal of the investment from the portfolio generally having regard to the nature of the limitations."[5] It is difficult to understand how the Future Fund's investments in tobacco producers are not in the very least inconsistent with the intent of the FCTC.

Foreign Aid

Tobacco companies key growth markets are developing countries. The World Bank estimates that 84 per cent of the world's smokers live in developing countries and that 80 per cent of tobacco deaths by 2025 will be in developing countries.[6] This is not just a case of rising middle classes. The WHO reports that

> The net economic effect of tobacco is to deepen poverty. The industry's business objective – to get more customers addicted – disproportionately hurts the poor. Tobacco use is higher among the poor than the rich in most countries, and the difference in tobacco use between poor and rich is greatest in regions where average income is among the lowest.[7]

Further, WHO reports that the poorest households in Bangladesh spend 10 times as much on tobacco than they do on education. In Indonesia, the lowest income group spends 15 per cent of its total expenditure on tobacco; and in Mexico the poorest 20 per cent of households spend nearly 11 per cent of their income on tobacco.[8]

We must be very clear that investment in tobacco companies is an active statement that the Australian government, via the Future Fund, wishes to profit from the world's poor. This at a time when AusAID estimates that it spent $759 million on health related projects in 2011/12. A portion of this went to its non-communicable disease program, which includes prevention programs and healthy lifestyle programs. But it is also clear from above that tobacco use is a major contributor to poverty more generally. The Future Fund's investment in tobacco companies is just one more case of these investments undermining the Government's good work in other areas.

International Examples

Other sovereign wealth funds have already made the decision to exclude tobacco companies from their portfolio. Two key examples are the New Zealand Superannuation Fund and the Norwegian Government Pension Fund. This is not a complete list by any means, but merely provides two examples that are useful for the Australian context.

New Zealand is our neighbour and a country that we seek policy alignment with on a number of issues. As the Royal *Australasian* College of Physicians, many of our Fellows and trainees are from there. The Guardians of the New Zealand Superannuation Fund (NZSF) have decided to exclude tobacco companies from their portfolio. In the document outlining their decision, the Guardians of the NZSF state that:

> Considering Crown action internationally, and at the domestic level, the unusual characteristics of the tobacco industry, particularly with regard to product safety and ethics, and the effectiveness of different shareholder responses, the Guardians concluded that divestment and exclusion of the Fund's tobacco holdings would be the most effective response.[9]

The NZSF noted that its total tobacco company holding amounted to just 0.29 per cent of the total fund. In their decision, the Guardians noted that "divestment from the tobacco sector would have an immaterial effect on the expected efficiency…of the Fund's portfolio."[10] This is almost identical to the Future Fund, whose estimated $225 million holding represents 0.29 per cent of the $77.05 billion total (as at 31 March 2012).

The Norwegian Government Pension Fund is also useful to look at given the similarities of the Australian and Norwegian economies as beneficiaries of commodity booms. The Norwegian Government Pension Fund comprises two distinct funds: the Government Pension Fund – Global (GPFG) and the Government Pension Fund – Norway (GPFN). The GPFG is of most interest to us as it is the primary vehicle for international investment and is by far the largest of the two. As at 31 December 2011, the GPFG's total holdings amounted to US$553 billion.[11] By comparison, the GPFN was worth around US$23.2 billion as of December 2010.[12]

The GPFG is notable for its responsible investment practices. Ethical guidelines have been in place since 2004. In 2010, the Ministry of Finance adopted the *Guidelines for Observation and Exclusion from the Government Pension Fund Global's Investment Universe*.[13] Section two of the Guidelines identifies tobacco producers, alongside companies that produce weapons that violate fundamental humanitarian principles through their normal use and companies that sell weapons or military material to states that are affected by investment restrictions on government bonds.

The Council on Ethics' role is to monitor the GPFG's portfolio for companies that are contributing or responsible for unethical behaviour mentioned above. As per section three of guidelines, the Council also monitors companies that contribute to or are responsible for:

- serious or systematic human rights violations, such as murder, torture, deprivation of liberty, forced labour, the worst forms of child labour and other child exploitation;
- serious violations of the rights of individuals in situations of war or conflict;
- severe environmental damage;
- gross corruption;
- other particularly serious violations of fundamental ethical norms.

The Council is made up of five members appointed by the Ministry of Finance and is serviced by its own independent secretariat. The Council provides advice to the Ministry of Finance, either on the Ministry's request or at the Council's own behest. It must also maintain a list of excluded companies. There are currently 19 companies excluded owing to their involvement in the production of tobacco.[14]

About the RACP
The Royal Australasian College of Physicians (the RACP) trains educates and advocates on behalf of more than 13,500 physicians – often referred to as medical specialists – and 5,000 trainees, across Australia and New Zealand. The RACP represents more than 25 medical specialties including paediatrics & child health, cardiology, respiratory medicine, neurology, oncology and public health medicine, occupational and environmental medicine, palliative medicine, sexual health medicine, rehabilitation and addiction medicine. Beyond the drive for medical excellence, the RACP is committed to developing health and social policies which bring vital improvements to the wellbeing of patients.

References

[1] Collins, D. Lapsley, H. (2008) The costs of tobacco, alcohol and illicit drug abuse to Australian society in 2004/05. National Drug Strategy Monograph Series No. 64

[2] World Health Organization, Tobacco Free Initiative, http://www.who.int/tobacco/health_priority/en/, accessed 9 July 2012.

[3] Royal College of Physicians, Smoking and Health: A report of The Royal College of Physicians on smoking in relation to cancer of the lung and other diseases, London, 1962.

[4] WHO, Framework Convention on Tobacco Control.

[5] Future Fund, Statement of Investment Policies, February 2012.

[6] Tobacco Control at a Glance, World Bank, Washington, February 2011.

[7] WHO Report on the Global Tobacco Epidemic, 2008: The MPOWER package. Geneva, World Health Organization, 2008.
[8] WHO, 2008.

[9] New Zealand Superannuation Fund, *Background information for Tobacco Stocks Divestment*, 23 October 2007. Accessed: http://www.nzsuperfund.co.nz/files/Responsible%20Investment%20Background%20Information%20Tobacco%20Divestment%20231007.pdf.

[10] NZSF, 2007.

[11] Norwegian Ministry of Finance, The Government Pension Fund Global Fact Sheet, 2011.

[12] CEM Benchmarking Inc, Government Pension Fund Norway Investment Benchmarking Results for the 5 year period ending December 2010. Please note, figure given in euros, converted to US dollars for comparison using exchange rate as of 31 December 2010.

[13] Norwegian Ministry of Finance, Guidelines for Observation and Exclusion from the Government Pension Fund Global's Investment Universe, 2010.

[14] Norwegian Ministry of Finance, http://www.regjeringen.no/en/dep/fin/Selected-topics/the-government-pension-fund/responsible-investments/companies-excluded-from-the-investment-u.html?id=447122.