1. The name of the Bill and terminology

A proposal: the use of the term "Ethical Investment" in the Bill to be changed to "Responsible Investment"

Explanation: historically, investment methods which incorporate non-financial factors, such as, social, environmental and governance (so called ESG), or methods which apply exclusion criteria for certain types of businesses (such as tobacco, alcohol, or pornography) are referred as socially responsible investment (SRI) or ethical investment (EI). However, in recent years, investment communities are more prone to adopt the term, responsible investment, instead of socially responsible investment or ethical investment. One such example is the name change of Australian industry organization for socially responsible investment. In 2007, Ethical Investment Association of Australia (EIA) changed its name to Responsible Investment Association of Australasia (RIAA). RIAA explains the reason for the change as follows;

> *In 2007, due to the increasing diversity of members within the organisation and the broadening interest in this type of investment from professionals and consumers, the members of the EIA voted in favour of changing the name of the organisation to Responsible Investment Association Australasia. The term responsible investment was selected as it has been embraced by the global international investment community, government organisations, civil society and academia through the creation and implementation of the United Nations Principles for Responsible Investment. The term also captures the intent of a rapidly increasing number of investors who seek to act in an environmentally and socially responsible way while seeking positive financial outcomes."*
> *(source: http://www.responsibleinvestment.org/about-us/)*

Similar trends are observed outside Australia. The main reason seems to be similar to RIAA's strategic name change – to appeal to a wider financial community. In the past, SRI or EI were adopted by a small group of financial institutions that were often smaller in business scale and have specifically chosen SRI as its corporate principles and strategies. In contrast, mainstream financial institutions that started showing interests in SRI incorporate SRI as addition to the existing financial products and do not necessarily adopt the principles of SRI across the whole range of their products. For this reason, mainstream financial institutions are more inclined to accept soft sounding of "responsible investment" rather than "ethical" or "socially responsible."

While there are criticisms against such trend as "diluting" the principles of SRI or EI, it is also true that the use of more "soft" term is encouraging more institutions to adopt such investment practices.

This proposal is not intended to change or "dilute" the principles of the Bill. Instead, it is a strategic adoption of the name that may appeal to a wider spectrum of financial and political communities and therefore, to receive a wider support to the Bill.

2. Vision statement

A proposal: It is recommended that the Bill incorporate a vision statement on responsible investment practice of the funds.

Explanation: the investment practices of the Australian government and its affiliated bodies, guided by the Bill, can and should function as exemplary to wider financial communities both within Australia and outside Australia. To this end, the Bill should contain a clear vision statement.

A good example is the case of the New Zealand Superannuation Fund (NZSF). NZSF is known for incorporating responsible investment across its investment activities. However, the legislation for NZSF itself does not specifically designate NZSF to practice responsible investment. The legislation simply defines core principles for management and administration of the fund but NZSF interpreted such principles to adopt responsible investment since its inception. Specifically, Section 58 of The New Zealand Superannuation and Retirement Income Act 2001 states;

> *the Guardians must invest the Fund on a prudent, commercial basis and, in doing so, must manage and administer the Fund in a manner consistent with:*
> *a) best-practice portfolio management;*
> *b) maximising return without undue risk to the Fund as a whole; and*
> *c) avoiding prejudice to New Zealand's reputation as a responsible member of the world community.*
>
> (source http://www.nzsuperfund.co.nz/files/Responsible%20Investment%20Policy%20Standards%20and%20Procedures%20270607.pdf)

It is this third principle, "avoiding prejudice to New Zealand's reputation as a responsible member of the world community," which guided NZSF to incorporate responsible investment.

As seen in this example, a vision statement does not have to be elaborate. Ideally, a vision statement shall be aspiring.

3. Prohibited business activities

A proposal: in addition to tobacco, cluster munitions, and nuclear weapons, anti-personnel landmines shall be added to a list of prohibited business activities.

Explanation: Australia has ratified the international convention on prohibition of anti-personnel landmines (the Ottawa Treaty). The establishment of the Ottawa Treaty (in 1997) preceded the establishment of the Oslo Treaty on prohibition of cluster munitions by a decade. For this reason, a public awareness of the issue of anti-personnel landmines may be higher than that of cluster munitions. However, there are still publicly listed enterprises that are deemed involved in production of anti-personnel landmines. Therefore, it is recommended to include anti-personnel landmines among the prohibited business activities.

4. Methodology

The Bill does not set detailed conditions for investment and they will be prescribed in the guidelines will be established under the Bill. Nevertheless, I would like to highlight the following issues for further consideration.

1) Definition of Involvement

While the proposed Bill refers to manufacturing or production of specified products, such as tobacco, cluster munitions, and nuclear weapons, it is not necessarily self-evident what constitutes manufacturing or production. For example, even among the financial institutions that exclude companies involved in manufacturers of cluster munitions, there are differences in exclusion criteria.

The latest report by FairFin (formerly known as Netwerk Vlaanderen) lists the “Hall of Fame” financial institutions for their efforts of excluding companies involved in cluster munitions. (source http://www.fairfin.be/en/files/en/documents/publications/full_report_june_2012.pdf)

However, even among the financial institutions included in the Hall of Fame, there are varieties in the exclusion criteria. Some financial institutions exclude companies that manufacture products and components exclusively used for cluster munitions while others apply more strict approach, excluding companies that manufacture products and components that are used for cluster munitions but not exclusively.

2) Direct involvement vs indirect involvement

The proposed Bill seems to be intended to prevent investment in business enterprises directly involved in manufacturing of controversial products. However, some financial institutions practicing SRI, particularly those in Europe, go even further by excluding financial institutions that have certain level of investments in such controversial business enterprises. Similar to the issue of definition of involvement discussed above, there are varieties in the definition of indirect involvement. Some may apply zero tolerance approach to certain type of products. For example, some prohibit investment in financial institutions that have any financial stake in companies involved in cluster munitions. Some set absolute and/or percentage thresholds for the size of investment.

3) Country exclusion

Financial institutions practicing SRI often exclude companies that have business activities in countries of serious concerns. Well-known examples are Burma and Sudan. This is not to suggest exclusion of any specific country or to apply country based exclusion. However, it is recommended that the Bill does not preclude such approach and if appropriate, the guidelines can adopt a country based exclusion.

4) International protocol

The proposed Bill refers to “environmental concerns, human rights concerns, labour practices and the manufacture of weapons of war.” In specifying what constitutes such concerns, internationally accepted protocols are often used as reference points by financial institutions practicing SRI. Such examples are: UN Universal Declaration of Human Rights, UN Global Compact, ILO Conventions, and UN imposed sanctions.

- end of submission -