

Statement of the Yale Corporation Committee on Investor Responsibility

In the last year, the Yale Corporation Committee on Investor Responsibility (CCIR) has considered and discussed with the Advisory Committee on Investor Responsibility (ACIR) the proposal of some Yale students to divest from a number of publicly-traded fossil fuel-producing companies based on their holdings of carbon reserves in the ground. The student group “Fossil Free Yale,” citing principles of *The Ethical Investor* (John Simon, et. al., Yale University Press, 1972), has urged the University to take steps to divest should engagement with targeted companies fail to result in fuller greenhouse gas emissions (GHG) reporting by them,¹ or if the companies’ reports do not show improvement in the ratio of total GHG emissions per unit of energy produced. The Yale College Council also released the results of a referendum it held last November indicating substantial support among undergraduates for divestment of “fossil fuel companies contributing the most to climate change and associated social harms.”

CCIR agrees that climate change is a grave threat to human welfare. We believe, however, that the actions Fossil Free Yale proposes Yale take as an institutional investor – divestment or shareholder engagement as a precondition to divestment – are neither the right means of addressing this serious threat nor would they be effective. Yale will have its greatest impact in meeting the climate challenge through its core mission: research, scholarship and education conducted by its faculty and students. Yale should undertake special efforts to increase holistic understanding of the problem and ways individuals and institutions can work effectively on solutions of all kinds, including effective governmental policies and technological innovation. Yale should continue to be a leader in sustainability and sound environmental practices, while helping students, faculty and staff behave in environmentally responsible ways. As an investor, Yale should emphasize that companies, as a matter of sound business practices, should take into account the effects of climate change and anticipate possible regulatory responses with actions that recognize the externalities produced by the combustion of fossil fuels. The Chief Investment Officer is communicating this position to Yale’s external investment managers. And as an ethical investor, Yale should support well-constructed shareholder resolutions that call for company disclosures that address climate change issues, as we state below in policy guidance for ACIR.

¹ The emissions data sought are based on the accounting framework developed by the Greenhouse Gas Protocol, specifically a reporting organization’s Scope 1, Scope 2 and Scope 3 emissions. More detailed guidance can be found at <http://www.ghgprotocol.org/>, but the three categories are generally described as follows, according to the Greenhouse Gas Protocol FAQs (<http://www.ghgprotocol.org/files/ghgp/public/FAQ.pdf>):

Scope 1 --direct emissions from owned or controlled sources.

Scope 2 --indirect emissions from the generation of purchased energy.

Scope 3 --all indirect emissions (not included in Scope 2) that occur in the value chain of the reporting company, including both upstream and downstream. The 15 categories covered include purchased goods and services; capital goods; fuel- and energy-related activities (not included in scope 1 or scope 2); upstream transportation and distribution; waste generated in operations; business travel; employee commuting; upstream leased assets; downstream transportation and distribution; processing of sold products; use of sold products; end-of-life treatment of sold products; downstream leased assets; franchises; investments.

The Yale Corporation set *The Ethical Investor* as its policy guidepost for the University's approach to investor responsibility over 40 years ago, and the principles contained in it remain relevant and constructive in the many moral debates that could affect the manner in which the University invests its endowment. A premise of *The Ethical Investor* is that Yale's endowment supports the functioning and success of the university as an academic enterprise, and that an institution like Yale must prioritize its commitment to teaching and scholarly work. Taking into account non-economic factors is not a decision to be made lightly, and a decision to divest or refrain from certain investments should be taken only when justified by the presence of grave social injury² and broad moral consensus concerning that injury, and after carefully confirming it to be a measure of last resort that will not undermine Yale's most central mission.

Under principles of *The Ethical Investor*, in order to justify taking action against a company, Yale's policy requires that the targeted company be causing social injury, and, in the case of divestment, grave social injury, through its actions. The buildup of atmospheric GHG through fossil fuel use is caused by the *combustion* of fossil fuels, not by holding reserves of carbon in the ground for possible future extraction, or even by bringing fuel to market. The fossil fuel extractive industry is involved in combustion mainly as supplier, but carbon dioxide (CO₂) emissions are produced by the energy industry and power companies, companies involved in transportation, and many if not most other industrial and commercial firms, as well as individuals and households. Targeting a segment of the fossil fuel extractive industry (the supply side) for potential divestment largely on account of emissions by other actors downstream from them, while ignoring the direct contribution by individuals, businesses, government agencies, non-profit and other organizations that emit CO₂ by burning fossil fuels (the demand side), in our view is misdirected.³ And it does nothing to improve public or private policies that are capable of addressing the problem, either in the United States or globally, including by incentivizing the substitution or development of technologies and behaviors that may ameliorate GHG buildup.

The University's past decisions to divest from certain oil companies doing business in Sudan, and from certain companies doing business in South Africa, were based on a well-identified set of injurious actors⁴. In contrast, the injury from GHG emissions is complex and the number of contributing actors spans the economy. Effective mechanisms to control the injury necessarily must include those who use fossil fuels as well as those who produce fossil fuels, and on a global scale. Of course, the burning of fossil fuels over the centuries has

² As defined in *The Ethical Investor*, "social injury" means "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 As described in more detail in Footnote 1 above, Scope 3 emissions attempt to capture all emissions in the company's "value chain" that occur from sources that are neither owned nor controlled by the company. Calculating Scope 3 emissions is extremely burdensome on companies, which would have to investigate, assess and monitor emissions from sources they neither own nor control, both up and down the value chain. The methodology and guidance for Scope 3 is very subjective, so when combined with the logistical challenges of measuring these indirect emissions, self-reported Scope 3 data are of questionable value for comparing the emissions of companies to identify "bad" actors.

⁴ These companies were identified as providing substantial assistance to governments engaged in extreme injurious conduct (i.e., genocide and apartheid) that violated basic international human rights and freedoms.

enabled the development of economies and the betterment of human welfare around the world. And at least until alternative energy technologies and infrastructures can be developed and implemented, fossil fuels will remain essential to some degree. How one determines the net socially injurious impact of fossil fuel combustion by particular companies, and how one goes about identifying the companies responsible for the incremental emissions that cause injury (and thus who should be held accountable) are questions fraught with difficulty. We do not believe it a wise use of University resources to try to engage with an impracticably large number of companies, or to do so based on metrics that are not reliable for making the ethical judgment our policy deems necessary to justify consideration for divestment.

Yale's policy guide, *The Ethical Investor*, recognizes that there are some types of social injuries more appropriately corrected by government action, as opposed to company or industry-wide action. CCIR believes that the formidable problem of climate change, which rightly deserves the attention and involvement of all, is heavily dependent on government policy interventions, both nationally and internationally. The solution to this problem cannot be identified with a specific set of companies or even companies alone. Sensible and sound governmental policies are essential to reduce the threat of climate change.⁵ Yale in exercising its voice as a shareholder should support such policies, and should vote proxies on shareholder resolutions that will demonstrate Yale's support of company behaviors that are consistent with the reality of climate change and the need for a multi-faceted coordinated response from all sectors of the government and the economy. Thus, CCIR has adopted the following policy guideline for implementation by ACIR:

CCIR Proxy Voting Guideline on Climate Change

Yale will generally support reasonable and well-constructed shareholder resolutions seeking company disclosure of greenhouse gas emissions, analyses of the impact of climate change on a company's business activities, strategies designed to reduce the company's long-term impact on the global climate, and company support of sound and effective governmental policies on climate change.

CCIR invites ACIR to further consult with CCIR should it have questions about the positions presented in those shareholder resolutions on which it may be voting proxies.

CCIR appreciates the involvement by Yale students on this issue of paramount importance for all of us. The considerable devotion of students and members of ACIR to become educated and to educate others, and to engage members of this Committee on the matter of climate change and the role of institutional investors has contributed significantly to our deliberations and we offer our sincere thanks. We encourage continued dialogue between the students and the ACIR as the new guidance is implemented.

⁵ Some governmental policies, to be effective, will necessarily require better metrics than currently exist for measuring emissions "generated" by each actor. Valuable work is continuing in this area, including here at Yale; however, this problem cannot be the responsibility of the Investments Office, which must focus on its core function of maximizing stable, long-term returns for the benefit of the Yale's students and programs.