

NEXT DECADE | 10+



**UNITED NATIONS  
HUMAN RIGHTS  
SPECIAL PROCEDURES**

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# Taking stock of investor implementation of the UN Guiding Principles on Business and Human Rights

## EXECUTIVE SUMMARY

A/HRC/47/39/Add.2

Adendum report of the Working Group on the issue of human rights and transnational corporations and other business enterprises

**Published by:**

UN Working Group on Business and Human Rights

Website: <https://www.ohchr.org/EN/Issues/Business/Pages/WGHRandtransnationalcorporations-andotherbusiness.aspx>

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Geneva, June 2021



# Executive summary

In the run-up to the 10th anniversary of the UN Guiding Principles on Business and Human Rights (Guiding Principles), the UN Working Group on transnational corporations and other business enterprises (Working Group) launched the “Guiding Principles 10+ / Next Decade BHR Project.” The Project assesses the first decade of implementation of the Guiding Principles by States and business enterprises and aims to develop a roadmap for meaningful action in the decade ahead.

In recognition of the need to promote the investor responsibility to respect human rights, including as a key means to speed and scale up business respect for human rights, the Guiding Principles 10+ project shines a brighter light on the role of institutional investors – asset owners and managers – in *Taking stock of investor implementation of the UN Guiding Principles on Business and Human Rights*.

This report provides a summary of what rights-respecting investment entails, based on the expectations of the Guiding Principles, the authoritative global framework for the respective duties and responsibilities of governments and business enterprises to prevent and address business-related human rights impact. It outlines how enabling environments have fostered greater investor respect for human rights over the past decade and summarises signs of progress as well as major gaps and barriers to future progress. It wraps up by providing a set of recommendations for increasing investor action over the course of the next ten years and beyond, concluding that a widespread and serious embrace of long-term thinking and decision-making within investment institutions and the full spectrum of actors they work with is an essential and core component of upholding the dignity and wellbeing of individuals and communities.

## ***Enabling environments for rights-respecting investment are emerging***

The report highlights that progress in investor uptake of the Guiding Principles over the past decade has been bolstered by increased efforts from certain standard-setting bodies seeking to create an enabling environment for rights-respecting investment. These actors – including governments, multilateral organisations, reporting frameworks, industry associations, multi-stakeholder platforms, and stock exchanges – play a critical role in driving Guiding Principles implementation at scale and facilitating a level-playing field for investors. The European Union (EU), in particular, has taken on a leadership role in redefining the responsibilities of institutional investors by ensuring that environmental, social and governance (ESG) considerations, including human rights, are at the heart of the region’s financial system. A wide range of research over the past decade has also documented the correlation between human rights risks, corporate financial performance and risks to investment and helped bolster investor engagement on human rights, while industry initiatives have started providing much needed collective action platforms to activate investor action to promote the uptake of the Guiding Principles.

Despite this progress, uptake of the Guiding Principles among governments and standard-setting bodies has at the same time been inconsistent and insufficient. There is widespread misalignment between legal frameworks for investment decision-making and the Guiding Principles, as well as weak enforcement of existing environmental and social requirements where these exist. There remains a capacity gap across State institutions and within multilateral entities, including the United Nations, when it comes to speaking out about investor responsibility and accountability in relation to human rights.

## ***Progress and gaps of investor uptake***

While engagement with human rights issues among socially responsible investors has a longstanding history, the shift in approach to aligning investment practices with international standards such as the Guiding Principles has only recently begun. Human rights policy commitments are growing in number among investors and human rights reporting frameworks and benchmarks are supporting their efforts to assess and engage companies on human rights. Investors are also activating their leverage to engage companies on the

uptake of the Guiding Principles among portfolio companies. For example, investors representing \$5.8 trillion in assets have called on companies to improve their rankings on the Corporate Human Rights Benchmark. Shareholder resolutions increasingly call on companies to implement the Guiding Principles, and some of the world's largest asset managers have cast votes in favour of human rights due diligence in the past two years. While still exceedingly rare, some investors are making increased efforts to enable access to effective remedy for victims of business-related human rights abuse.

Despite progress, human rights are still rarely addressed in a systematic or principled way among the institutional investor community. The vast majority of investors have yet to meaningfully engage with their human rights responsibilities. Most investors have significant capacity challenges with regard to business and human rights. As a result, knowledge of human rights, including how human rights are defined, how they are relevant across ESG factors, and what meaningful human rights due diligence looks like, remains limited throughout the institutional investor community. Even areas of investor activity where consideration of social impacts are seemingly embedded have been largely detached from efforts to align investment activities with the expectations laid out by the Guiding Principles. This includes in the context of impact investing, which seeks to generate positive social and environmental impacts alongside financial returns and investing toward achievement of the Sustainable Development Goals (SDGs). The ability of investors to meaningfully assess and prioritise human rights risks connected with their investment activities has also been challenged by the fact that meaningful corporate human rights disclosure has been the exception, not the norm, over the past decade. A root cause of this has been the inconsistent integration of the Guiding Principles across the myriad reporting frameworks, benchmarks and other data and research products used by investors to assess companies.

A culture of corporate short-termism, therefore, still prevails in financial markets with devastating impacts on human rights and the environment. Increased shareholder pay-outs and compensation for executives and directors tied to short-term financial performance has been coupled with cost-cutting and wage stagnation for workers. Investor pressure, especially from hedge funds and private equity firms underlies this trend, though pension funds, sovereign wealth funds, and even union funds are participating in riskier forms of investment in order to meet their commitments to beneficiaries.<sup>1</sup>

The report concludes that efforts to achieve the widespread implementation of the Guiding Principles throughout the economy will continue to be stymied unless investor respect for human rights is sped and scaled up. The following list is an excerpt of recommendations for (1) States, (2) institutional investors and (3) other actors in the investment ecosystem to advance the investor responsibility to respect human rights over the course of the next decade, and beyond.

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<sup>1</sup> Source: <https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/EU%20mHRDD.pdf>

## Recommendations for States

- Ensure that State institutions dealing with institutional investment have the mandate, skills and resources to promote investor respect for human rights.
- Support the creation of guidance for institutional investors, including public pension funds, sovereign wealth funds, development finance institutions, as well as small and medium-sized investment firms, on respecting human rights throughout their investment activities, including on how this relates to fiduciary duties and to broader sustainability and ESG investing.
- Support, facilitate and participate in multi-stakeholder platforms to promote dialogue on institutional investment and human rights, analyse ways to address human rights risks in investment activities and strengthen monitoring and accountability.
- Develop and implement policies for cross-government alignment of Guiding Principles implementation activities with legislative, regulatory, policy and adjudicative efforts related to institutional investment.
- Commit to specific, future-oriented actions to promote respect for human rights among institutional investors and their ecosystem, for example, in national action plans on business and human rights.
- Promote policy coherence regarding the human rights responsibilities of investors in the context of State institutions tasked with promoting sustainable economic development. Particular attention should be placed on the role of investors in encouraging companies to carry out human rights due diligence as the first step towards the realisation of the SDGs.
- Integrate respect for human rights into the mandate, operations and investment activities of institutions involved in the issuance and management of State pension funds, sovereign wealth funds and development finance.
- Strengthen implementation of relevant legislation and codes, including ESG requirements for asset owners and asset managers, and clarify how these relate to human rights.
- Mandate corporate (investee) human rights due diligence in line with the Guiding Principles to support investors' efforts to assess and address human rights risks in investment portfolios. To the extent that the State requires companies to exercise human rights due diligence, these requirements are inclusive of institutional investors and financial institutions in general.
- Address investor short-termism and encourage longer-term investments, for example, by imposing greater taxes on short-term capital gains relative to long-term capital gains, reforming disclosure requirements to align with longer periods of time and placing greater scrutiny on derivative trading or other practices/products that contribute to short-termism.

## Recommendations for institutional investors

- Articulate a commitment to respecting human rights and embed this commitment in corporate governance and across all investment activities. Embed the commitments throughout the investment firm, for example, by hiring in-house human rights expertise, training staff tasked with investment decision-making and stewardship on human rights, ensuring performance targets do not hinder human rights due diligence and integrating the human rights commitments into other investment policies, codes of conduct and limited partnership agreements.
- Assess the actual and potential human rights impacts of investees prior to investing and on an ongoing basis once invested. This involves assessing the investees' human rights policies and processes; management of their respective salient human rights issues; business model red flags that increase the likelihood of human rights harms; and the real-world impacts of the company on people, including the real-world outcomes of their due diligence efforts. Where investment portfolios are especially large, use a "risk-based approach" to identify particularly high-risk sections of the portfolio where the risk of adverse impacts is most significant. Based on this assessment, prioritise investees for further assessment.
- As part of efforts to meaningfully assess the human rights performance of investees and address challenges in the data landscape, consult with relevant stakeholders, such as civil society organisations and trade unions.
- Engage ESG reporting frameworks, benchmarks and data providers to ensure that the research methodologies, corporate performance data and advisory services used to assess investees are aligned with the Guiding Principles and reflect real-world outcomes for people. Where necessary, commit to supporting the development of new frameworks or better approaches to evaluating human rights performance.
- Engage investees in constructive dialogue to promote: (1) the adoption of human rights policies, governance, due diligence and effective grievance mechanisms and (2) the provision of remedy for victims of human rights abuse where the investee has caused or contributed to adverse human rights impacts.
- Engage portfolio companies to address root causes of short-termism, for example, by:
  - a. Calling for integration of human rights into governance expectations and board committee responsibilities;
  - b. Tying executive pay to corporate human rights performance;
  - c. Asking investee companies for long-term plans and cumulative earnings reporting in which each quarter builds on the next (three months, six months, nine months and then the full year), which leaves in place the transparency of regular reporting while avoiding the quarter-to-quarter comparisons that drive short-term behaviour;
  - d. Elevating stakeholder voice and perspectives in corporate governance and ownership structures, such as by reserving board seats for employees, promoting opportunities for employee ownership and supporting the adoption constituency statutes and reforms of corporate ownership law; and
  - e. Engaging peers whose investment practices pressure boards to prioritise short-term returns over human rights and long-term sustainability.
- In the context of public equities, file and support shareholder proposals that reflect the expectations of the Guiding Principles. Develop proxy voting guidelines that reflect a commitment to human rights, engage in proxy voting in line with that commitment and publish a proxy voting report.
- Responsibly engage policymakers and standard-setting bodies to tackle systemic human rights risks and create enabling environments for responsible business conduct that is grounded in respect for human rights and access to remedy for affected stakeholders.
- Where the investor is linked to the human rights harm through its investees, use and build the institution's leverage to promote and enable the provision of remedy for victims of business-related human rights abuse, including by recalling the expectation that the investee company have in place an individual operational-level grievance mechanism or by participating in collective platforms in line with the Guiding Principles' effectiveness criteria.
- Publicly disclose how the institution is addressing salient human rights risks and impacts connected with investment activities.

## Recommendations for other actors in the investment ecosystem

### A. *Investor associations and networks*

- Build internal capacity around rights-respecting investment and offer guidance for members on the investor responsibility to respect human rights, including in relation to: (1) how to reconcile an investor's fiduciary duties and its responsibility to respect human rights; (2) how to identify and prioritise companies for engagement within investment portfolios; and (3) practical case studies of investor due diligence across asset classes.
- Use convening power to share learnings, challenges and good practices among institutional investors, as well as to use collective leverage to influence standard-setting bodies in the direction of alignment with the Guiding Principles.
- Call for alignment of ESG benchmarks, data providers and reporting frameworks with the Guiding Principles.
- Set requirements for investor members to implement the Guiding Principles and hold investor members accountable for underperformance on embedding respect for human rights in investment decisions and stewardship activities, including proxy voting.

### B. *Civil society organisations, academia and research institutions*

- Increase internal capacity on the intersection of investment and human rights, as well as the range of investment tools and actors, such as data service providers and credit rating agencies, in order to enhance the efficacy of stakeholder engagement with the investment industry.
- Gather and communicate data relevant to institutional investors and their human rights commitments and performance, including outcomes for people, in order to facilitate the identification of gaps and good practices and inform investor due diligence.
- Develop practical guidance and tools for investors on rights-respecting investment practices across the full investment lifecycle, as well as across asset classes and investment strategies.
- Collaborate with and support responsible investors to promote respect for human rights in investment portfolios, for example, by directly advising investors on rights-respecting investment, collaborating with investors on developing shareholder proposals and participating in corporate accountability campaigns alongside investors.
- Dedicate increased attention to the investor responsibility to respect human rights, including in terms of accountability under national, regional and international laws.

