

ITEM 6A**CANNABIS EXCLUSION POLICY**

Prepared by: [REDACTED]

Date:

14 September 2017

1 Purpose

1.1 For **approval**.

1.2 To approve the recommendation of a new product exclusion category: "To exclude companies from the Fund that:

1. *Cultivate or manufacture cannabis plants or cannabis products for recreational use;*
2. *Supply cannabis plants or cannabis products for recreational use - as their main business;*
3. *Provide support services for the recreational use of cannabis - as their main business; or*
4. *Cultivate, manufacture or supply cannabis plants or cannabis products for medical, scientific or industrial purposes without appropriate licence or authorisation."*

2 Background

2.1 Cannabis is classified as a narcotic drug under international and UN drug control conventions to which New Zealand is a party. These conventions seek to limit the cultivation, production, manufacture, distribution and use of drugs to an adequate amount required for medical or scientific purposes.

2.2 In New Zealand, use of, possessing, cultivating or dealing in cannabis is illegal under the Misuse of Drugs Act 1975.

2.3 Internationally, a shift and divergence in country policies towards decriminalisation or legalisation of cannabis for recreational use, together with an increase in production of cannabis-based medicinal products, has led to rapid growth in the industry (additional background information on recent global developments in regulations regarding cannabis can be found [here](#) – optional reading). Given this, we have reviewed investment in the industry under our Responsible Investment (RI) Framework.

2.4 In making exclusion decisions, we apply the decision making criteria as set out in the RI Framework. Table 1 below provides a synopsis of these criteria for considering cannabis as a new category for exclusion.

Table 1: RI Framework Decision Making Criteria: Synopsis

Decision making criteria	Synopsis
International conventions to which	Cannabis is described as a narcotic drug. There are three major drug control international treaties to which New Zealand is party. These are:

<p>New Zealand is a signatory</p>	<ul style="list-style-type: none"> • 1961 Single Convention on Narcotic Drugs; • 1971 Convention on Psychotropic Substances; • 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. <p>Broadly, the conventions endeavour to:</p> <ul style="list-style-type: none"> • Limit the cultivation, production, manufacture and use of drugs to an adequate amount required for medical and scientific purposes. • Prevent cultivation, production and manufacture of, trafficking in and use of, illicit drugs. <p>Position on medicinal cannabis:</p> <ul style="list-style-type: none"> • Cultivation and manufacture for medicinal purposes is supported but production and distribution must only be undertaken by a government organisation or under a control licence.
<p>New Zealand or national law</p>	<p>What is illegal?</p> <ul style="list-style-type: none"> • In New Zealand, the cannabis plant is classified as a Class C controlled drug (moderate risk of harm) under the Misuse of Drugs Act 1975. Using, possessing, cultivating or dealing (including importing/exporting, manufacture, supply to a person under 18, or sale) in Class C drugs is an offence under the Act. • Certain cannabis-based products are classified as Class B controlled drugs (high risk of harm) under the Act. Offences involving Class B controlled drugs carry heavier penalties than for Class C drugs. <p>What is legal?</p> <ul style="list-style-type: none"> • The Misuse of Drugs Act and associated regulations authorise many of the drugs controlled by the Act, including cannabis, to be used for medical and scientific purposes. Currently, unprocessed or partially processed cannabis leaf or flower preparations for medicinal use is illegal. Cultivation and manufacture for medicinal purposes is also illegal. <p>Financing:</p> <ul style="list-style-type: none"> • Providing financial assistance to or investing funds in an overseas company that cultivates or supplies cannabis, if legal in its jurisdiction, is not illegal under New Zealand law.
<p>Significant policy positions of the New Zealand government</p>	<ul style="list-style-type: none"> • A National government is unlikely to legalise or decriminalise the industry in the foreseeable future. • Labour has indicated that decriminalisation is not on its agenda.

	<ul style="list-style-type: none"> • The government recently enabled easier access to cannabis based products for medicinal use by allowing doctors to prescribe approved drugs for pain relief. • Misuse of Drugs (Medicinal Cannabis and Other Matters) Amendment Bill 2017 – a Member’s Bill that was drawn in this year’s ballot. It is currently tabled and likely to be debated next year. The aim of the Bill is to amend the Misuse of Drugs Act 1975 to make it legal for New Zealanders suffering from terminal illness or any debilitating condition to use cannabis or cannabis products with the support of a registered medical practitioner. • Misuse of Drugs Act Regulations are also currently being reviewed.
Impact of exclusion on expected Fund returns	<ul style="list-style-type: none"> • Negligible. Currently, there is very low number of companies in the cannabis industry that meet the criteria for entering the MSCI ACWI IMI¹. However, given this is a new industry, its growth and the impact of the exclusion on the reference portfolio will be monitored by the IC.
Actions of our peers	<ul style="list-style-type: none"> • Only ACC.
Severity of breach/action	<ul style="list-style-type: none"> • Covered under NZ Law and International Conventions (above).
Likelihood of success of alternative course of action (engagement)	<ul style="list-style-type: none"> • Engagement is unlikely to be successful.

2.5 Exclusion decisions are guided by current government policy as it stands. Should this policy change then the basis for the exclusions can be reviewed.

3 Cannabis companies currently in the MSCI ACWI IMI

3.1 As the industry continues to grow, companies involved in the cannabis industry are becoming big enough to enter the reference portfolio². In-house research has identified approximately 300 companies that are currently active in the industry – not all are listed and not all would fall within the proposed exclusion boundaries. This analysis was predominantly focused on the US and Canadian markets.

3.2 Approximately half of those companies have a market cap big enough to enter the MSCI ACWI IMI index. However, given the additional criteria for inclusion in the index, only [REDACTED] companies are currently³ constituents. Of these companies, under the exclusion

¹ MSCI ACWI IMI eligibility criteria: Full market capitalisation, free float adjusted market capitalisation, minimum liquidity requirements (based on frequency of trading and annual traded value ratio), minimum length of trading requirement (applicable to small new issues), proportion of shares available to foreigners (must be at least 15%).

² Our investible universe is defined here as the MSCI ACWI IMI Index which captures large, mid and small cap representation across 23 Developed Markets and 24 Emerging Markets countries. As at 31 August 2017, there were 8636 constituents. The smallest company in the index (at 1 September 2017) was [REDACTED]

³As at 29 August 2017.

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boundaries recommended, only one would be excluded (Canopy Growth Corporation). Examples of exclusion decisions can be viewed in Table 2 below.

4 Conclusion

- 4.1 By implementing the RI Framework decision making criteria and by using New Zealand law and New Zealand's international commitments as a guide, we have come to the conclusion that a cannabis product exclusion should apply as set out in 1.2.

5 Recommendations

- 5.1 We recommend that the Board approves the new product exclusion category as outlined in 1.2.

Table 2: Examples of exclusion decisions

Company	Market cap (US\$m)	Marijuana sector	Industry	Business description	EXCLUDE?	REASON
The Scotts Miracle-Gro	5.55b	AgTech	Agriculture	The Scotts Miracle Gro Co is operative in the agricultural industry. It manufactures and sells dry, granular slow-release lawn fertilizers, combination lawn fertilizer and control products. The Company's wholly-owned subsidiary, The Hawthorne Gardening Company, is a leading provider of nutrients, lighting and other materials used in the hydroponic growing (including cannabis) industry.	NO	Provides agricultural technology and services for a variety of agricultural uses. Cannabis not main business.
GW Pharmaceuticals	2.76b	Biotechnology	Drug Manufacturer	GW Pharmaceuticals PLC is engaged in the research, development and commercialisation of cannabinoid prescription medicines using botanical extracts derived from the Cannabis Sativa plant. GW Pharmaceuticals manufactures the only approved cannabis based product in New Zealand (Sativex). It can be prescribed by Doctors for patients with multiple sclerosis but for any other use, it needs approval from the Ministry of Health.	NO	Medicinal – licensed
Canopy Growth Corporation	1.53b	Cultivation & Retail	Drug Manufacturer	Canopy Growth Corp through its subsidiaries is a licensed producer of medical marijuana in Canada. The company grows, produces and sells medical marijuana. It sells medical marijuana under various brand names including Tweed, Bedrocan, and Mettrum. Mettrum operates in the natural health space between life-style and pure medicinal plays. It has also partnered with a recreational brand Snoop Dog.	YES	Cultivates and supports the supply of cannabis for recreational use
Aphria Inc	831.53	Cultivation & Retail	Drug Manufacturer	Aphria Inc is licensed to produce and sell medical marijuana, including dried cannabis and cannabis oil, as a Licensed Producer under the provisions of the ACMPR.	NO	Medicinal – licensed
Insys Therapeutics	670.36	Biotechnology	Biotechnology	Insys Therapeutics Inc develops and commercializes drug delivery systems targeting the oncology space. The company manufactures cannabinoid formulation, and sublingual spray drug delivery technology for the US and Europe markets. The company currently manufactures and markets two US FDA approved cannabinoid drugs and has a number of others under development.	NO	Medicinal – licensed
Cara Therapeutics	454.56	Biotechnology	Biotechnology	Cara Therapeutics Inc is a clinical-stage biotechnology company. It is focused on developing and commercialising new chemical entities designed to alleviate pain and pruritus by selectively targeting kappa opioid receptors.	NO	Medicinal - authorised
Café Serendipity	189.85	Cultivation & Retail	Oil & Gas - Refining & Marketing	Retail marijuana stores and medical marijuana dispensaries.	YES	Retailer for recreational use
CannaGrow Holdings Inc	99.67	Secondary Services	Business services	CannaGrow Holdings Inc is a lessor, liaison, and consultant to licensed growers providing growing facilities for medical and recreational cannabis industry in the State of Colorado. CannaGrow develops, designs and builds grow facilities, offers site management and full staffing services: botanists, horticulturalists and industry professionals.	YES	Provides grow facilities and support services for recreational use – main business
Cannabis Sativa Inc	55.6	Marijuana Products	Personal Services	Cannabis Sativa Inc and its subsidiary are engaged in research, development and licensing of specialized natural cannabis products, including cannabis formulas, edibles, topicals, strains, recipes and delivery systems. Also owns medical and recreational marijuana dispensaries.	YES	Supplies the recreational market via dispensaries – main business

Examples of exclusion decisions CONTINUED

Company	Market cap (US\$m)	Marijuana sector	Industry		Business description	EXCLUDE?	REASON
Medicine Man Technologies	22.6	Secondary Services	Business services		Medicine Man Technologies Inc is a cannabis consulting company. The Company provides consulting services for cannabis growing technologies and methodologies, as well as retail operations of cannabis products (medical and recreational).	YES	Retails recreational cannabis product – main business
Cannabis Science	118.02	Biotechnology	Drug Manufacturer		Cannabis Science Inc is a medical marijuana research & development company. It is engaged in creating cannabis-based medicines, both with & without psychoactive properties, to treat disease & symptoms of disease, as well as for general health maintenance. The company works to develop, produce, and commercialize novel therapeutic approaches for the treatment for illnesses caused by infections as well as for age-related illness. Current products include pills, extracts, creams, tinctures, and sprays. Looking to develop and distribute new products that can be released on demand for self-medicating patients. Still seeking approvals for licensing.	YES	Medicinal - non-licensed