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3 December 2010

Brendan Smyth MLA
Inquiry Chair, Standing Committee on Public Accounts

Attn: Andrea Cullen
The Committee Secretary
Standing Committee on Public Accounts
ACT Legislative Assembly for the ACT
GPO Box 1020
Canberra ACT 2601

Email: committees@parliament.act.gov.au

Dear Mr Smyth

Financial Management (Ethical Investment) Legislation Amendment Bill 2010

I refer to the exposure draft of this Bill and accompanying Explanatory Statement and the request for public comment.

Australian Ethical Investment has 25 years experience in the ethical investment field. We have an extensive knowledge of the numerous approaches to ethical and responsible investment. We have two broad suggestions for additions to the exposure draft:

- Suggested requirement for public engagement and advocacy;
- Suggested requirement for annual public reporting on operation of ethical investment screens.

Mandatory Public Engagement and Advocacy

In our view the most suitable place the ACT Government might look for examples it might follow in regard the introduction of ethical investment practice are the US state governments. As well as screening portfolios in the manner envisaged in the exposure draft of the Bill, many American state governments publicly engage with companies and advocate for change on issues of concern to their communities even though they won't screen out companies involved in those activities. By way of example 22 resolutions were sponsored by the State of Connecticut in the 2009 US AGM season on issues including carbon emissions reduction, energy efficiency and executive compensation.

We understand from the material on page 24 of the annual report of the ACT Treasury for 2008-09 the ACT Government may engage in this sort of activity "behind the scenes." We don't feel that is an appropriate way to use public money. In our view the situation of a government involved in this activity is fundamentally different to that of a privately owned investment house. Government monies should be used in a clearly transparent manner. We suggest the Bill include additional provisions dealing with public advocacy. Those provisions might:

- Mandate annual publication of a list of companies that the ACT holds shares in and in which it has supported engagement activities. So, if for example, the ACT Government held shares in US companies where US state governments were sponsoring resolutions on worker safety issues, the ACT Government could support such resolutions and publicly report such support;

- Make it mandatory for the ACT Treasury to report the names of Australian companies it has engaged with and the issues involved;
- Require the ACT Treasury to sponsor or co-sponsor at least a minimum number of public engagements and a minimum number of resolutions, on matters of concern, e.g. the issues set out in the list of prohibited activities.

Mandatory reporting on implementation of the screens

We suggest the following matters should be dealt with in the Bill, so as to ensure adequate public scrutiny of the implementation of this Act by the ACT Treasury.

We suggest:

- Each year the ACT Treasury is to identify companies it has been obliged to divest from as a consequence of the operation of this Act;
- Each year the ACT Treasury is required to report on companies where it has had difficulties deciding how to interpret and apply the Act to particular companies;
- Each three years the ACT Treasury is to report on the number of companies which have been screened out according to each criteria.

We would be very happy to speak at any public hearing organised by the Public Accounts Committee as part of its inquiry into this Bill.

Yours sincerely

Howard Pender
Director