12 February 2014

Manager
Superannuation Unit
Financial System Division
The Treasury
Langton Crescent
PARKES ACT 2600

To Whom it May Concern,

Dear Sir/Madam,

Re: Submission regarding the Australian Government's Discussion Paper, 28 November 2013:

'Better regulation and governance, enhanced transparency and improved competition in superannuation'

In 2010 I discovered that I had been unwittingly investing in the tobacco industry, via my superannuation investments. As a cancer doctor, familiar with the suffering caused by tobacco exposure, I felt obliged to act. Since that time I have engaged with fund executives and boards to discuss the case for tobacco divestment. This has contributed to 14 Australian super funds divesting tobacco stocks worth more than one billion dollars. With several billion dollars still invested in tobacco, I am committed to continuing this work. I am currently working with a further 14 superannuation funds and multiple industry bodies to advance this campaign.

I have reviewed the Australian Government's Discussion Paper and put forward my submission in the context of being a super fund member who was disappointed to learn that my money was being invested – without my knowledge – in a way that directly conflicted with my professional and personal values. The absence of transparency (at the security level) within my superannuation fund, led to my inadvertent investment in tobacco.

While I am cognisant of the Government's goal to reduce regulation and compliance costs, this must be balanced with the overarching aim to achieve transparency to a degree that is meaningful to members. In addition to enabling members and analysts to assess the level of diversification and risk in particular superannuation products, and to determine whether or not a particular product meets members' specific needs, a key objective of improving transparency should be to empower superannuation fund members to select investment products that best align with their values and sit comfortably within their personal ethical framework. Specifically, tobacco investment should be made explicit and not be an investment by default.

As is well appreciated within the superannuation industry, poor member engagement results in the majority of members having their money invested in default investment products. Most default options allocate 20-40% of total assets towards *international shares/equities,* and it is common practice to acquire these shares/equities via international indices. Tobacco companies typically comprise approximately 1% of all companies listed on major international indices. Thus, by default, most super fund members have a portion of their money invested in tobacco. Tobacco is a highly addictive, harmful and life threatening product that accounts for 15,000 Australian deaths each year. It is a unique product that can be clearly placed in a category of its own when compared to other products and industries such as mining, alcohol and gambling that sometimes form the basis of 'ethical' investment approaches. There is no safe level of exposure to tobacco. When used as intended, tobacco kills. Specifically, tobacco kills half of all users. Tobacco has a profound magnitude of detrimental impact on the world community, accounting for six million deaths each year.

For decades, Australia has been viewed as an international leader in terms of tobacco control and regulation. This continues to the present day, with the recent introduction of Plain Packaging legislation being lauded by health experts and medical leaders across the world. It is incongruous for Australians to have an estimated combined total of ~$8.5 billion AUD (~0.5% total superannuation assets x $1.7 trillion AUD superannuation industry) invested in the tobacco industry. It is highly likely that the Australian community would be very disappointed to learn that, inadvertently, so much of their money is supporting an industry that causes profound harm to so many. In addition, reducing investment in tobacco companies has the potential to ultimately impact favourably on the Australian health budget, by reducing smoking related illness, estimated to account for $31.5 billion AUD in Federal Government expenditure in the 2004/5 financial year (the most recent year these figures were generated and published).

The recent and continuing cascade of superannuation funds divesting tobacco stocks in response to member and community concerns is just one example of the fact that the Australian community is interested in where its money is invested. Indeed, the Australian public wants – and should be entitled to – clear, detailed and specific information to allow informed selection of superannuation products. Enhanced transparency is clearly paramount.

I would also like to make comment regarding the current formulation of the investment covenants as per subsection 52 (6) of the Superannuation Industry (Supervision) Act 1993. The overriding fiduciary responsibility of superannuation fund Trustees, to 'act in the best interest of members', is generally interpreted as a requirement 'to act in the best *financial* interest of members'. Thus, if tobacco stocks are performing well, the purely financial application of this principle means that superannuation fund Trustees may feel *compelled* or *obliged* to invest in tobacco stocks. Some superannuation fund Trustees, executives and investment teams have specifically cited this as a roadblock in their deliberations regarding divestment of tobacco. I would like to suggest that, as part of the Government's review, this principle be reexamined and refined in a way that would allow Trustees the freedom to specifically avoid investment in tobacco companies should they elect to do so, with the confidence that such actions would satisfy fiduciary responsibilities.

Thank-you for the opportunity to participate in this important review. I would welcome the opportunity to speak to this submission and expand on the views presented.

Yours Sincerely,

Dr. Bronwyn King
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Founder 'Tobacco-Free Super' campaign 2010
Australia Day Ambassador
Fellow of Leadership Victoria's Williamson Community Leadership Program
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Submission by Dr. Bronwyn King regarding the Australian Government's Discussion Paper, 28 November 2013:

Better regulation and governance, enhanced transparency and improved competition in superannuation

Response to focus questions:

13. Should a choice product dashboard present the same information, in the same format, as a MySuper product dashboard? In answering this question you may wish to consider, if the choice product dashboard is to present different information, what should it include and why?

The MySuper product dashboard contains limited information with a clear focus on the financial aspects of the product. This information is inadequate, as members cannot easily determine where their money is invested. There is presently no information regarding the investment allocation breakdown and there is no reference to, or listing of, portfolio holdings. I suggest that the Choice Product Dashboard contains a pie chart illustrating investment allocation (i.e. Portion of assets invested in Australian shares, international shares, cash etc.) with a clear link to the website reference where full portfolio holdings can be obtained. The MySuper product dashboard should be amended to contain the same. This would enable consumers to undertake their own research as to whether their investments would be directed toward tobacco companies.

20. Which model of portfolio holding disclosure would best achieve an appropriate balance between improved transparency and compliance costs? In considering this question, you may wish to consider the various options discussed above:

- **Should portfolio holdings disclosure be consistent with the current legislative requirements (that is, full look through to the final asset, including investment held by collective investment vehicles)?**

Yes. Full look through is essential for transparency. Without full look through, 'disclosure' would be incomplete and perhaps even misleading. An example of such misinformation can be found with respect to the South Australian Government's superannuation fund, *Super SA*. This fund agreed to divest tobacco stocks and in doing so, received complimentary media coverage from multiple health groups. In fact, due to collective investment vehicles, Super SA has retained approximately one third of its total tobacco stocks ($8.7 million AUD). Full look through should be mandatory and will reduce the risk of misleading members.

- **Should managers/responsible entities of collective investment vehicles be required to disclose their assets separately? To give**

effect to this requirement, legislation would require all collective investment vehicles to disclose their asset holdings, regardless of whether some of its units are held by a superannuation fund.

From a member's point of view, the superannuation fund itself should disclose the total assets, including those of collective investment vehicles (i.e. with full look through) for all investment choices. Most super fund members would not understand the meaning and potential ramifications of a 'collective investment vehicle' or how these vehicles are structured. To expect members seeking information to separately search for details of collective investment vehicles is far too complex and thus unhelpful and unrealistic. The focus should be to make it as easy as possible for members to find detailed information in the one place, on one website; specifically, the website of their superannuation fund.

- **Should portfolio holdings disclosure be limited to the information required to be provided to APRA under Reporting Standard SRS 532.0 Investment Exposure Concentrations?**

It appears that this document outlines a requirement for super funds to disclose '*large exposures*' only, and the definition of '*large exposure*' is either not contained in the document or very difficult to find. '*Full disclosure*' of assets should be just that, including even small exposures. Omitting small exposures means that information provided would be incomplete and may be considered misleading.

With regard to the models for portfolio holdings disclosure requirements as suggested in the Australian Government's Discussion Paper, the preferred option is the *Exposure Draft Model* outlined on page 22. The *first alternative model* is not acceptable, as the onus would fall on fund members to search for information to determine assets in collective investment vehicles. The *second alternative model* is also unacceptable, as 'partial look through', by definition, implies that information provided would be incomplete.

22. Should portfolio holdings information be presented at an entity level or at a product (investment option) level?

I advocate for the presentation of portfolio holdings information at an investment option level. This would provide consumers with information which affords the selection of investment options that are a best fit for the individual. Regarding tobacco stocks, I would prefer to know which investment options of Super Fund X involve exposure to tobacco, rather than knowing that Super Fund X has a grand total of $Y million invested in tobacco. Providing that the information is delivered at an investment option level, data may be aggregated to generate portfolio holdings information at an entity level. The reverse, however, would not be possible.

23. Is a materiality threshold an appropriate feature of portfolio holdings disclosure?

This is a complex issue. The Discussion Paper states that a *Materiality Threshold* could be set at a minimum asset size, or at a percentage of assets that would not be disclosed. However, the paper does not specifically define the term 'asset' in this context. In the case of tobacco, I am interested to know if shares in individual tobacco companies (e.g. British American Tobacco) would be considered 'assets', or if similar assets would be grouped together (e.g. all tobacco companies). This is an important distinction when addressing the issue of a materiality threshold.

As a fund member, I am interested to know which superannuation products involve exposure to tobacco stocks. Thus, if shares in **individual** companies are considered 'assets', then the materiality threshold would have to be set extremely low (or ideally, not applied at all) to ensure complete disclosure and satisfy the expectation of transparency. I appreciate that *no* materiality threshold or a *very low* materiality threshold may not be a realistic or workable feature of portfolio disclosure, thus if a pragmatic materiality threshold was applied, a specific exemption should be created to address the issue of investment in tobacco companies. Superannuation funds should be obliged to disclose tobacco holdings of *any* value or percentage of assets.

In the case where similar assets are to be **grouped**, then I suggest applying a materiality threshold of 0.1%. In the case of tobacco stocks, the data provided to me by the 14 superannuation funds that have divested, demonstrates that tobacco investment (grouping together stocks in all tobacco companies) accounts for 0.12-1.28% of total assets – only one fund had more that 1% invested in tobacco. If a materiality threshold such as 5% or even 1% was applied, tobacco holdings would not be disclosed by the vast majority of superannuation funds. This would give rise to a situation in which some investments - about which members may wish to seek information - would 'slip under the radar' and effectively be hidden from members. A materiality threshold of 0.1% would strike a balance between achieving disclosure to an extent that supplies meaningful information to fund members (e.g. capturing tobacco investment data), while accommodating industry concerns pertaining to the time, resources and costs associated with sourcing and regularly updating such detailed information.

Moreover, it should be made explicitly clear that tobacco stocks must be called just that. My research has occasionally seen tobacco investments classified as investment in 'agriculture' or 'consumer goods'. These or similarly misleading classifications must not be allowed to occur.