Special Action Policy

UNIVERSITY OF GUELPH

Special Action Policy
For the Endowment Portfolio

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Background

The consideration of social or moral or ethical values in making investment decisions is becoming a common practice especially by not for profit institutions such as universities. One example is the dramatic increase in interest in the investment risks and opportunities presented by global climate change over the past several years. More recently the Paris Agreement sets out a global action plan to limit global warming to well below 2°C. This attention to climate change has resulted in increased stakeholder engagement in university endowment investments as they relate to the "fossil fuel" industry.

In 2015, the University of Guelph, recognizing its responsibilities not only to respond to current concerns on climate change but also the broader issue of "responsible investing" created an ad hoc committee- the Working Group on Responsible Investing (WGRI). After extensive consultation and review of practices in other universities and organizations the WGRI committee issued a number of recommendations to the University's Board of Governors for consideration in developing policies and practices regarding "responsible investing" for its endowment fund. The major recommended direction in the report with regard to overall management of endowment investments was to consider Environmental, Social and Governance (ESG) factors in making investment decisions. A suggested revised endowment investment policy is being developed to be presented for review and consideration by the appropriate governing committees. In addition WGRI Recommendation #4 – (refer to the text below) identified the need for a process to receive and consider recommendations for "actions" such as divestment within the endowment investment policy.

WGRI Recommendation #4 (from the 2015 report)
That the amended Endowment Investment Policy incorporate provisions for a transparent process to consider and implement recommendations in response to stakeholder expectations for action on specific RI issues, including existing calls from some University stakeholders that it divest itself of all investments in the fossil fuel market

In addressing this recommendation the following policy has been developed based on a number of existing and developing practices among universities in Canada and the US. The policy, referred to as a "Special Action" policy, has been developed as a standalone process rather than incorporated within the endowment investment policy. For the most part "special action" regarding investments is expected to take the form of some type of screening, either positive (i.e., areas that should be invested in) or negative (i.e., areas that we should not invest in). The Endowment Investment policy will focus on how actual investments within the portfolio are managed.

A. Policy Introduction

The University is a place that promotes freedom of inquiry and respectful debate. This can take the form of the expression of different opinions in an open and inclusive manner. The topic of “responsible investing” of University endowment assets is one where the issues of values, ethics and the University’s role in the broader provincial, federal and global community can intersect at critical decision points. Most often debate on specific holdings include the call for disinvestment or “negative screening” of certain holdings based on beliefs by stakeholders that investing in certain companies contributes to “social injury” and is inconsistent with the goals and values of the University. The decision to apply any level of screening of investments must be made in the context of the University’s responsibilities both as a prudent administrator of its assets and an organization that respects the expression of different social and political views of its stakeholders.

The purpose of this policy is to provide a method by which expressions of concern by University stakeholders regarding specific holdings in the endowment portfolio may be received and considered within the appropriate University governing process.

B. Principles

The primary consideration in making investment decisions must be consistent with the University as a trustee and also the endowment investment objectives for total investment income within acceptable levels of risk. The University has also stated that it has a role as a “responsible investor” as expressed in the consideration of Environmental, Social and Governance (ESG) principles in making investment decisions for the endowment portfolio. Where there are claims that specific investments are inconsistent with the University’s role, there needs to be an effective and objective procedure to respond.

While there can be a range of factors considered in responding to concerns, they should be based on the following;

1. The role of the University as a prudent investor. The University through its Board of Governors has a fiduciary responsibility to manage the endowment portfolio to meet total investment return objectives within an acceptable level of risk.
2. The potential for “social injury”. For the purposes of this policy the Yale University concept of “social injury” will be applied;

    a. *“Social Injury - the injurious impact which the activities of a company are found to have on consumers, employees, or other persons, particularly including activities which violate, or frustrate the enforcement of, rules of domestic or international law intended to protect individuals against deprivation of health, safety, or basic freedoms."*

3. Actions taken by the Canadian government or other government bodies with regard to a particular investment in a country, industry or organization.

C. Expressions of Concern

For the purposes of this policy “Stakeholder” will be current University of Guelph members from one of four groups; faculty; staff; students or alumni. Should individuals of a Stakeholder group have an issue with respect to specific investments in the endowment portfolio, it will be their responsibility to prepare the proposal outlining the case for “Special Action” and to obtain sufficient evidence and expressions of interest for special action by the University community. Special Action typically will consist of divestment of existing holdings or acquisition of certain new investments however it may also include specific engagement activities such as letters to management or joining specific organizations.

The submission of expressions of concern must be documented and be specific with respect to the concern and the

investment. The University will provide a list of current investments in the endowment portfolio to Stakeholders on request.

In order to reflect a sufficient level of concern on an investment, the submission must be accompanied by a petition of at least 200 individual signatures, with a minimum of 20 signatures from at least three of the identified Stakeholder groups.

All submissions must be made to the University Secretariat's Office who will determine if the requisite petition conditions have been met.

D. Responding to Concerns

An ad hoc committee (the Committee) will be established by the Board of Governors to receive and review any expressions of concern received under this policy. The Committee shall consist of 10 members, as follows:

- Six members who may be selected from among the Board of Governors, Board of Trustees and Investment Subcommittee, one of whom shall be an elected faculty member, one an elected staff member, and one an elected student member; and, one of whom shall be appointed Chair of the Committee
- One member appointed by the University of Guelph Alumni Association
- The Vice-President (Finance & Operations), (ex-officio)
- The University Secretary or designate (non-voting)

The Governance and Human Resources Committee of the Board of Governors shall approve the Committee membership on behalf of the Board of Governors.

The Committee may call upon experts in investments or other relevant areas as they deem necessary, including those of the Investment Subcommittee. A Committee report on a matter normally should be issued no later than 180 days after receiving an expression of concern.

On receipt of a validated Proposal for Special Action, notice shall be given to the University Community with an invitation for interested groups to submit written representations to the Committee, in response to the proposal.

If the Committee determines that the submission is repetitive (i.e., has previously been considered) or vexatious, it may recommend that the submission be rejected. The Committee may develop its own specific criteria for assessing the submission however general guidelines include;

- How significant any shift in the current portfolio could have on returns and risk. This needs to take into consideration the size and role certain investments have toward the total return and risk profile of the endowment portfolio.
- The legal role of the University as a trustee to act in the best interest of both the University and those affected by the performance of the portfolio.
- Degree to which "social injury" can be demonstrated. The injurious activities of an entity should be significant. For examples for entities with multiple sources of revenues, the Committee should assess the extent to which revenues are derived from the activity of concern. Other factors could include an assessment of an entity's overall ESG factors in the context of an activity under review.

The Committee will prepare its recommendations specific to the submission, for the Finance Committee of the Board of Governors who will in turn provide a final recommendation to the Board of Governors. The final recommendations to the Board of Governors must address the specific expression of concern however may also include other recommendations that call for additional considerations or action regarding the management of the endowment portfolio reflecting the general area of concern reflected in the submission.

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