PROPOSAL TO ADOPT A POLICY
EXCLUDING INVESTMENTS IN TOBACCO COMPANIES

Ad hoc Committee on Tobacco Investment
University of Pennsylvania

October, 2013

Tobacco is an addictive product and its use is the single leading preventable cause of death worldwide, resulting in nearly six million deaths annually[1]. Tobacco use is common throughout the world due to aggressive and widespread marketing and lack of awareness about its dangers, especially amongst the world's most vulnerable populations. Although the Tobacco Master Settlement Agreement of 1998 prohibits "youth targeting" and most forms of advertising in the United States[2], the major tobacco companies have simply moved their marketing efforts to the developing world, spending billions of dollars each promoting their products to children.

The University of Pennsylvania — a recognized leader in global outreach initiatives through its internationally eminent university and academic medical center — is committed to making a positive contribution to people's lives around the world. Yet we have fallen out of step with our Ivy League and medical school peers on the issue of tobacco. Of the five Ivies that have deliberated about tobacco investment, only Yale has not adopted a tobacco restriction for their endowment. Of the top five medical schools, Penn is the only one without a tobacco restriction. We believe this is inconsistent with the values of the Penn community as embodied in the Penn Compact and in our leadership, education, research, and service missions around the globe.

In order to uphold this responsibility, an ad hoc committee comprised of members of the Social Responsibility Advisory Committee (SRAC), with the support of faculty, staff and students from across the University, recommends that the Trustees of the University adopt a policy to exclude those companies that manufacture tobacco products from its direct investments. As part of this policy, we recommend that the University require its separate account investment managers to exclude those companies that manufacture tobacco products from their direct investments.

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[1] World Health Organization: 10 Facts on the Global Tobacco Epidemic, <http://www.who.int/features/factfiles/tobacco_epidemic/tobacco_epidemic_facts/en/index.html> (Accessed 24 September 2013).

[2] National Association of Attorneys General, Master Settlement Agreement, 1998, <http://www.naag.org/backpages/naag/tobacco/msa/> (Accessed 24 September 2013).

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1. Introduction

As a global leader in higher education and academic medicine, Penn is committed to advancing public health and improving human lives around the world. This is evidenced through the following comments by our institutional leaders:

"Through our collaborative engagement with communities all over the world, Penn is poised to advance the central values of democracy: life, liberty, opportunity, and mutual respect."

President Amy Gutmann, inaugural address, 2004[3]

"The strategic plan *(to increase Penn's global impact)* rests on three pillars of action: preparing students for an increasingly global society, strengthening Penn as a global agenda-setter, and promoting productive leadership to advance healthy lives and societies around the world."

Dr. Ezekiel Emanuel, Vice Provost for Global Initiatives, Chairman of the Department of Medical Ethics and Health Policy, 2012[4]

"In addition to offering cutting-edge medical care to our patients, Penn Medicine's programs and projects extend beyond our institution and vulnerable populations in Philadelphia to those in need around the world. Penn faculty and physicians-to-be are researching diseases, educating physicians, and treating patients in hospitals and mobile clinics around the globe."

2013 Penn Medicine Facts and Figures Brochure[5]

"We are committed to preparing nurse leaders in globally partnered nursing education, interdisciplinary research, and health care service. Our graduates are committed to eminence in advancing culturally appropriate and ethical research, education and practice of nursing internationally in order to promote and protect people's health."

Penn Nursing Global Health Affairs Vision Statement[6]

Despite Penn's commitment to these goals, we have no policy restricting investment in tobacco companies, who manufacture the single leading preventable cause of death worldwide. In this respect we have fallen out of step with our Ivy League and medical school peers. This document outlines the reasons why Penn should adopt a policy of excluding tobacco stocks from its direct holdings.

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[3] President Amy Gutmann, "University of Pennsylvania Inaugural Address," 15 October 2004, <https://secure.www.upenn.edu/secretary/inauguration/speech.html> (Accessed 24 September 2013).

[4] Ezekiel Emanuel, interview by Tanya Barrientos, "Eye on the future: Penn's global initiatives," Penn Current, 11 October 2012, < http://www.upenn.edu/pennnews/current/2012-10-11/eye-future/eye-future-penn%E2%80%99s-global-initiatives> (Accessed 24 September 2013).

[5] Penn Medicine Facts and Figures Brochure, < http://www.uphs.upenn.edu/news/facts/Facts_Figures_2013.pdf> (Accessed 24 September 2013).

[6] Penn Nursing Global Health Affairs, Vision Statement, <http://www.nursing.upenn.edu/gha/Pages/AboutUs.aspx> (Accessed 24 September 2013).

2. Why Penn Should Not Invest in Tobacco Stock

We believe that it is antithetical to Penn's missions of education, research and service for Penn to benefit financially from the manufacture and sale of tobacco. However, decisions to restrict investments on ethical grounds must balance ethical responsibilities with fiduciary duties. Reflecting on this challenge at a time when Penn decided to divest in Sudan, President Amy Gutmann explained that divestment is an "extreme measure and must be adopted rarely."[7] She laid out three criteria that must be met for a divestment action to be taken:

1. There must exist a moral evil that creates a substantial social injury.
2. The companies identified for divestment must have a clear and undeniable link to that moral evil.
3. Divestment must have the support of a broad consensus of the campus community at large.

We believe that each of these criteria is met for companies that manufacture tobacco products.

Moral Evil and Substantial Social Injury

Tobacco is a known addictive product, whose use is the single leading preventable cause of death worldwide[8], and which is responsible for well-documented and substantial social injury. Although tobacco is a legal substance, it is the only product which, when used appropriately and as directed, leads to premature morbidity.[9]

Death, Disability, and Addiction

Tobacco use is the leading cause of preventable death worldwide. Its use is responsible for a disease *epidemic*: Nearly six million annual deaths from cancer, heart disease, stroke, and lung disease are linked to tobacco use. Of these deaths, 600,000 are the result of second-hand smoke. This amounts to one person dying every six seconds as the direct result of a tobacco product. Moreover, nicotine dependence is the most common form of chemical dependence in the United States, where 19% of adults are regular smokers.[10] More deaths are caused each year by tobacco

[7] University Council Minutes of Meeting of May 3, 2006, <https://secure.www.upenn.edu/secretary/council/minutes/Council%20minutes%2005_03_06.pdf> (Accessed 25 September 2013).
[8] World Health Organization, "Why tobacco is a public health priority," <http://www.who.int/tobacco/health_priority/en/> (Accessed 24 September 2013).
[9] World Health Organization, "Call for pictorial warnings on tobacco packs," <http://www.who.int/mediacentre/news/releases/2009/no_tobacco_day_20090529/en/.> (Accessed 24 September 2013)
[10] CDC, Smoking and Tobacco Use: Fast Facts, <http://www.cdc.gov/tobacco/data_statistics/fact_sheets/fast_facts/> (Accessed 24 September 2013).

use than by human immunodeficiency virus (HIV), illegal drug use, alcohol use, motor vehicle injuries, suicides, and murders combined.[11]

Unethical Marketing Practices to Vulnerable Populations

According to a 2013 World Health Organization report[12], nearly three in four children between the ages of 13 and 15 are exposed to pro-cigarette ads in Southeast Asia. Additionally, 10% of students had been offered free cigarettes by a tobacco company in the region. The WHO also found that about 10% students had an object with a cigarette brand logo and that 70% saw cigarette brand names when watching sports events on television. Moreover, tobacco use killed almost six million people in 2013, with nearly 80 percent of these deaths occurring in low- and middle-income countries[13].

These alarming data show that tobacco companies have not ceased marketing to children (a requirement in the United States of the Master Settlement Agreement[14]); they have simply moved their marketing practices to the developing world. The largest-ever international study on tobacco use showed about half the men in numerous developing nations use tobacco, and women in those regions are taking up smoking at an earlier age than before.[15,16] In fact, John R. Seffrin, PhD., CEO of the American Cancer Society, has said, "The tobacco industry sees women and children in developing countries as a ripe market to expand sales of their deadly products."[17]

Economic Consequences

Although our recommendation is not based on an economic argument, tobacco use is also linked to significant healthcare costs in the U.S. Smoking is responsible for over 97 billion dollars per year in lost productivity, and healthcare costs in excess of 96 billion dollars. Moreover, healthcare costs associated with second-hand smoke exceed ten billion dollars per year.[18]

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[11] CDC, Smoking and Tobacco Use: Health Effects of Cigarette Smoking, < http://www.cdc.gov/tobacco/data_statistics/fact_sheets/health_effects/effects_cig_smoking/> (Accessed 24 September 2013).

[12] World Health Organization, "3 out of every 4 children are exposed to tobacco advertising," 28 May 2013, <http://www.searo.who.int/mediacentre/releases/2013/pr1558/en/index.html> (Accessed 24 September 2013).

[13] American Cancer Society and World Lung Foundation, The Tobacco Atlas-4th Edition, 10 June 2013, <http://www.tobaccoatlas.org/> (Accessed 24 September 2013).

[14] Master Settlement Agreement, 1998[2]

[15] Josh Levs, "Largest-ever tobacco study finds 'urgent need' for policy change," CNN, 17 August 2012, <http://www.cnn.com/2012/08/16/health/world-smoking-study/index.html> (Accessed 24 September 2013).

[16] Gary A Giovino et al, "Tobacco use in 3 billion individuals from 16 countries: an analysis of nationally representative cross-sectional household surveys", *The Lancet*, Volume 380, Issue 9842, Pages 668 - 679, 18 August 2012 <http://www.thelancet.com/journals/lancet/article/PIIS0140-6736(12)61085-X/fulltext>

[17] American Cancer Society, Press Release: Millions of Lives at Stake as Tobacco Burden Expected to Escalate in Middle East, 10 June 2013 <http://pressroom.cancer.org/index.php?s=43&item=440> (Accessed 24 September 2013).

[18] CDC Smoking and Tobacco Use: Fast Facts[10]

Tobacco Companies' Clear Link to the Moral Evil

This proposal recommends adopting a policy to exclude those companies that manufacture tobacco products from Penn's direct investments. Since these companies produce and market tobacco products, there can be no question that they are directly linked to the moral evil of the products.

Broad Consensus for Divestment

The consensus regarding the moral imperative for institutions like Penn not to benefit financially from tobacco holdings is so broad that Penn now stands as the only institution among the nation's top 5 medical schools[19] not to have a policy excluding tobacco holdings from its investments. Harvard, Johns Hopkins, Stanford, and UCSF have all adopted such policies. Of our Ivy peers that have publically deliberated on investing in tobacco, only Yale declined to divest. Harvard, Columbia, Dartmouth, and Brown all have similar policies to the one we are proposing (see section 3). In addition, many of our other peer institutions including Stanford, Michigan, and the University of California system have tobacco policies.[20]

Moreover, many leading philanthropic and health related organizations have policies prohibiting tobacco ownership. These include the American Medical Association, the Henry J. Kaiser Family Foundation, the Robert Wood Johnson Foundation, the Rockefeller Family Fund, and the World Health Organization. In addition, the World Bank will not invest in, or guarantee investments or loans for tobacco production, processing, or marketing.[21]

Within the Penn community, multiple policies, curricular offerings, and community programs now stand in conflict with the possibility of Penn receiving financial gain from tobacco companies. For example, the newly announced FDA/NIH funded University of Pennsylvania Tobacco Center of Regulatory Science (Penn TCORS) will study the effects of tobacco advertising on youth and young adults, with an eye to learning new ways "of countering the insidious effects of advertising and misinformation that induce people, especially the young, to adopt this lethal habit."[22]

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[19] US News and World Report, Best Medical Schools: Research, 2013, < http://grad-schools.usnews.rankingsandreviews.com/best-graduate-schools/top-medical-schools/research-rankings> (Accessed 24 September 2013).

[20] Council for Responsible Public Investment (CRPI), Tobacco Divestment Factsheet, <http://www.socialfunds.com/page.cgi/article6.html> (Accessed 24 September 2013).

[21] CRPI Tobacco Divestment Factsheet[20]

[22] Penn News Service, < http://www.upenn.edu/pennnews/news/penn-researchers-hornik-and-lerman-receive-20-million-federal-funding-establish-tobacco-center-> (Accessed 26 September 2013).

Many other policies and programs at the University of Pennsylvania stand in conflict with tobacco ownership including:

- The University of Pennsylvania Health System's policy against hiring smokers
- Penn's University Council Committee on Campus and Community Life proposing that all University of Pennsylvania facilities, buildings, and properties shall be smoke and tobacco free
- Community smoking cessation programs throughout the University and Health System (e.g., Nursing, Dental, etc.)
- Research programs in the Medical School, Nursing School, Annenberg, School of Arts and Sciences, including The Center for Interdisciplinary Research on Nicotine Addiction, Abramson Cancer Center's Tobacco and Environmental Carcinogenesis Program, and the Penn Lung Center's Comprehensive Smoking Treatment Center
- Public Service Announcements against tobacco use developed by Annenberg
- Wharton research and coursework on socially responsible and impact investing

In fact, the consensus extends beyond institutions to entire cities where smoking has been deemed such a major public health risk that our home city of Philadelphia, along with many other major cities across the country, has banned smoking indoors in all work and public places.[23]

3. Tobacco Policies at Peer Institutions

Penn has fallen out of step with our Ivy League and medical school peers on the issue of tobacco. Among the top medical schools, Penn's is the only one without a policy restricting tobacco holdings.

U.S. News and World Report Top 5 Medical Schools[24] (year divested in parenthesis)

1. Harvard University (1990)
2. Stanford University (1998)
3. Johns Hopkins University (1991)
4. UCSF (2001) tied with
   University of Pennsylvania's Perelman School of Medicine (no policy)

[23] Philadelphia Clean Indoor Air Worker Protection Law, January 8, 2007 http://www.smokefreephilly.org/smokfree_philly/assets/File/Fact_Sheet.pdf (Accessed 27 September 2013).
[24] U.S. News and World Report[19]

Top NIH Awards to Medical Schools

1. UCSF (2001)
2. Johns Hopkins University (1991)
3. **University of Pennsylvania's Perelman School of Medicine (no policy)**

Of our peers in the Ivy League, four (Harvard, Columbia, Dartmouth, and Brown) have voted to divest of tobacco holdings, one (Yale) voted not to divest and two (Princeton and Cornell) make no information available. This section provides information on the reasoning behind the four decisions to divest, as well as the one decision not to divest. Additionally, information is provided on other peer institutions, including Stanford, Johns Hopkins, University of Michigan, and the University of California system.

Institutions that Exclude Tobacco

Harvard University

In 1990, Harvard University completed sales of its stock in a number of companies in the tobacco industry and adopted a policy prohibiting the future purchase of stock in companies producing significant quantities of cigarettes or other tobacco products.

Harvard came to its decision after contacting the tobacco industry, asking them to address the ethical responsibilities associated with tobacco sales in developing countries and to provide information on their policies for informing consumers of tobacco-use risks in nations having minimal governmental regulations concerning smoking health risks. They found that firms either did not provide this information, or had made considered decisions not to follow the World Health Organization code for tobacco marketing.

After reviewing this correspondence, the University reached the decision to sell its holdings in the stock of several companies involved in the manufacture of cigarettes and other tobacco products. Harvard took this action because they believed they would be unable as a shareholder to influence these companies marketing practices. At the time of Harvard's divestment decision, then President Derek Bok stated:

> [Harvard] was motivated by a desire not to be associated as a shareholder with companies engaged in significant sales of products that create a substantial and unjustified risk of harm to other human beings.

Columbia University

Columbia's Advisory Committee on Socially Responsible Investing was asked to review the University's tobacco policies by its Investment Management Company. It found that the University had informally been screening tobacco stocks using screens developed by Institutional Shareholder Services.

In 2008, Columbia University adopted a policy to "refrain from investing in companies whose business is the direct manufacture of tobacco products, including chewing tobacco and/or snuff; cigarettes, including make-your-own custom cigarettes; cigars; pipe and/or loose tobacco; smokeless tobacco; and raw, processed or reconstituted leaf tobacco."

Brown University

In 2003, Brown University adopted a policy "to exclude from Brown's direct investments, and require Brown's separate account investment managers to exclude from their direct investments, those companies that manufacture tobacco products and that the Investment Office share with all investment managers the University's desire to adhere to this investment philosophy."

Brown University considered a number of issues in reaching this recommendation including the following:

a. The World Bank refuses to lend money related to tobacco production- in sharp contrast to its policy of funding alcohol production. Since 1991 the World Bank has had a formal policy of not lending for tobacco production and encouraging tobacco control. (http://www1.worldbank.org/tobacco/book/html/)
b. The American Medical Association urges "medical schools and their parent universities to eliminate their investments in corporations that produce or promote the use of tobacco." (Resolution H49-983)

Dartmouth College

Dartmouth College recently studied the question of tobacco ownership, asking whether tobacco "ownership is consistent with Dartmouth's and Dartmouth Medical School's missions and the continuing debate over the ethics of marketing tactics employed by tobacco companies."

In 2011, they approved a tobacco policy with the following provisions:

a. Dartmouth would forego direct investment in companies that manufacture or produce tobacco and/or tobacco products.
b. They would terminate existing direct investments in such companies, at the earliest time that the Chief Investment Officer determines to be reasonably practicable.
c. Their Investment Office would be charged with annually creating a list that identifies publicly traded companies that manufacture or produce tobacco and/or tobacco products (with the assistance of Dartmouth College's Advisory Committee on Investor Responsibility), sharing this list with its separate account investment managers and directing these managers to forego purchasing shares of any companies on that list on Dartmouth's behalf.
d. And their Investment Office would be authorized to issue instructions to Dartmouth's outside investment managers and stock custodians and to take such other steps as are necessary to carry out the above actions.

Stanford University

Stanford University divested from tobacco in 2008. They reached their decision after an elaborate deliberative process that, like Harvard's, involved making contact with tobacco companies. Stanford's Advisory Panel on Investment Responsibility documents state that:

> The University also chose to engage core tobacco companies through letter writing, conference calls by phone, and meetings … with individual tobacco company board directors and senior management. During those communications, the University presented many alternatives for their consideration including (a) tobacco company diversification; (b) shifting production to non-tobacco products, (c) development of less harmful cigarettes, and (d) contributing a portion of tobacco company revenues to smoking prevention and anti-smoking campaigns, particularly geared to minors. (Stanford and other institutional researchers estimated that 10% of tobacco company revenues came from illegal sales to minors.)

Little came of these meetings, with Stanford concluding that while some of their proposals "were heard and acted on by core tobacco companies, the majority failed to change corporate behavior."

The Stanford Management Company also determined that holding tobacco stocks was a "breach of fiduciary responsibility and the potential risk to endowment value." In March, 1998, Stanford directed its investment advisors to sell Stanford's holdings in core tobacco companies.

Johns Hopkins University

In April 1990, Johns Hopkins' Public Interest Advisory Committee recommended divestment to the Hopkins trustees. The trustees subsequently formed a committee to study the issue, hearing supporting presentations from the deans of the schools of medicine and public health. The trustees' committee found that

> [H]olding stocks in companies whose products cause disease is incompatible with the mission of the university. The university cannot teach that smoking is the most preventable cause of death and, at the same time, profit in tobacco-related stocks. To continue to do so is hypocritical.

In February 1991, the Board of Trustees voted "that the University divest itself of all stocks and corporate bonds issued by companies that produce tobacco products."

University of Michigan

The University of Michigan divested from tobacco products in June, 2000. Its board of regents reached this decision after reviewing the findings of an Ad Hoc Advisory Committee on Tobacco Investments, which was commissioned by then President Lee Bollinger. The committee's report included a recommendation to the regents to "sell all of the University's currently owned shares of stock (and not to purchase any new shares) in companies that, either themselves or through their subsidiaries, manufacture significant quantities of cigarettes or other tobacco products."

In support of the committee's recommendation, President Lee Bollinger made the following statement:

> I write to endorse the recommendation of the Tobacco Advisory Committee that the University divest itself of tobacco stocks. I should say at the outset that I view this as a significant and difficult issue, not to be regarded as part of the day-to-day business of the University, and one on which reasonable minds may differ. This, especially, is a matter for individual conscience.
>
> What we are left with, I believe, is a delicate and complex process of judgment we must make again and again. In the specific area of financial investment policy, we have decided as an institution to refrain from taking ownership of organizations whose practices are fundamentally at odds with our own mission of education and research and with generally accepted standards of behavior. As stated, this policy calls for truly exceptional circumstances, which I believe the University community in this case has considered carefully, rendered judgment on, and demonstrated in the ad hoc committee report.

<u>University of California</u>

The University of California Board of Regents divested from tobacco in 2001. In a brief report, the regents' investment committee explained their decision as follows:

> This action is taken in recognition of the convergence of a number of factors, specifically, the negative financial risk and liability circumstances affecting the stocks of tobacco products companies, the related health issues, the small percentage such stocks represent of total index funds, the current practice of the Treasurer of excluding investment in the stocks of tobacco products companies for the actively invested funds, and the availability of established tobacco-free index funds, all such factors being specific to this set of facts.

Yale University's Policy

Yale engaged in a series of deliberations about tobacco divestment in the early 1990s. Ultimately Yale decided not to divest based on reasoning that "special, heightened scrutiny and greater activism and engagement are appropriate with dealing with corporate governance issues related to tobacco and when voting on shareholder proposals to increase disclosure about the health risks of tobacco. As a result Yale established guidelines on voting of tobacco company proxies." They concluded that they would 1) be in a better position to influence tobacco companies as investors. In addition to these reasons, newspaper reports from the period emphasize that Yale's leaders believed their primary fiduciary responsibility was to 2) grow the endowment and that 3) divesting in tobacco could be a "slippery slope" leading to other divestments.

We believe these concerns are legitimate, but ultimately do not speak against Penn adopting a tobacco divestment policy.

Divestment Considerations Raised by Yale University

Is Penn in a better position to influence tobacco companies if it potentially holds stock and votes on shareholder proxies?

Part of Yale's justification for continuing to hold tobacco securities has to do with persuasion. By setting voting guidelines for shareholder proxies, they believe they can have some influence over tobacco companies' behavior.

There are several reasons why we do not find this argument compelling. First, both Harvard and Stanford *directly* engaged tobacco companies, attempting to influence their behavior. This was met with extremely limited success, leading to the divestment actions of both of these universities. Moreover, in the aftermath of the massive $365 billion+ Master Settlement Agreement of 2008[25], tobacco companies have continued to manufacture their products, underplay the risks, and move their aggressive marketing operations to the developing world. Finally, as multi-year members of Penn's SRAC, we have observed that nearly every shareholder proxy that Penn has supported does not pass (most gain about 5% yes votes). So even adopting strict proxy voting guidelines is unlikely to have any effect at all on tobacco companies.

Will adopting a tobacco exclusion policy have an impact on our endowment?

The University of Pennsylvania's primary investing responsibility involves the long-term stability and growth of our endowment. Reasoning along similar lines, Yale argued that insofar as tobacco stocks are good moneymakers, it would be abdicating its fiduciary duty to not invest in them.

Through prior actions, Penn's senior leadership and trustees have made it clear that they believe economics must be balanced with social responsibility. In 2006, Penn divested from companies with significant ties to Sudan and very nearly ended its licensing relationship with Adidas over the issue of sweatshop labor[26] (Adidas finally relented and moved its manufacturing to a more responsible venue). But regardless of whether or not one accepts this argument, there is good reason to think that a tobacco policy will have little impact on the endowment.

In a study of the performance of a socially responsible index fund, Meir Statman found that the "Domini Social Index, a socially responsible version of the S&P 500, performed as well as the S&P 500."[27] Christopher Geczy, et al., investigated the performance of socially responsible mutual funds in the context of portfolio theory. They look at the impact of including such funds in

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[25] Master Settlement Agreement, 1998[2]
[26] Almanac, Annual Report of the Committee on Manufacturer Responsibility, September 24, 2013, < http://www.upenn.edu/almanac/volumes/v60/n06/manufacturer.html> (Accessed 26 September, 2013)
[27] Meir Statman. "Socially Responsible Mutual Funds," Financial Analysts Journal, Vol. 56, No. 3 (2000): 30-39.

different types of portfolios, under different assumptions about investor skill. Under their analysis, the impact of socially responsible investing varies from as little as 1-2 basis points (~0.01%) to as much as 140 basis points (1.4%). [28] Other research focuses on the connection between corporate responsibility and profitability. This literature does not present a fully consistent picture, but most studies suggest either that there are no significant relationships between corporate responsibility and profitability[29], or that there is a positive relationship. In a meta-analysis of 109 studies that looked at the correlation between corporate social performance and financial performance, almost half of the studies showed a positive correlation, a little more than 6% showed a negative correlation, and the rest showed mixed or non-significant correlations.[30] Taken as a whole, this literature suggests that the cost of screening the endowment for tobacco will be either negligible or non-existent.

Does this set a dangerous precedent? Is there a slippery slope from adopting this policy to adopting other divestment proposals?

Even a cursory look at the types of securities screened by funds such as Vanguard's Social Index Fund and TIAA-CREF's Social Choice fund suggest that there are many possible issues for which Penn could potentially adopt an investment screen. If the trustees adopt a tobacco policy, will this severely restrict future investment opportunities?

When President Gutmann spoke in support of Sudan divestment, she made it clear that divestment policies should only be adopted under special circumstances. By giving a three-part standard: moral evil, clear link to moral evil, and broad consensus, President Gutmann ensured that one divestment proposal would not lead inevitably to the next. Each proposal had to be considered on its own merits and by the same standard. An inclusive community cannot afford to adopt every proposal for socially responsible investing without broad consensus.

Since President Gutmann's three-part standard will prevent a slippery slope, it is incumbent upon the campus community to reach a decision about this proposal on its own merits. We believe that given the moral evils of tobacco articulated in Section 2, and the fact that there are no teaching, research, or health benefits of tobacco, the difference between tobacco and other controversial products is clear.

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[28] Christopher C. Geczy, Robert F. Stambaugh, and David Levin. "Investing in Socially Responsible Mutual Funds," The Rodney L. White Center for Financial Research, The Wharton School, (March 17, 2003, revised May 26, 2003) <http://finance.wharton.upenn.edu/~rlwctr/papers/0402.pdf> (Accessed 09-27-2013).

[29] Kenneth E. Aupperle, Archie B. Carroll and John D. Hatfield. "An Empirical Examination of the Relationship between Corporate Social Responsibility and Profitability," The Academy of Management Journal, Vol. 28, No. 2 (1985): 446-463.

[30] Joshua D. Margolis and James P. Walsh. "Misery Loves Companies: Rethinking Social Initiatives by Business," Administrative Science Quarterly, no. 48 (2003): 268–305.

Empirical considerations also tell against Yale's concern about the slippery slope. Despite the fact that some of our peers adopted tobacco screens more than ten years ago, they have not gone on to exclude other classes of securities from their portfolios. They too saw tobacco as in a special class. Moreover, as we have noted above, Penn is now trailing behind our peers with respect to tobacco. Tobacco divestment is increasingly the norm, especially among elite medical schools and organizations.

4. Tobacco Screening Strategies

Our peer institutions with tobacco policies have taken a number of different approaches to their restrictions on owning tobacco stocks. Columbia University restricts its tobacco screen to companies "whose business is the direct manufacture of tobacco products, including chewing tobacco and/or snuff; cigarettes, including make-your-own custom cigarettes; cigars; pipe and/or loose tobacco; smokeless tobacco; and raw, processed or reconstituted leaf tobacco." Brown University uses similar language, screening for "companies that manufacture tobacco products." We also know that Brown's investment office uses a screen that identifies companies that derive 1% or more of their revenues from the manufacture of tobacco products.

Dartmouth's investment office is charged with annually creating a list of companies that manufacture or produce tobacco and tobacco products in order to forgo investment in these companies. Johns Hopkins University directs its investment office to draw up a similar list, but also restricts investment in all stocks and bonds issued by companies that produce tobacco products.

Harvard University has a more nebulous definition of tobacco companies. It prohibits "the purchase of stock in companies producing significant quantities of cigarettes or other tobacco products," where the definition of 'significant' is left vague. Similarly, Stanford does not hold investments in "core tobacco companies," but we do not know exactly which companies are in the core.

Many socially responsible pension funds take a different approach to tobacco screening. These funds screen for ownership of companies that derive more than a certain percentage of their revenue from tobacco products. In addition to the major tobacco companies, this screen also includes tobacco supply chain companies that provide paper, packaging, filters, and so forth.

Another issue faced by our peers concerns the scope of the investment policy. In all cases we are aware of, our peers have opted to place restrictions narrowly on direct investments (by the institutions and fund managers), not on comingled assets. This is largely a pragmatic matter, having to do with the difficulty of executing directives when the funds of multiple institutions are comingled.

We believe that the approach taken by Brown, Columbia, and Dartmouth is the best one. We thus recommend that the trustees adopt a policy that excludes companies manufacturing tobacco products from Penn's direct investments and require its separate account investment managers to exclude those companies that manufacture tobacco products from their direct investments. For guidance in identifying companies that manufacture tobacco products, some of our peers have relied on the annual lists drawn up by the Investor Responsibility Research Center[31] and we recommend this product to the investment office.

5. Recommendation to the Trustees

For the reasons outlined above, we recommend that Penn consider adopting a policy to exclude tobacco holdings from its direct investments and offer the following model resolution for consideration:

RESOLVED, that the Trustees of the University hereby direct the Office of Investments to: 1) exclude from their direct investments holdings in companies whose primary business is the manufacture and sale of cigarettes and other tobacco-related products; and 2) share the University's desire to adhere to this investment philosophy with its investment managers.

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[31] Brown University, "Major Actions and Divestments," Advisory Committee on Corporate Responsibility in Investment Policies <http://www.brown.edu/about/administration/advisory-committee-corporate-responsibility-investment-policies/major-actions-and-divestments> (accessed September 28, 2013).

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