



TOBACCO FREE
Portfolios

The toolkit.

FEBRUARY 2017



Encouraging tobacco free investment.



We are entering a new era of collaboration between the health and finance sectors – coming together to stand side by side to address one of the greatest public health challenges of our time.



— Dr. Bronwyn King, MBBS, FRANZCR

Founder and CEO, Tobacco Free Portfolios
Radiation Oncologist, Peter MacCallum Cancer Centre and Epworth Healthcare
Cancer Council Australia Tobacco Control Ambassador

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Tobacco Free Portfolios Overview



TOBACCO FREE
Portfolios

Addressing financial support of and investment in tobacco is a crucial, and to date, elusive piece in global efforts to control tobacco. Tobacco Free Portfolios professionally engages with the finance sector to encourage tobacco-free investment, playing a unique role in enabling the finance sector to align governments, the health sector and non-government community.

Right: Dr. Bronwyn King, CEO, Tobacco Free Portfolios (left), pictured with Her Royal Highness Princess Dina Mired of Jordan (right), the Global Ambassador for Tobacco Free Portfolios, at a Union for International Cancer Control event in Geneva.

PHOTO COURTESY OF UICC COMMUNICATIONS



Through pension schemes, sovereign wealth funds and other investments, many are unknowingly contributing to the global tobacco epidemic. Financial support of the tobacco industry stands in sharp contrast to global tobacco control efforts, increased community awareness of the dangers of smoking and the ongoing decline of tobacco smoking in developed economies.

Whilst there is general acknowledgement that global collaboration is needed, Tobacco Free Portfolios is the only organisation focused solely on tobacco-free investment and the vital role of the finance sector in tobacco control.

Who we are and how we work

Tobacco Free Portfolios is a not-for-profit organisation with a mission to inform, prioritise and advance tobacco-free investment by eliminating tobacco from investment portfolios across the globe.

Our Strategy is to engage with key leaders and influencers across the finance sector. We educate finance leaders about global tobacco control initiatives and the risks of tobacco investment and we encourage tobacco-free investment mandates.

The approach of Tobacco Free Portfolios is an advocacy and educative role. We pride ourselves on discretion and do not seek to accuse or shame trustees, investors or the finance industry. Instead we work collaboratively and professionally, so that the industry and its investors can make well-informed decisions.

Tobacco Free Portfolios is led by Dr. Bronwyn King, a practicing Radiation Oncologist. Dr. King led much of the initial work of Tobacco Free Portfolios and has gained public international recognition for her leadership and advocacy. Ms. Clare Payne, the Chief Operating Officer of Tobacco Free Portfolios, has a background in law and business ethics and is World Economic Forum Young Global Leader. Dr. Rachel Melsom, contributes her combined corporate and clinical skills to the role of UK Director for Tobacco Free Portfolios.

Progress and impact

Tobacco Free Portfolios has played an integral role in the decisions of over 35 pension funds in Australia to implement tobacco-free investment mandates. In 2016, Tobacco Free Portfolios was delighted to work with AXA, one of the world's largest insurers, and welcomed their decision to divest tobacco industry assets valued at 1.8 billion Euros, putting the issue firmly on the mainstream agenda. Tobacco-free investment decisions were also made by AP4 – one of the most influential pension funds in Sweden; Medibank, the largest health insurer in Australia; France's largest public pension fund Fonds De Reserves Pour Les Retraites; the Irish Sovereign Investment Fund and CalPERS, the largest public pension fund in the USA.

Tobacco Free Portfolios is now engaging with large retail and investment institutions across the global finance sector and regularly presents at industry conferences and events.

Support and goodwill

The launch of the Global Task Force for Tobacco Free Portfolios, by the Union for International Cancer Control in 2015, provided the global platform to extend the reach and impact of Tobacco Free Portfolios. In 2016, Cancer Research UK kindly supported the UK Director role and other health organisations are considering similar support.

The personal support and endorsement of eminent ambassadors serves to create trust and profile for the initiative:

- Global Ambassador - Her Royal Highness Princess Dina Mired of Jordan; and
- Special Advisor - The Honourable Nicola Roxon, Former Attorney-General of Australia.

Tobacco Free Portfolios has received recognition and support from international health organisations and sovereign wealth funds and has inspired business leaders to create enormous goodwill for both Tobacco Free Portfolios and tobacco-free investment.

Extending our impact

With much of the finance sector still invested in tobacco there is still great progress to be made, however, the support and goodwill for Tobacco Free Portfolios is a positive indication of what can be achieved.

In order to strategically harness the support and good will for tobacco-free investment, Tobacco Free Portfolios is now leading a Global Tobacco-Free Pledge in partnership with the UN backed Principles for Responsible Investment, the UN backed Principles for Sustainable Insurance and AXA, with the active contribution of the UICC.

“Tobacco kills six million people a year and costs society more than war and terrorism combined. Yet it is also considered to be an attractive investment offering strong returns. [...] That is inconsistent and has to change.”

— Thomas Buberl, CEO AXA¹

We believe this initiative, to be launched in 2018, will bring global attention to financial investment in tobacco and encourage action. The Pledge will also draw attention to the Sustainable Development Goals, the World Health Organisation Framework Convention on Tobacco Control, and contribute to efforts to denormalise the tobacco industry.

In addition, Tobacco Free Portfolios is working with regulatory bodies to create an approved ‘Verified Tobacco-Free Badge’, which will be used by funds and investment institutions to publicly declare their tobacco-free position. The Verified Tobacco-Free Badge will also act as a guarantee to consumers and fund members seeking tobacco-free financial products.

2.

Tobacco Free Investment Framework

While there are industries and companies that may be considered undesirable, tobacco has unique features, which, when considered collectively, demonstrate why it is reasonable to take an absolute position.

CONSIDERATIONS

<p>Can the product be used safely?</p>	<p>Is there a UN Treaty applying to this product/ industry?</p>	<p>Can engagement be effective?</p>
<ul style="list-style-type: none"> • There is no safe level of consumption. • When used as intended, tobacco will have contributed to the early death of two out of three smokers.² 	<ul style="list-style-type: none"> • In recognition of the global ‘tobacco epidemic’ (6 million deaths worldwide each year³ and an estimated 1 billion deaths this century⁴), the United Nations Tobacco Treaty was established —The World Health Organisation Framework Convention on Tobacco Control—The world’s first global legally binding public health treaty. • 180 Countries are Parties to the Treaty, representing 89.4% of the world’s population⁵, which makes it one of the most widely embraced treaties in United Nations’ history. 	<ul style="list-style-type: none"> • The World Health Organisation has declared, “The tobacco industry is not and cannot be a partner in effective tobacco control”.⁶ • Positive influence of the industry through professional engagement is futile, as the only acceptable outcome would be for tobacco companies to cease their primary business.

“This is an epic battle between the protection of public health and the pursuit of corporate wealth. (...) Public health has the evidence and the right values on its side. The tobacco industry has vast financial resources, lawyers, lobbyists, and no values whatsoever beyond the profit motive.”

— Dr. Margaret Chan, opening speech, COP4, Punta del Este, Uruguay, November 2010



“There is increasing willingness in the global finance community to acknowledge that there are some sources of revenue which might be considered illegitimate”

— Martin Skancke Chair, Principles for Responsible Investment

3



The Sustainable Development Goals and Tobacco

Major advances in tobacco control policy are required for achievement of 13 of the 17 Sustainable Development Goals'

The Sustainable Development Goals (SDGs) represent a global consensus on how to achieve a sustainable future.

- The SDGs contain a set of seventeen Global Goals with targets.
- The UN General Assembly formally adopted the SDGs in September 2015 and they officially came into force on 1 January 2016.
- All countries are expected to consider the SDGs when preparing plans and policies for the next 15 years.
- The international community, including the United Nations, the World Bank and regional development banks, as well as public and private donors, are expected to assist governments to reach the SDGs.

Tobacco use is the world's number one cause of preventable death. Tobacco use affects health and also impacts many other dimensions of development, including poverty and education, which are all essential to development.



Money spent on tobacco is money not spent on other household needs. Cigarettes are Second Highest Contributor to Poverty in Thailand: Cigarettes become the only non-food item in the list of commodities that impact the poverty rates. Cigarettes are second only to rice⁶. In India, an additional 15 million people fall below the poverty line, once effects of tobacco within families are taken into account⁷.



In Kenya and Bangladesh, tobacco cultivation has replaced food crops and has led to local food insecurity⁸.



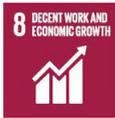
Tobacco use kills more than six million people every year, the majority in their most productive years. In this century, tobacco use will kill one billion people unless trends change⁹.



In Malawi, at least 78,000 children are forced to work in tobacco fields, preventing most of them from attending school.¹⁰



In China, 53% of women of reproductive age were exposed to second-hand smoke at work, which raises the risk of complications in pregnancy¹¹. In Uruguay, comprehensive tobacco control policies improved the health of newborns by encouraging pregnant women who smoke to quit.¹²



In highly populated, developing countries like Pakistan, lost economic opportunities are severe with up to half of all tobacco-related deaths occurring during the population's prime productive years.¹³ In 2006 the International Labour Organization estimated that children constituted up to 60% of the workforce on tobacco farms across the globe¹⁴.



More than 80% of the world's smokers live in low and middle-income countries, which have fewer resources to devote to the health and other costs of tobacco.¹⁵



Breathing in second-hand smoke is deadly. In Thailand, 68% of youth (age 13–15) are exposed to second-hand smoke in public places and 49% in their homes¹⁶.



Tobacco cultivation accounts for 1% of the world's agricultural land use, yet it is responsible for 2-4% of global deforestation.¹⁷



Cigarette butts are the number one littered item worldwide. They foul waterways, are toxic to the environment and are not biodegradable¹⁸.



Tobacco growing is responsible for biodiversity losses, land pollution through the use of pesticides, as well as soil degradation, deforestation and water pollution¹⁹. Tobacco manufacturing is related to 30% of deforestation in Bangladesh²⁰.



In 2000, the European Community brought a case against tobacco companies Phillip Morris and RJ Reynolds for smuggling cigarettes, obstructing governments' tobacco control, bribing foreign public officials and illicit trade with terrorist groups²¹.



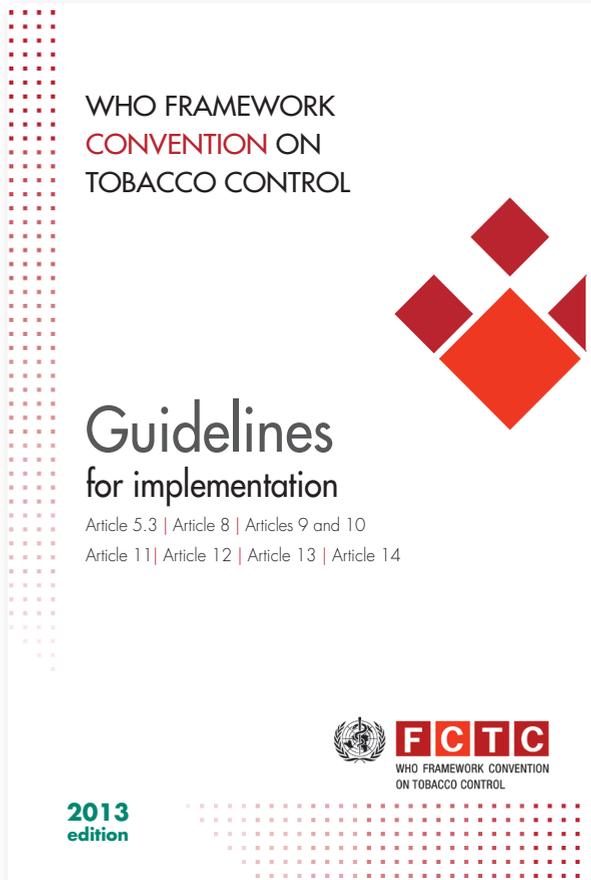
The UN General Assembly has endorsed the policies to increase tobacco taxes. Price and tax measures on tobacco are effective and an important means to reduce tobacco consumption and healthcare costs, and, in many countries, to raise revenue to finance development programmes²²

For more information, please see:

- Framework Convention Alliance Advocacy Toolkit: www.fctc.org/images/stories/SDGs_ToolkitFINAL.pdf
- www.unfairtobacco.org (resources)

4.

UN Tobacco Treaty



In 2005, the World Health Organization established the Framework Convention on Tobacco Control (WHO FCTC), the world's first legally binding health treaty. There are 180 Parties (Countries), which makes it one of the most widely embraced treaties in United Nations' history. Under the Treaty the Parties have committed to implementing a broad range of tobacco control measures.

The Guidelines of the WHO FCTC include a provision that stipulates Governments are required to not invest in the tobacco industry. This includes Sovereign Wealth Funds and Government pension funds.

Currently, only four countries have implemented this part of the Treaty. They are: New Zealand, Norway, Australia and Ireland. There is the opportunity for other nations to stand beside these nations and be profiled on the world stage as protecting their population and joining global cancer control efforts.

Guidelines for implementation: Article 5.3

- 4.6 Parties should require government officials to declare and divest themselves of direct interests in the tobacco industry.
- 4.7 Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in a State-owned tobacco industry.
- 4.8 Parties should not allow any person employed by the tobacco industry or any entity working to further its interests to be a

Without prejudice to their sovereign right to determine and establish their economic, financial and taxation policies, Parties should respect their commitments for tobacco control.

Recommendations

- 7.1 Parties should not grant incentives, privileges or benefits to the tobacco industry to establish or run their businesses.
- 7.2 Parties that do not have a State-owned tobacco industry should not invest in the tobacco industry and related ventures. Parties with a State-owned tobacco industry should ensure that any investment in the tobacco industry does not prevent them from fully implementing the WHO Framework Convention on Tobacco Control.

Excerpt from the Guidelines for implementation of Article 5.3 of the WHO FCTC:

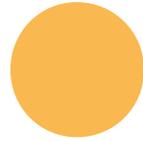
There are two provisions relevant to the issue of tobacco-free investment, they are:

- 4.7 - 'Government institutions and their bodies should not have any financial interest in the tobacco industry, unless they are responsible for managing a Party's ownership interest in State-owned tobacco industry.'
- 7.2 - 'Parties that do not have a State-owned tobacco industry should not invest in the tobacco industry and related ventures.'

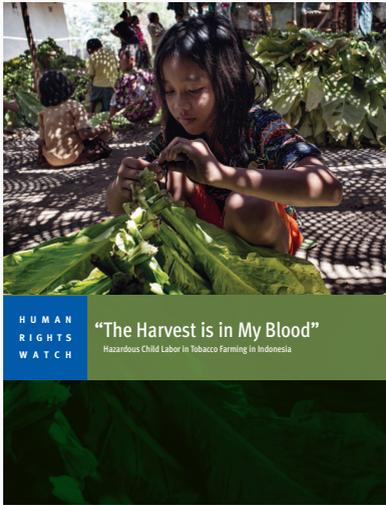
For more information, please see:

- The World Health Organisation Framework Convention on Tobacco Control: http://www.who.int/fctc/WHO_FCTC_summary_January2015_EN.pdf?ua=1
- The Guidelines: http://www.who.int/fctc/guidelines/adopted/guidel_2011/en/

5



Human Rights and Tobacco



Left: *The Harvest is in My Blood - Hazardous Child Labor in Tobacco Farming in Indonesia*, a detailed report from the Human Rights Watch that highlights the presence of child labor in tobacco production.

Almost no cigarette can be guaranteed to be free from child labour.²⁵

Scale of the issue

It is estimated that 33 million people are engaged in tobacco farming worldwide.²⁶ In 2006 the International Labour Organization estimated that children constituted up to 60% of this workforce.²⁷

Countries involved

The US department of Labor lists fifteen countries that use child labour to produce tobacco, spanning South America, Central America, Asia, Africa and the Middle East.²⁸

A recent report, *Tobacco's Hidden Children - Hazardous Child Labour in the United States Tobacco Farming* by the Human Rights Watch, highlights the presence of child labour on American tobacco farms.²⁹

Green Tobacco Sickness

The report also cited that of 141 child tobacco workers (aged seven to seventeen years) from four separate US states, nearly three-quarters of the children interviewed reported symptoms of 'green tobacco sickness'.³⁰

'Green tobacco sickness' includes serious symptoms such as nausea, vomiting, headaches, dizziness and breathing difficulties. Longer-term health effects related to pesticide exposure include: cancer, reproductive health issues and problems with learning and cognition.³¹

Unacceptable work conditions

Alongside these significant health effects, exist numerous other risks associated with unacceptable working conditions. These include unreasonable work hours, insufficient water, sanitation and shade, the forced use of dangerous tools and machinery with inadequate safety training and a lack of personal protective equipment.³²

Child tobacco workers are also subject to other forms of exploitation, such as forced or bonded labour. For example, of an estimated 325,000 children employed in tobacco production in the state of Tamil Nadu, India, it is estimated that 50 % are bonded labourers.³³

A recent article, *Child farmworkers banned from handling pesticides, but not tobacco*, emphasises the role that a lack of legal protections for collective organising plays in exacerbating the situation. 'Child labor won't end until farmworkers themselves have a safe and effective way to speak out when abuses happen, without fearing retaliation from their employer.'³⁴

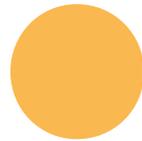
Ineffective initiatives

In October 2000, the Eliminating Child Labour in Tobacco Growing Foundation was established. In 2001, partners from the tobacco corporate sector joined this international initiative.³⁵ Despite this, little has changed in the past sixteen years, demonstrating 'the contradiction between what the tobacco industry says and what it does.'³⁶

Impact on Education

Child tobacco labour also has educational implications. Reports on the plight of children forced to work in Malawi's tobacco industry³⁷ describe that some children are forced to drop out of school to work as tobacco farmers.³⁸

6



Engagement

“Where there has been engagement, it has invariably been counterproductive.”

— Professor Mike Daube AO, Professor of Health Policy at Curtin University where he is Director of the Public Health Advocacy Institute and the McCusker Centre for Action on Alcohol and Youth.

Professor Daube has extensive national and international experience in public health. His current roles include President of the Australian Council on Smoking and Health and Co-Chair of the National Alliance for Action on Alcohol. He was Chair of the Australian Government’s Expert Committee that recommended tobacco plain packaging. He has been a consultant for WHO, international health organisations and governments in more than thirty countries, and has received numerous awards for his work including the American Cancer Society’s Luther Terry Distinguished Career Award.

World Health Organisation directive

“The tobacco industry is not and cannot be a partner in effective tobacco control” - World Health Organisation (WHO).³⁹

According to WHO, “A large body of evidence demonstrates that tobacco companies use a wide range of tactics to interfere with tobacco control. Such strategies include direct and indirect political lobbying and campaign contributions, financing of research, attempting to affect the course of regulatory and policy machinery and engaging in social responsibility initiatives as part of public relations campaigns.”⁴⁰

Public relations and attempts to influence policy

According to the 2012 Surgeon General’s Report: “The industry uses these efforts to convey to the public, policymakers, judges, and the members of juries that it is doing something substantial about

the issue of youth's tobacco use. In this way, the programs serve to promote positive attitudes about the tobacco industry. Such positive attitudes could help to limit the industry's legal liability and make it easier for its views to be heard on legislative issues."⁴¹

The Paper, *Eliminating child labour in Malawi: a British American Tobacco corporate responsibility project to sidestep tobacco labour exploitation* concluded that in Malawi, transnational tobacco companies are using child labour projects to enhance corporate reputations and distract public attention from how they profit from low wages and cheap tobacco.⁴²

As stated in the World Health Organisation Report, *Tobacco Industry Interference with Tobacco Control*, "Reports from Corporate Accountability International summarize the range of strategies used by the tobacco industry to thwart legislation. They include subverting it and exploiting legislative loopholes, demanding a seat at government negotiating tables, promoting voluntary regulation instead of legislation, drafting and distributing sample legislation that is favourable to the tobacco industry, challenging and stretching government timetables for implementing laws, attempting to bribe legislators, gaining favour by financing government initiatives on other health issues and defending trade benefits at the expense of health."⁴³

Marketing, advertising and promotion continues

In 2012 tobacco companies spent \$9.6 billion USD – more than \$26 million USD a day – on advertising and promotional expenditures for cigarettes and smokeless tobacco.⁴⁴

According to the U.S. Federal Trade Commission, in 2012, cigarette companies spent 4,300 times more on product marketing and promotions than on youth prevention advertisements (\$9.6 billion USD vs. \$2.2 million USD).⁴⁵

Ineffective campaigns and programs

In an exhaustive review of relevant studies, a comprehensive report released in June 2008 by the U.S. Department of Health and Human Services - National Cancer Institute, titled *The Role of the Media in Promoting and Reducing Tobacco Use*, confirmed that tobacco industry-sponsored youth smoking prevention programs are "generally ineffective" at reducing youth smoking and may have caused some youth to start smoking.⁴⁶

Avoidance of most powerful anti-tobacco themes

A systematic review of mass media campaigns on youth smoking published in 2008 found that tobacco industry-funded youth prevention campaigns had minimal impact on youth smoking because they avoided the most powerful anti-tobacco themes of health effects and industry manipulation.⁴⁷

7



Prospective Investment Risks

Regulation: 'Unprecedented global cooperation to reduce tobacco use'

Legally Binding Public Health Treaty:

- In recognition of the global 'tobacco epidemic' in 2005 the UN Tobacco Treaty was established, the World Health Organisation Framework Convention on Tobacco Control (WHO FCTC), the world's first global legally binding public health treaty. There are now 180 Parties, representing 89.4% of the world's population,⁴⁸ including the European Community, which makes it one of the most widely embraced treaties in United Nations' history. Parties have committed to implementing a broad range of tobacco control measures to address the devastating worldwide health, social, economic and environmental consequences of tobacco consumption and exposure to tobacco smoke.

Assistance to developing nations:

- Multiple international health organisations (including the World Health Organisation and Bloomberg Philanthropies) are actively working with governments of the developing world to enhance tobacco control regulation and reduce tobacco consumption.

Regulatory developments - May 2016 alone:

- France and the United Kingdom of Great Britain and Northern Ireland each began implementation of plain packaging.⁴⁹
- The US Food and Drug Administration (FDA) finalised a rule deeming tobacco products to be subject to the Federal Food, Drug and Cosmetic Act, which extends the FDA's authority to include the regulation of electronic nicotine delivery systems (such as e-cigarettes and vape pens).⁵⁰
- The European Court of Justice upheld new tobacco control regulations regarding packaging, e-cigarettes and a ban on cigarette flavourings.⁵¹
- The Australian Government announced four annual 12.5% increases in tobacco excise.⁵²

Implementation of the WHO FCTC, as evidenced above, will serve to reduce tobacco consumption worldwide and thus challenge the sales and business of the tobacco industry.

Litigation: 'Class-actions challenge the business model of externalising costs'

Major class actions against tobacco companies continue to pose considerable financial risk to the tobacco industry and challenge the business model, for example:

- In June 2015, a Canadian court ordered three tobacco companies to pay C\$15.5 billion (\$11.7 billion USD) - the largest award for damages in the country's history. The plaintiffs were Quebec smokers who argued that the companies did not properly warn their customers and failed in their general duty "not to cause injury to another person."⁵³



Right: An example of plain brand packaging for cigarettes.

“I continue to believe that investing in tobacco-related securities is a bad economic decision for CalPERS beneficiaries, for the state in general and for the world as a whole”

— John Chiang, California State Treasurer, December 2016⁵⁴

- In May 2016, the family of Hall of Fame baseball player Tony Gwynn filed a wrongful death lawsuit against the tobacco industry. The lawsuit seeks to hold Altria Group, Inc., formerly known as Philip Morris, and other parties accountable for Gwynn’s death.⁵⁵
- According to the British American Tobacco (BAT) Annual Report of 2014 the total number of US product liability cases pending was approximately 6,057. They state, ‘since many of these pending cases seek unspecified damages, it is not possible to quantify the total amounts being claimed, but the aggregate amounts involved in such litigation are significant, possibly totalling billions of US dollars.’ In addition, they warn, ‘the consolidated results of operations, cash flows and financial position could be materially affected, in a particular fiscal quarter or fiscal year, by an unfavourable outcome or settlement of certain pending or future litigation.’⁵⁶

The cost of tobacco is estimated at 2.1 trillion Euros per year, equalling the combined expenses of war and terrorism.⁵⁶ This is a cost that the tobacco industry could not afford to pay.

Human Rights: 'Tobacco industry use of child labour under the spotlight as supply chains analysed'

A very influential issue of concern when considering tobacco investment has been the use of child labour, particularly the following facts:

- Almost no cigarette can be guaranteed to be free from child labour.⁵⁷
- It is estimated that 33 million people are engaged in tobacco farming worldwide.⁵⁸ In 2006 the International Labour Organization estimated that children constituted up to 60% of this workforce.⁵⁹

With many organizations adopting Human Rights Policies, investment in tobacco stands in clear breach of human rights principles.

This issue was recently highlighted in international media, including the *New York Times*,⁶⁰ due to a 119-page report released by Human Rights Watch titled, *The Harvest is in My Blood: Hazardous Child Labor in Tobacco Farming in Indonesia*. The Report detailed that thousands of children in Indonesia, some just eight years old, are working in hazardous conditions on tobacco farms. They declared that Indonesian and multinational tobacco companies buy tobacco grown in Indonesia and none do enough to ensure that children are not doing hazardous work on farms in their supply chains.⁶¹

Reputation: 'The tobacco-free investment movement calls for others to follow'

Investment in tobacco companies implies endorsement of the product itself and of the industry as a whole. There is a growing tobacco-free investment movement. Of significance, in May 2016 the AXA Group announced its decision to divest tobacco industry assets, valued at approximately 1.8 billion Euros.

Thomas Buberl, Deputy CEO and incoming CEO of AXA stated:

*"We strongly believe in the positive role insurance can play in society, and that insurers are part of the solution when it comes to health prevention to protect our clients. Hence, it makes no sense for us to continue our investments within the tobacco industry. With this divestment from tobacco, we are doing our share to support the efforts of governments around the world. This decision has a cost for us, but the case for divestment is clear: the human cost of tobacco is tragic; its economic cost is huge. As a major investor and a leading health insurer, the AXA Group wants to be part of the solution, and our hope is that others in our industry will do the same."*⁶²

This announcement followed the decisions of over 35 Australian Pension Funds to divest tobacco stocks worth over \$1.8 billion AUD in just four years, creating what is developing as a 'new normal' in the Australian pension fund community.

Opposite: The Fiduciary Duty Report states that "Fiduciary duty is not an obstacle to action on environmental, social and governance factors."

FIDUCIARY DUTY IN THE 21ST CENTURY



8



Common Questions Answered

Investment in tobacco and performance of the stock

Why have tobacco stocks been so profitable?

The tobacco industry significantly relies on child labour in the production of tobacco and has a business model that externalises an estimated 2 trillion Euros of costs each year,⁶³ while internalising profits. The targeting of developing nations with large youth populations, poorer education levels, less awareness about the dangers of smoking and weaker regulations, including low taxes, has led to a large number of new customers in the past decade. An estimated 80,000-100,000 children start smoking every day, mostly in the developing world.⁶⁴

Shouldn't financial institutions be trying to get the best returns for investment clients rather than allowing ethical considerations to drive investment philosophy?

Despite the apparent profitability of returns in the short-term, there is a clear business case for divestment from tobacco that includes the following prospective risks:

- *Regulation*: Unprecedented global cooperation to reduce tobacco use through the UN Tobacco Treaty: the World Health Organisation Framework Convention on Tobacco Control.
- *Litigation*: Class actions and litigation are challenging the tobacco industry business model of externalising costs.
- *Human Rights*: Tobacco industry use of child labour is under the spotlight as supply chains are increasingly scrutinised.
- *Reputation*: Investment in tobacco companies implies endorsement of the product itself and of the industry as a whole. Businesses across the globe are reconsidering this association.

We encourage investors and leaders of the finance sector to consider the investment from a long-term view, as the risks are most apparent from this perspective.

Divestment

What can divestment of tobacco hope to achieve?

Divestment can signal disapproval of the tobacco industry and serve to stigmatise tobacco companies. This plays an important role in de-normalising the industry and untangling the association between the 'average worker' and the tobacco industry.

In addition, generating stigma and de-normalisation can lead to greater popular and political support for the introduction of more robust tobacco control policies.

Will divestment of tobacco make the industry go bankrupt?

There is no suggestion that divestment of tobacco will lead to bankruptcy.

Will divestment of tobacco reduce the share price?

Divestment can send a strong signal from investors and may affect share prices. In addition, divestment can draw the attention of analysts who will incorporate factors, including the reasons for divestment, into their analyses and recommendations.

Will divestment of tobacco lead to others profiting?

We are not aware of instances of profits increasing as a result of divestment. In the case of tobacco with many control measures happening simultaneously (regulation restricting point of sale, smoking outdoors, plain packaging, etc.) divestment will be just one factor affecting the industry and stock values.

**Could there be a backlash from countries dependent on tobacco revenue, for example in Asia?
Can divestment cost jobs and livelihoods in low-income countries like Zimbabwe or Malawi?**

We are not aware of instances of backlash from countries involved in tobacco production. It should be noted that 180 Countries are signatories to the UN Tobacco Treaty.

A tobacco-free decision aligns with the efforts of the health and government sectors. Tobacco use is a growing problem for emerging economies, in particular Asia and Africa, with all the health and economic problems that go with it.

Will divestment from tobacco drive illicit tobacco trade further underground? E.g. Indonesia, Malaysia, Vietnam, China, Thailand?

We are not aware of any link between divestment of tobacco stocks and increase in illicit tobacco trade.

Other Undesirable Industries

How is the tobacco industry different from other undesirable industries?

1. *No Safe Use*: There is no safe level of consumption. When used as intended, tobacco will have contributed to the early death of two out of three smokers.⁶⁵
2. *UN Treaty*: In recognition of the global 'tobacco epidemic' (six million deaths worldwide each year⁶⁶ and a projected estimate of one billion deaths this century⁶⁷), the United Nations Tobacco Treaty - the World Health Organisation Framework Convention on Tobacco Control - was established. This was the world's first global legally binding public health treaty. 180 Countries are Parties to the Treaty, representing 89.4% of the world's population,⁶⁸ which makes it one of the most widely embraced treaties in United Nations' history.
3. *Engagement is futile*: The World Health Organisation has declared, "The tobacco industry is not and cannot be a partner in effective tobacco control".⁶⁹ Positive influence of the industry through professional engagement is futile, as the only acceptable outcome would be for tobacco companies to cease their primary business.

Is tobacco really that bad? My grandfather smokes and he's 92.

When used as intended, tobacco will have contributed to the early death of two out of three smokers.⁷⁰ While some smokers will live long lives, they are far more likely than non-smokers to have a myriad of serious health problems and a reduced quality of life. In addition, their family members are more likely to suffer the consequences of passive smoking.

Will going tobacco-free 'open the flood gates' to other requests?

The case for tobacco divestment is unique. Our understanding is that making the decision to implement a tobacco-free investment mandate has not led to an increase in requests to divest from other industries or products.

Practical Considerations

How can our financial institution go tobacco-free?

"Exposure to tobacco manufacturers may occur via international equities, corporate bonds, fixed interest and derivatives. The process to become completely tobacco-free may take some time and effort, but every step is a welcome advance. For those financial institutions with external fund managers, it is important to ask fund managers about the existence and availability of tobacco-free products which have rapidly been brought to market in recent years to accommodate increasing demand.

Step 1 - Craft a framework to articulate the rationale for excluding tobacco companies (a suggested framework is on page 14 of this Toolkit)

Step 2 - Exclude tobacco manufacturers from all active investments

Step 3 - Exclude tobacco manufacturers from all passive investments

Step 4 – Consider reflecting on whether or not to continue other commercial relationships with the tobacco industry. For example, in 2016 AXA decided not to renew corporate insurance covering tobacco manufacturers’ products, assets and liabilities^a and many banks are reconsidering lending policies.

How should capital be redeployed after going tobacco-free?

Tobacco Free Portfolios does not offer financial advice, however, we have observed three main ways that financial institutions have re-allocated capital generated from the process of divesting tobacco industry assets:

1. By investing in all other companies in an index.
2. By investing in companies with similar financial performance characteristics (companies classified as ‘consumer staples’ may be selected)
3. By investing in healthcare related companies. Often this is done with a specific intention to ‘be part of the solution’ when it comes to addressing the problem of tobacco.

Tobacco Control

Will divestment of tobacco result in fewer smokers?

Tobacco-free investment is a component, and to date, elusive piece, in effective tobacco control. Other tobacco control measures include banning sale of tobacco to children, restricting smoking in venues and plain packaging. All the measures contained in the UN Treaty for tobacco control, which include tobacco-free investment for Governments, are proven to be effective and best practice to protect populations.

What are the world trends in tobacco control?

There are 180 Countries signed to the UN Treaty, representing 89.4% of the world’s population, which commits them to implementing a broad range of tobacco control measures.

In addition, multiple international health organisations (including the World Health Organisation and

a. AXA, ‘AXA Group Policy on the Tobacco Industry’ <https://cdn.axa.com/www-axa-com%2F306deba3-5cd0-4b3c-aa44-ea27e93399fb_axa_tobacco_policy_2016.pdf>.

Bloomberg Philanthropies) are actively working with governments of the developing world to enhance tobacco control regulation and reduce tobacco consumption.

In May 2016 alone, we saw the following regulatory developments:

- France and the United Kingdom of Great Britain and Northern Ireland each began implementation of plain packaging.⁷¹
- The US Food and Drug Administration (FDA) finalised a rule deeming tobacco products to be subject to the Federal Food, Drug and Cosmetic Act, which extends the FDA's authority to include the regulation of electronic nicotine delivery systems (such as e-cigarettes and vape pens)⁷².
- The European Court of Justice upheld new tobacco control regulations regarding packaging, e-cigarettes and a ban on cigarette flavourings.⁷³
- The Australian Government announced four annual 12.5% increases in tobacco excise.⁷⁴

Are there ideas to end the tobacco epidemic?

There are proposals for a 'Tobacco Free Generation' where a point in time will be decided with those born after the date unable to purchase cigarettes.

Link for more information: <http://www.tobaccofreegen.com>

A 'Smoker's Licence' has also been proposed which would operate like prescription drugs with additional assistance to quit.

For more information, please see: <http://theconversation.com/making-smoking-history-the-case-for-a-smokers-licence-42362>

Other options: Environmental Social Governance (ESG) and Socially Responsible Investments (SRI)

Can't we just offer an ESG or SRI option?

Socially Responsible Investments (SRIs) and sustainable investment options are subject to broad and varied interpretations across the industry. They do not represent a defined and enforceable standard that can be trusted by investors and may include tobacco unless an exclusion policy is clearly specified.

In addition, many investors, particularly members of pension funds, are not engaged with their investments and tend to be in default or mainstream options. Many investors, especially members of compulsory pension funds, are not adequately financially literate to make informed decisions.

Why do tobacco companies perform well on ESG ratings?

Many ESG and 'sustainable' ratings are not tools to screen out particular industries or companies, rather a 'best of sector' approach is taken, which sees tobacco companies being rated only against each other. Many rating agencies use a system that awards top marks for at least one company in each sector, which sees tobacco companies with the least negative scores being given A's or five star ratings. In addition, the core purpose and impact of the business is not necessarily considered amongst the ESG/sustainability factors (for example, the fact that tobacco companies sell products that kill two out of three of their best customers⁷⁵ may not be considered). Other factors, such as flexible work practices, diversity on boards and employee compensation are rated, which sees several tobacco companies scoring high marks for 'Governance'.

Tobacco Free Portfolios is working with global data providers and rating agencies to revise this methodology.

Engagement

Why can't we use the approach of engagement with tobacco companies, rather than divestment?

The World Health Organisation (WHO) has issued a directive stating that the "The tobacco industry is not and cannot be a partner in effective tobacco control."

According to WHO, "A large body of evidence demonstrates that tobacco companies use a wide range of tactics to interfere with tobacco control. Such strategies include direct and indirect political lobbying and campaign contributions, financing of research, attempting to affect the course of regulatory and policy machinery and engaging in social responsibility initiatives as part of public relations campaigns."

The World Health Organisation has also released a report detailing tobacco industry interference: <http://www.who.int/tobacco/resources/publications/Tobacco%20Industry%20Interference-FINAL.pdf>

Legality and Personal Choice

Tobacco is a legal product so why shouldn't we invest in it?

Tobacco is legal because of an historical mistake. It is highly unlikely that tobacco would have been made legal had governments at the time known of the extraordinary harm caused by the product.

Tobacco is one of the most highly regulated legal products that exists, as governments across the world implement stricter tobacco controls in an effort to arrest the tobacco epidemic.

Legality is not always an indication of what is right – for example, slavery and Apartheid were both legal at different points in history.

Why don't we just make tobacco illegal?

Many smokers are regretful smokers who continue to smoke because they are addicted to the nicotine in cigarettes (over the years, it has been noted that the amount of nicotine in cigarettes has been increased).⁷⁶ In Australia, approximately 40% of smokers try to quit each year.⁷⁷ Health experts are focused on helping smokers to quit, not labelling them as criminals.

What about freedom of choice? Don't people have the right to smoke?

Yes – of course they do. We are simply encouraging tobacco-free investment. Tobacco is a children's issue with most smokers starting when they are young (in Pakistan, 40% of the population start smoking before the age of ten years),⁷⁸ well before they are able to fully understand the future, life-long risks they will face.

Country Taxes

Do countries really want to see the decline of tobacco when they collect so much from tobacco through tax?

The health treatment costs of smoking far outweigh government revenues from tobacco taxes. In other words, the tobacco industry is a net cost to society, and it may be the only industry in this position.

The additional healthcare costs as a result of smoking outweigh income from tobacco taxes with the total global economic impact from smoking estimated at 2 trillion Euros per year, the same as the cost of armed violence, war and terrorism and more than obesity, alcoholism or climate change.⁷⁹

a. <http://www.allens.com.au/pubs/fsr/150205-unravalled-02.htm>
b. <http://www.lawcom.gov.uk/project/fiduciary-duties-of-investment-intermediaries/>
c. <http://www.unpri.org/press/new-report-aims-to-end-debate-about-esg-and-fiduciary-duty/>

Fiduciary Duty

We are legally obliged to consider returns so are we even allowed to consider a tobacco-free investment mandate?

Trustees of superannuation funds and other financial service providers are subject to statutory obligations to act in the ‘best interests’ of their clients. The term ‘best interests’ is one of continuing inquiry within the sector with a growing belief that it implies the pursuit of more than a purely financial benefit.

According to lawyer Michelle Levy, Partner, Allens ,the globally recognised law firm, “What really does matter is that the best interests duty is not interpreted as a duty to obtain the best outcome^a.” In 2014, the UK Law Commission Report provided further clarification on fiduciary duties when they concluded, “...the law is sufficiently flexible to allow other, subordinate concerns to be taken into account... provided that: they have good reason to think that scheme members share the concern; and there is no risk of significant financial detriment to the fund^b.”

Decisions and guidance indicate that fiduciary duty can be maintained whilst implementing tobacco-free investment mandates. This is evidenced by the decisions of over 35 pension funds in Australia, comprising over 300 trustees and directors, implementing completely tobacco-free investment mandates.

Will the concept of fiduciary duty be changing?

In 2016, the Principles for Responsible Investment with the United National Environment Programme Finance Initiative (UNEP FI), United National Environment Programme (UNEP) and the United Nations Global Compact released a report titled, *Fiduciary Duty in the 21st Century*. Fiona Reynolds, Managing Director, Principles for Responsible Investment stated in the Report, “Recent studies have broadened the interpretation of fiduciary duty away from the narrow confines of past definitions, and have emphasised that there is no conflict between fiduciary duty and ESG [Environmental, Social, Governance] considerations – there is a growing recognition that ESG issues are in fact financially material to a portfolio. Using the status quo as a reason for not integrating ESG is no longer acceptable^c.”

Implementation

Is it difficult or costly to implement a tobacco-free investment policy?

As a result of increasing demand for tobacco-free products, fund managers have responded by creating tobacco-free collective investment vehicles. Increasingly these are available to smaller investors in the market (not just the largest institutional investors) and at low cost. In Australia, there are more than a dozen fund managers (some with extensive global operations) that offer tobacco-free mutual funds.

Which companies should be excluded?

The commonly accepted definition of tobacco-free investment is to exclude tobacco manufacturers (not retailers or companies associated with transport, machinery or packaging).

The Australian Government Future Fund has a published list of excluded tobacco manufacturers available to view online here: http://www.futurefund.gov.au/__data/assets/pdf_file/0011/5105/2015_Dec_excluded_companies_list_A425314.pdf

As of February 2017, the tobacco related restricted entities are:

- Adris Group
- Altria Group
- British American Tobacco
- Bulgartabac Holding AD
- Eastern Company S.A.E
- Godfrey Phillips India
- Gudang Garam
- Imperial Tobacco Group
- ITC
- Japan Tobacco
- Karelia Tobacco Company
- KT&G
- Philip Morris International
- Reynolds American
- Shanghai Industrial Holdings
- Souza Cruz
- Swedish Match
- VST Industries

The Global Industry Classification Standard (GICS) Code that identifies manufacturers is GICS Code 30203010.

Some funds simply exclude based on this code for active investments. If the exposure is through an index, there are indices that exclude tobacco, such as the MSCI World Index ex. tobacco.

How long will it take to implement a tobacco-free investment mandate?

Depending on the complexity of investments, divesting can be as simple as making the request to a fund manager, for others it may involve the selling of stocks, and non-renewal of investments over time.

Why divest from the tobacco industry now?

The expectations of the finance sector are evolving with finance leaders increasingly being called upon to play their part in global priorities.

With more and more people dying of long-term, non-communicable diseases (like cancer, heart disease and respiratory illnesses) and with tobacco the primary risk factor for these diseases, tobacco control is considered a global priority, as articulated in the Sustainable Development Goals.

In addition, many fund members and investors are looking to ensure their own values are aligned with their investments.

Could this be a bad news story when people see how much exposure we had?

To date the decision to go tobacco-free has been largely positively received by members and the investment community. Some organisations have seen the implementation of the decision as an opportunity to highlight the decision and to encourage others to follow. Others have made and implemented the decision without any public announcement.

The Movement

Which other financial institutions have made this decision?

During the review of CalPERS' tobacco-free investment position, research was presented that claimed CalPERS had foregone \$3 billion USD in returns because of its position. Doesn't this prove tobacco-free is not a good decision?

Considering the profound health impacts of tobacco on our population and the prospective risks associated with investment we believe tobacco-free investment is the only decision that can be considered 'good'. A tobacco-free position results in alignment with the UN Tobacco Treaty and the efforts of the health and government sectors in attempting to combat the tobacco epidemic.

It should be noted that on review of the evidence, in December 2016, the CalPERS Board decided not only to maintain but to extend CalPERS' tobacco-free investment policy to external fund managers.



Our Team and Contacts

Tobacco Free Portfolios Team



Dr. Bronwyn King MBBS, FRANZCR, Founder and Chief Executive Officer, Tobacco Free Portfolios, Radiation Oncologist, Peter MacCallum Cancer Centre and Epworth HealthCare

Dr. Bronwyn King is a practicing Radiation Oncologist and Founder and CEO of Tobacco Free Portfolios.

Through her collaborative work with the finance industry Bronwyn has played an integral role in the decision of over 30 Australian Superannuation Funds to divest tobacco stocks worth approximately \$1.8 billion.

Her work inspired the Global Task Force for Tobacco Free Portfolios, an initiative of the Union for International Cancer Control.

Bronwyn is the Tobacco Control Ambassador for Cancer Council Australia. She represented Australia in swimming and was Team Doctor for the Australian Swimming Team. Bronwyn is an Australia Day Ambassador, an Ambassador for Big Brothers Big Sisters Australia, and in 2014 she was named an Australian Financial Review / Westpac 100 Women of Influence. In 2015 Bronwyn was awarded the VicHealth Award for Preventing Tobacco Use.

In 2016 she received the Dr. Bob Elphick Medal for Tobacco Control from the Australian Council on Smoking and Health.

In 2017 she was made the Inaugural Distinguished Fellow in a joint initiative of Kings' College London and the University of Melbourne.

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More information is available at tobaccofreeportfolios.org



Clare Payne, Chief Operating Officer and Oceania Director, Tobacco Free Portfolios, Founder and Board Member, The Banking and Finance Oath

Clare Payne is Chief Operating Officer and Oceania Director of Tobacco Free Portfolios, and Founder and Board Member of The Banking and Finance Oath. Initially practicing as an employment lawyer, Clare then managed the Integrity Office of a Global Investment Bank and was awarded the Inaugural Robin Cosgrove Prize for Ethics in Finance by the Observatoire de la Finance, Geneva for her paper titled, 'Ethics or Bust.' Clare also holds the position of Fellow for Ethics in Banking and Finance with The Ethics Centre and teaches business ethics at Macquarie University and The University of Melbourne, Australia. Clare was recognised as a World Economic Forum Young Global Leader in 2014 and was named an Australian Financial Review / Westpac 100 Women of Influence in 2016.

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Dr. Rachel Melsom, UK Director, Tobacco Free Portfolios Clinician, Worthing Hospital, UK

Dr. Rachel Melsom is a practicing clinician in Worthing, UK in the Department of Elderly Care. Rachel gained a degree in Genetics from University College London in 1987, had a full career in media and finance and ran her own consultancy business prior to retraining as a Doctor in 2008. Rachel is focused on bringing together the health and financial issues that impact on sustainable healthcare. She is also a business leader for Founders 4 Schools, encouraging children to choose STEM subjects at school.

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