



NORGES BANK  
INVESTMENT MANAGEMENT

Norway's National Contact Point for Responsible Business Conduct  
P.O. Box 8114  
0032 Oslo

10.03.2021

## Specific instance under the OECD Guidelines for Multinational Enterprises – supplemental information

### Executive Summary

We support the OECD Guidelines for Multinational Enterprises (“the Guidelines”) and the National Contact Point (“NCP”) mechanism.

However, as we have emphasised in previous communications and we reiterate here, in our view there is no indication of a breach of the Guidelines by Norges Bank, and this case should be dismissed. The supplementary information from the claimants only confirms this view.

To make sure only cases that merit further examination are opened, the Guidelines set clear requirements that the NCP must determine are fulfilled *before* opening a case. As highlighted in this and our previous letter, we find it clear that these requirements have not been met in our case. It rather seems as the real purpose of involving Norges Bank is to get accessibility to the Norwegian NCP's good offices and thereby getting Norges Bank to the meditation table regarding a particular solution in another specific instance concerning another company.

The requirements in the Guidelines have been set by the OECD member states, have a clear and specific purpose, and cannot be diluted by subsequent interpretations. The requirements are supposed to constitute a real threshold, making sure that the Guidelines' procedure is used appropriately, preventing abuse of process. The purpose of the requirements and threshold is highlighted by the fact that a decision to open a case has significant consequences for the defendant party.

A very important requirement in this connection is that there must be an actual (“*bona fide*”) issue and the issue must be both material and substantiated. Another core criterion is that the NCPs shall promote “functional equivalence” and thereby a level playing field. The opposite of this is the stated problem of “forum/NCP-shopping”. It is indisputable that the Guidelines and adherent procedural system was not set up with the purpose of targeting a few multinational enterprises regarded as “best in class” and by correlation getting the NCPs regarded as most proactive.

Norges Bank Investment Management is a part of Norges Bank – The Central Bank of Norway

POSTAL ADDRESS  
P.O. Boks 0179 Sentrum,  
NO-0107 Oslo

OFFICE ADDRESS  
Bankplassen 2,  
Oslo, Norway

Tel. +47 24 07 30 00  
Fax +47 24 07 30 01  
Web [www.nbim.no](http://www.nbim.no)

Registration of  
Business Enterprises  
NO 937 884 117 MVA





## 1. Introduction

We refer to the email of 17<sup>th</sup> December 2020 from Norway's NCP for Responsible Business Conduct ("the Norwegian NCP") with the specific instance (complaint) of 18<sup>th</sup> May 2020 enclosed, and Norges Bank's response dated 15<sup>th</sup> January. We further refer to the Norwegian NCP's email of 16<sup>th</sup> February with supplemental information from the complainants, including a letter dated 28<sup>th</sup> January, which provided Norges Bank an opportunity to contribute further information based on this. Finally, we refer to the email from the Norwegian NCP of 24<sup>th</sup> February with the complainants' response to the Norwegian NCP's follow-up question of "*clarification regarding their wish not to "inculcate" the investors*".

As we have emphasised earlier and will repeat in this response, we find there has been no breach of the Guidelines by Norges Bank, and that the case should be dismissed. The Guidelines set clear requirements for opening a case, and these have not been met. The supplementary information from claimants does not alter this view.

We would like to reiterate that we support the OECD Guidelines for Multinational Enterprises ("the Guidelines") and the NCP-mechanism. The Guidelines are referenced in our management mandate set by our owner the Ministry of Finance. They also form part of the Executive Board's Principles for responsible investment management<sup>1</sup> and our responsible investment policy<sup>2</sup>. Our company expectations and follow-up on human rights are based on the Guidelines and the Guiding Principles on Business and Human Rights (UNGP).<sup>3</sup> The Guidelines are integrated into our due diligence processes. This includes the processes where we monitor our portfolio of companies for environmental and social risks, and the processes where we prioritise and customize specific ownership efforts towards specific companies. Our responsible investment efforts also include other investment actions we find fit depending on the situation and desired outcome.

### Point of departure: There must be an issue – and it must merit further examination

The objective of the initial assessment process under the Guidelines is to determine whether the issues raised merit further examination. The wording makes it clear that there must be an "issue" and that there is a threshold for opening a case. The extensive list of additional requirements shows that this exercise must be taken seriously, and it constitutes a real examination of whether there are indications of a norm violation. The clear wording is set by the adhering governments and have a specific purpose, as it is serious to make an allegation against the defendant. If a case is accepted, this in itself gives a strong signal that there is a problematic underlying issue and that the requirements listed in the Guidelines have been checked and have been found by the NCP to be fulfilled. This is the case irrespective of how the case later proceeds and its subsequent conclusion. Furthermore, the acceptance of a case is important as such decision may create a precedent for subsequent cases. Another consequence of a NCP's decision to go further with a specific instance, is that a particular process comes into play with further requirements and

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<sup>1</sup> <https://www.nbim.no/en/organisation/governance-model/executive-board-documents/principles-for-responsible-investment-management-in-norges-bank1/>

<sup>2</sup> <https://www.nbim.no/en/organisation/governance-model/policies/responsible-investment-management/>

<sup>3</sup> [https://www.nbim.no/contentassets/0ff34e35ba1a44c3b6c2039466ccbec7/humanrights\\_2021\\_web.pdf](https://www.nbim.no/contentassets/0ff34e35ba1a44c3b6c2039466ccbec7/humanrights_2021_web.pdf)





consequences for the defendant.<sup>4</sup> The requirements in the Guidelines thus must not be diluted to promote accessibility.<sup>5</sup>

In this respect, the Norwegian NCP is called on to determine whether the issue raised against Norges Bank is “bona fide”, in other words real or authentic. When assessing this, the Norwegian NCP must look at the issue in an impartial, predictable, equitable manner to decide whether the issue raised by the trade unions against Norges Bank is material and substantiated.<sup>6</sup>

Some cases raised in the NCP system might involve many parties, for example a company, its subcontractors and/ or franchises, one or more minority shareholders – and thus often more than one NCP. For example, in this specific instance, the petitioners are four trade unions (a global, a European, a US and Canadian and a Brazilian) alleging GBVH violations in McDonald Corporation’s (McDonald’s) worldwide operations including franchisee-operated stores in “*many OECD members states and key partner states, including but not limited to Australia, Brazil, Chile, Colombia, France, United Kingdom, United States*”.<sup>7</sup> McDonalds has its headquarter in the US, however the petitioners are targeting the Dutch/European part of the company.<sup>8</sup> The specific instance also seeks to include two of the investors in McDonald’s, namely APG Asset Management in the Netherlands and Norges Bank in Norway. Finally, this specific instance includes three NCPs, namely the US, the Dutch and the Norwegian NCP.

Such complex cases make it even more important to have clear, consistent, and predictable procedural rules when deciding whether the issue merits further examination. In addition, the Guidelines and the affiliated procedures are broad in scope - and in some cases dependent on the discretion<sup>9</sup> of the relevant NCP.<sup>10</sup>

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<sup>4</sup> E.g. participation in good offices. Even though the process is supposed to be voluntary, a non-participation will have consequences.

<sup>5</sup> Therefore the Guidelines state that the effectiveness of the specific instance procedure depends on good faith behaviour of all parties involved in the procedures. “*Good faith behaviour in this context means ... refraining from misrepresenting the process*” cf. OECD Guidelines, Commentary on the Implementation Procedures of the OECD Guideline for Multinational Enterprises paragraph 21 under “Implementation in Specific Instances”.

<sup>6</sup> Cf. OECD Guidelines, Procedural Guidance and Commentary, see especially Procedural Guidance under Section C; “Implementation in Specific Instances” that the NCP “...*should contribute to the resolution of issues that arise relating to implementation of the Guidelines in specific instances in a manner that is impartial, predictable, equitable and compatible with the principles and standards of the Guidelines*”.

<sup>7</sup> Cf. Petitioners complaint May18th 2020.

<sup>8</sup> Cf. complaint of 18<sup>th</sup> May; “*Petitioners seek assistance from the Netherlands NCP in offering a mediation process that will engage responsible McDonald’s officials and concerned institutional investors in Europe. The goal is to jointly create a plan and program to address GBVH in McDonald’s stores – a European plan and program that McDonald’s headquarters can adopt and extend to the company’s worldwide operations*”.

<sup>9</sup> And also when formulating and applying adherent Procedural Guidance (disclaimer: “not necessarily reflecting the official views of OECD member countries”), cf. OECD (2019), Guide for National Contacts Points on the Initial Assessment of Specific Instances, OECD Guidelines for Multinational Enterprises and OECD (2019), Guide for National Contact Points on Coordination when handling Specific Instances, OECD Guidelines for Multinational Enterprises.

<sup>10</sup> See also the OECD paper “Scope and applications of ‘business relationships’ in the financial sector under the OECD Guidelines for Multinational Enterprises”, approved by the RBC Working Party 20 March 2014 and endorsed by the Investment Committee: “*The understanding that the Guidelines are voluntary for enterprises has implications for the use of key terms such as “application” and “scope” of the Guidelines. It is precisely since the Guidelines are recommendations and not legally enforceable that open-ended descriptions of what is meant by the term ‘business relationships’ can be used*”.



A clear example of the broad application is the *global* scope of who can put forward a complaint. The broad scope is also exemplified by the fact that the defendant might be a minority shareholder in thousands of companies globally. Further, the NCPs are entrusted with a wide and discretionary power<sup>11</sup> regarding the assessment whether anyone has “legitimacy of interests” in a matter and, even though not directly connected to an alleged adverse impact, allowing them to put forward a case.<sup>12</sup>

When looking at the mentioned requirements stated in the Guidelines together with the facts in relation to Norges Bank provided by the trade unions and the facts provided by Norges Bank, we think it should be clear to the Norwegian NCP that there is no indication of breach of the Guidelines by Norges Bank and thus that the case does not merit further examination.

We will further elaborate this view below and provide some comments on the supplemental information provided by the complainants. To further clarify Norges Bank compliance with the Guidelines, we will also give some additional information about our own approach to responsible business conduct and the matters at hand.

## 2. Comments on the further information provided by the complainant

It follows from the Guidelines that, in making an initial assessment of whether the issue raised merits further examination, the NCP needs to determine the issue is bona fide and relevant to the implementation of the Guidelines.<sup>13</sup> One of the main criteria is “...*whether consideration of the specific issue should contribute to the purposes and effectiveness of the Guidelines*”.<sup>14</sup> The original complaint of 18<sup>th</sup> May 2020 concerns McDonald’s alleged conduct on GBVH issues. The complaint associates APG and Norges Bank with the case as minority shareholders in McDonald’s, stating that these institutions should have human rights due diligence procedures and use their leverage to raise issues with companies where instances arise. However, it also clearly says that the complainants do not seek to inculcate APG and Norges Bank for any failure in their due diligence efforts, but rather asks the NCPs to bring together the unions, McDonald’s<sup>15</sup>, APG and Norges Bank in a mediation process to support the unions in their efforts to agree on practices to address alleged GBVH issues at McDonald’s.<sup>16</sup> The complainants repeat this statement in their letter of 28<sup>th</sup> January 2021 containing supplementary information. They also suggest that Norges Bank and

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<sup>11</sup> Illustrated e.g. by the NCPs in the list put forward by the complainants in their letter of 28 January 2021 section II.

<sup>12</sup> Cf. e.g. the Guidelines and relevant criteria for initial assessment in the Guide for NCPs on the Initial Assessment of Specific Instance; “Organisations which represent impacted individuals or communities, such as trade unions or in some instances NGOs or other representatives may also have an interest in the matter. In instances where third party organisations are acting as representatives of individuals, or communities, it will be important to ensure that such representation has been requested or authorised by the relevant individuals or communities”.

<sup>13</sup> See Part II of the OECD Guidelines (Procedural Guidance and Commentary) “Procedural Guidance for NCPs “Initial assessment” paragraph 25.

<sup>14</sup> Cf. above.

<sup>15</sup> Addressed at the European part of the McDonalds Group. The petitioners state that they do not think the US NCP is in a position to adequately handle this case, and that European part of the McDonalds is better fit than the US headquarter to handle the case.

<sup>16</sup> As noted in the complaint “The petitioners in this Specific Instance do not inculcate APG and Norges Bank for their failure to act on sexual harassment at McDonald’s. (...) Instead, petitioners ask the Netherlands NCP to bring these investors into a mediation with McDonald’s under the NCP’s auspices in line with their commitment to engagement between with workers and workers’ representatives and advocates on RBC matters. APG and Norges Bank together can provide important insights and a powerful voice to help guide McDonald’s and the petitioning groups to a mediated agreement in this Specific Instance.”



APG tailor their due diligence approaches by applying a “comprehensive gender-lens” and “urge McDonald’s to accept the offers of good offices from the Dutch, Norwegian and US NCPs [...]”.

Bringing specific institutional investors to the mediation table through specific instances in specific companies

Even if the complainants in the end clarified that they argue that Norges Bank should be held responsible for a perceived failure in its due diligence obligations and that more of an effort could have been made to influence McDonald’s, the complaint itself and subsequent information still commend the investors for their leading practices. Reading such statements, as well as the complaint and supplemental information in their entirety, it appears that the purpose of involving APG and Norges Bank is not based on concrete potential breaches of the Guidelines by the investors. The complaint rather seems to be an attempt to bring two specific institutional investors that the complainants find to be at the forefront of responsible investing, to the mediation table to assist in this specific matter related to the McDonald’s - and thereby also to obtain a broader influence and reach in the food and service industry, see the letter of 18<sup>th</sup> May 2020 and 28<sup>th</sup> January 2021 which respectively state:

*“APG and Norges Bank together can provide important insights and a powerful voice to help guide McDonald’s and the petitioning groups to a mediated agreement in this Specific Instance”.*

*“Any decision Norges Bank and APG might make on mitigating and preventing gender-based violence at McDonald’s, Petitioners believe will have a broader influence on other investors, and not just at McDonald’s but at other companies in the food and services industry.”*

The complainants’ aim when using the NCP-mechanism to bring specific investors to the mediation table concerning a specific issue in a specific company, is supported by the fact that APG and Norges Bank are the only two of many OECD-based, institutional investors in McDonald’s that are being singled out in the complaint, with others being larger investors in the company.<sup>17</sup> In addition, APG and Norges Bank are the only investors’ subject to allegations of breaches of the OECD Guidelines - despite the fact that the complainants make clear that these two investors are considered “best in class” regarding responsible investing.

Further, the motivation for associating APG and Norges Bank with this specific case, is straightforwardly explained in the complainants’ letter of 28<sup>th</sup> January. In the response to the NCPs question “why APG and Norges Bank are the only investors named in this specific instance”, the complainants explain under Section III “APG and Norges Bank have the prominence and reputation to exercise leverage on McDonald’s”, that:

*“These institutional investors, and by correlation the Norwegian and Dutch NCPs, were selected because Petitioners believe these are the most promising avenues for access to remedy”*

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<sup>17</sup> <https://money.cnn.com/quote/shareholders/shareholders.html?symb=MCD&subView=institutional>

It follows from the Guidelines that a clearly stated goal of the NCPs is to work for functional equivalence.<sup>18</sup> This corresponds with one of the main aims of the OECD itself: levelling the playing field. An NCP system where complainants can “pick and choose” the global investors they find to be most progressive when it comes to responsible investments - and by association the NCP they find to be most effective - is not in line with the stated objective of functional equivalence and will contradict the aim of levelling the playing field, and thereby the trust in and legitimacy of the NCP system.<sup>19</sup>

#### Access to remedy through implicating selected institutional investors

While understanding of the aim and desired outcome, Norges Bank furthermore emphasises that access to remedy through the avenues sought by the complainants is not supported by the Guidelines. In fact, providing remedy is not an expectation of investors in situations where they may be directly linked to a potential norm violation through a business relationship, but not themselves contributing to the norm violations. As stated in the 2017 OECD Responsible Business Conduct for Institutional Investors “[...] *Remediation is an expectation in situations where an enterprise causes or contributes to adverse impacts*”<sup>20</sup> and “*in the context of adverse impacts arising from investee companies, investors will in most instances not cause or contribute to, but only be directly linked to the adverse impact. As a result, investors would not be expected to provide remedy, but they should seek to encourage the investee company to do so as a component of their responsibility to seek to prevent and mitigate, based on prioritisation.*”<sup>21</sup> The paper also highlights that it “[...] *is important that such leverage is also exerted within the framework of good corporate governance*” and does not shift responsibility from the company that may be responsible for or contributing to the RBC risk. Maintaining a clear distinction between expectations of using leverage in business relationships, and responsibility for an underlying norm violation, appears particularly relevant for the matter at hand, as the complainants in their letter dated 28 January refer to decisions “*Norges Bank and APG might make on mitigating and preventing gender-based violence at McDonald’s*”. Strictly speaking, direct actions to mitigate or prevent adverse impacts are not available to minority shareholders in these circumstances.

#### Is there a bona fide breach of the Guidelines?

It follows from the Guidelines that a specific instance shall be based on real breaches of the Guidelines by the defendant party. It is thus pointed out in the OECD Guidelines’ Procedural Guidance that, in making an initial assessment of whether the issue raised merits further examination, the NCP will need to determine “*whether the issue is bona fide and relevant to the*

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<sup>18</sup> See OECD Guidelines, Procedural Guidelines I. National Contact Points, first paragraph, cf. Procedural Guidance for NCPs “Initial assessment” paragraph 25 (<http://www.oecd.org/daf/inv/mne/48004323.pdf>).

<sup>19</sup> “Forum-shopping” is a challenge of the present OECD-system, see also OECD (2019), Guide for National Contact Points on Coordination when handling Specific Instances, OECD Guidelines for Multinational Enterprises, Introduction; “*Additionally NCPs have raised the concern of “forum shopping” amongst submitters as a challenge to coordination*”, also exemplified by the specific instance statistics.

<sup>20</sup> <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>, page 20.

<sup>21</sup> <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>, page 49.



*implementation of the Guidelines. In this context, the NCP will take into account “whether the issue is material and substantiated”<sup>22</sup>.*

The complainants have themselves expressed in the complaint that “[...] *Reflecting their commitment to socially responsible investment, APG and Norges Bank both have highly-developed RBC programs and policies.*” However, the complainants seem to base the case against APG and Norges bank mainly on the fact that there is an alleged issue of GBVH problems at McDonald’s and that the complainants have no concrete knowledge of the investors’ ownership efforts in this specific case:

*“Petitioners received no indication, whether public or private, that either Norges Bank or APG have exercised their leverage to influence McDonald’s in the prevention or mitigation of gender-based violence and harassment”.*

*“Petitioners in the Specific Instance recognize that APG and Norges Bank invest in thousands of companies and cannot be expected to have intimate, up-to-date knowledge of every company’s conduct. Nonetheless, they fell short regarding GBVH abuses in McDonald’s. GBVH problems at McDonald’s should have come to the investors’ attention through their normal due diligence operations”.*

In Norges Bank’s view, the above is not what is meant to constitute a material and substantiated issue under the Guidelines.

What are the expectations of investors directly linked to a potential norm violation through a business relationship?

The OECD paper “Scope and application of ‘business relationships’ in the financial sector under the OECD Guidelines for Multinational Enterprises” gives an authorized interpretation of how the Guidelines are applicable to relations with investee companies, for example through a minority shareholding.<sup>23</sup> Under “Conclusion” 3<sup>rd</sup> paragraph it is stated that:

*“Financial institutions should consider the appropriate manner in which observance of the Guidelines could successfully be implemented in their business strategies”.*

It follows from this statement that it is up to the financial institution to determine how to best apply the different responsible investment tools they have available, according to what they find most appropriate taking into consideration, *inter alia*, their specific mandates, available resources and the specific context and situation. The inherent complexities in the sector such as extensive, compound, and non-contractual business relationships, often through minority shareholdings, make the practical application of the Guidelines challenging. This is why the 2017 Sector Guidance

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<sup>22</sup> See e.g. Procedural Guidance for NCPs “Initial assessment” paragraph 25 and the Guidelines relevant criteria for initial assessment in the Guide for NCPs on the Initial Assessment of Specific Instances, and cf. the Guide for National Contact Points on the Initial Assessment of Specific Instances p. 7-8.

<sup>23</sup> See the interpretation in the OECD paper “Scope and applications of ‘business relationships’ in the financial sector under the OECD Guidelines for Multinational Enterprises”, approved by the RBC Working Party 20 March 2014 and endorsed by the Investment Committee.



was developed. Recognizing that the interpretation and practical application of the Guidelines for globally diversified financial investors is complex<sup>24</sup>, it states that:

*“The approaches investors can employ to use their leverage to influence companies they invest in are broad in scope. These are not limited to direct engagement with investee companies but could also involve, as appropriate, directing capital towards responsible investee companies over time, involvement in industry initiatives targeting certain RBC risks, collective action on specific geographic or company-specific issues, etc. What is appropriate will vary according to the characteristics of an investor, the investment strategy (e.g. active vs. passive investments) and relevant regulatory obligations. [...]”*

It further states that:

*“Investors will often have large numbers of investee companies in their portfolios, or be assessing a wide range of companies for investment and as such, will find prioritisation crucial to identify general areas where the risk of adverse impacts is most significant and, based on this risk assessment, prioritise investee companies for further due diligence. Investor policy on RBC will be important in shaping and communicating a strategy on which risks are prioritised and why”.*

Considering the 2017 Guidance, it seems reasonable to expect that institutional investors have adequate processes for monitoring and prioritising companies for follow-up on the basis of their risk exposure and potential contribution to social and environmental risks. However, it also seems clear that lack of public evidence of specific follow-up of a single business relationship where an investor may be directly linked to a potential norm violation by a minority shareholding is not a bona fide breach of the Guidelines.

The Guidelines also state that a requirement for opening a case is that *“there seems to be a link between the enterprise’s activities and the issue raised in the specific instance”*.<sup>25</sup> It follows from the wording that there must be a causality between Norges Bank’s “activities” and the alleged adverse impact in McDonalds. As this is listed as a separate criterion for the NCPs to take into account when assessing whether the issue raised merits further examination, it is evident that this is meant to be something more than the general criterion of “directly linked by a business relationship”. The holding of shares in a company that is allegedly tied to an adverse impact is clearly not on its own enough to open a case. This is underscored by the Guidelines’ specific reference of a link between “activities” and “issue”.

### **3. Norges Bank’s approach**

The clarification from the complainants on 24 February and the actions suggested in the letter from the complainants 28 January seem to imply that the potential breach of the OECD Guidelines in Norges Bank’s case concerns a lack of specificity on gender issues in public policies and guidelines, and evidence of how such matters come into specific activities vis a vis the companies in the portfolio, and specifically McDonald’s. Irrespective of whether or not the specific complaint in

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<sup>24</sup> Norges Bank alone invests in around 9 000 companies globally. Each of these companies have supply chains and some in addition franchises.

<sup>25</sup> Cf. The Guidelines, Procedural Guidance for NCPs “Initial assessment” paragraph 25.





itself merits further examination, we therefore would like to summarise some relevant aspects of our approach to responsible business conduct. As some of this information is from recently published sources, this background complements information given in our response to the NCP on 15<sup>th</sup> January.

At Norges Bank, we have developed our approach to integrating human rights into the management of the Government Pension Fund Global (GPF) over many years. Workers' rights, diversity and inclusion are central topics in these efforts. In line with the Guidelines we monitor our portfolio and prioritise actions through several processes and utilising many tools. We select individual companies for follow-up, we select themes for dialogues with groups of companies, we initiate and promote initiatives to improve business practices, and we divest from companies where we see heightened risks and we do not believe ownership efforts are appropriate. In addition, our owner, the Ministry of Finance has set Guidelines and specific criteria for observation and exclusion of companies from the GPF. The independent Council on Ethics monitors the portfolio and provides recommendations on the basis of these Guidelines. Over the years, several companies have been excluded on the basis of serious or systematic violations of workers' rights.

The recently released annual report on responsible investment provide many relevant examples of our efforts in 2020<sup>26</sup>. It gives information about our responsible investment priorities, and activities with standard setters, companies and in our investment management. We would specifically highlight our support of GRI's proposal to update its Universal Standards so that companies' report on human rights due diligence processes and our support of UN PRI's plans on work to promote the implementation of the UNGP among institutional investors. We organised a workshop for pension fund's together with the UN's Working Group on Business and Human rights on similar matters. In the report, we also make clear how we benefit from civil society dialogue, our processes for this, and examples of information at company level we have benefited from.

The report presents some changes we have made to our expectation documents in 2020. In the expectations on human rights, we included a more detailed description of how some business models carry inherent human rights risks. We also clarified our expectations for diversity and inclusion, which concern gender-related matters among others. The report also provides information about company dialogues at various levels. We provide information about topics raised in meetings. In 2020, we raised human rights and human capital management in 251 company meetings. Both these categories would include matters to do with diversity and inclusion. In all we raised such topics with some 28 percent of the equity portfolio by market value. We also provide information about specific themes we raise with groups of companies through thematic engagements. In 2020 we initiated new engagements on issues such as the organisation of workers as employees or independent contractors and the risks to children of use of digital tools or online products and services.

Norges Bank invests in more than 9 000 companies in 69 countries. We are transparent about our principles, priorities and activities, including on how these incorporate and take account of responsible investment conduct. However, we are unable to publicly comment on every analysis we do or provide details of dialogues with every company. We discussed environmental and social

<sup>26</sup> [https://www.nbim.no/contentassets/fe0e2802b3f423ba2e514cfde1277d7/responsible-investments-2020\\_government-pension-fund-global\\_webversion.pdf](https://www.nbim.no/contentassets/fe0e2802b3f423ba2e514cfde1277d7/responsible-investments-2020_government-pension-fund-global_webversion.pdf)





issues with 633 companies in 1138 meetings in 2020. Additionally, we had written communication with 456 companies. We provide many topical and company specific examples of such dialogues in our report. For some issues, such as shareholder voting, we are able to provide full, company-level transparency, including on shareholder proposals concerning GBVH-related issues.

In the annual report we also discuss our sustainability risk assessments and how we map high-risk sectors across the portfolio and follow-up individual incidents. We identified 114 negative incidents for further assessment in 2020. We also carry out an annual sustainability risk review of the companies in the portfolio against our expectation documents, including our human rights document, and evaluate appropriate steps to address risks. One starting point for these evaluations is whether ownership engagement is a suitable approach to address risks. In 2020, we prioritised actions to address 202 issues at 189 companies. We decided to monitor developments in 81 cases, initiate dialogue in 66 and consider divestment in 13. Together with our other risk-monitoring activities and active ownership work, this process forms part of our due diligence efforts as set out in the Guidelines.

As is clear from our frameworks for and reporting on responsible investment, we take a broad and thorough approach, incorporating a range of environmental and social issues in our management of the fund. Our work is firmly based on international standards, and our processes allow for analyses and prioritisations at the market, sector, and company level. We look into numerous circumstances and events every year that civil society raises with us. That external stakeholders do not know the details of every assessment we do, or every company related activity we carry out, does not in our view constitute a breach of the Guidelines. That said, we can confirm that we have regular contact with McDonald's in meetings, covering various topics of interest to us as shareholder. Human rights related matters and this specific complaint have been raised in such interaction. While we do not express a view of the allegations themselves, this is line with our expectation document, which makes clear that companies should engage transparently and responsibly on human rights, including through grievance mechanisms.

#### 4. Conclusion

Referring to the above and our letter of 15 January, we believe the complaint regarding Norges Bank does not merit further examination and should be dismissed.<sup>27</sup> There is no material and substantiated allegation of non-observance of the Guidelines against Norges Bank. Nor is there a basis in the Guidelines for the mediation role sought for the institutional investors in the parallel complaint against McDonald's. Accepting a further examination of this case such as it pertains to Norges Bank would therefore not be in accordance with the purposes and express provisions of the Guidelines.

We would like to reiterate that, as a large and global financial investor, we benefit from receiving environmental, social and governance-related information about the companies that we invest in.<sup>28</sup>

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<sup>27</sup> Cf. the Guidelines and relevant criteria for initial assessment in the Guide for NCPs on the Initial Assessment of Specific Instances.

<sup>28</sup> We thus encourage stakeholders to share information with us that they believe could be relevant for our investments, and we regularly receive information at company, sector and market level that is useful in investment analyses and due diligence.





We therefore encourage the complainants to reach out to us outside of the NCP system with information they would like to share.

We appreciate the opportunity to contribute our additional comments and continue to remain at your disposal should you require further information about any of the points made.

Sincerely yours,

*Carine Smith Ihenacho*  
*Chief Governance and Compliance Officer*

*Wilhelm Mohn*  
*Head of Sustainability*



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## Initiator

Alexis Wegerich (AW)  
Norges Bank Investment Management  
*awg@nbim.no*

## Signing parties

Wilhelm Mohn (WM)  
NBIM  
*whm@nbim.no*



*Signed 2021-03-10 18:22:04 CET (+0100)*

Carine Smith Ihenacho (CSI)  
NBIM  
*cih@nbim.no*



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