Virtual launch UNGPs 10+ stocktaking report on institutional investment

SUMMARY NOTE

OVERVIEW

On June 17th, the UN Working Group on Business and Human Rights, Norges Bank Investment Management (NBIM), the Corporate Human Rights Benchmark, and the Geneva Academy for International Humanitarian Law and Human Rights co-hosted a virtual launch of the Working Group's report *Taking stock of investor implementation of the UN Guiding Principles on Business and Human Rights*. [1] This note provides a summary of the discussions.

BACKGROUND

In the run-up to the 10th anniversary of the UN Guiding Principles on Business and Human Rights (UNGPs) in June 2021, the UN Working Group launched the "UNGPs 10+ / Next Decade BHR Project." The Project assesses the first decade of implementation of the UNGPs 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 UNGPs 10+ Project included a dedicated focus on the role of institutional investors – asset owners and managers. The findings of the investor-focused work are presented in the *Taking stock of investor implementation of the UN Guiding Principles on Business and Human Rights* report, which was part of the Working Group's overall assessment of the first decade of UNGPs implementation presented to the UN Human Rights Council on 16 June 2021.

OBJECTIVE

The overall objective of the session was to launch and raise awareness of the investor stocktaking report findings among key investors, business and human rights experts, civil society, academia, and other UNGPs 10+ stakeholders. To achieve this goal, the following specific objectives were identified:

- Provide a summary of key investor stocktaking report findings;
- Showcase examples of investor practice;
- Explore the role of the investor "ecosystem" actors in supporting investor human rights due diligence;
- Highlight key challenges and opportunities for scaling up investor action on human rights.

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[1] Executive summary: https://www.ohchr.org/Documents/Issues/Business/UNGPs10/Stocktaking-investor-implementation-reader-friendly.pdf

SPEAKERS

- Anita Ramasastry, Member of the UN Working Group on Business and Human Rights
- Wilhelm Mohn, Co-Head of Corporate Governance, Norges Bank Investment Management
- Michelle Edkins, Managing Director, Investment Stewardship, BlackRock
- Danielle Essink, Senior Engagement Specialist, Robeco
- Anna Pot, Head of Responsible Investment Americas, APG
- Nikolaj Halkjaer Pedersen, Senior Lead, Human Rights, Principles for Responsible Investment (PRI)
- Anthony Miller, Coordinator, Sustainable Stock Exchanges Initiative
- Camille Le Pors, Lead of Corporate Human Rights Benchmark, World Benchmarking Alliance
- Moderator: Paloma Muñoz Quick, Advisor to the UNGPs 10+ Project

SUMMARY

Introductory remarks

Anita Ramasastry, UN Working Group

Welcome and introduction to UNGP 10+ Project & investor report findings

This effort comes at a time of unparalleled global challenges and compounding crises: the COVID-19 pandemic, growing inequality, the climate crisis, and the myriad risks posed by rapidly evolving digital technologies. In this globally tumultuous time, addressing the role of business is essential. And by fuelling economies and the behaviour of companies within them, addressing the role of investors is too.

This is why the UNGPs 10+ project decided to prioritize the responsibility of institutional investors to respect human rights as a key means to speed and scale up corporate respect for human rights.

To respect human rights, investors are expected to *know* the risks to people connected with their investment activities and *show* how they take action to manage those risks. Engaging stakeholders in this process is essential.

The report provides a summary of what rights-respecting investment entails, based on the expectations of the UNGPs. It outlines how enabling environments have fostered greater investor respect for human rights over the past decade and summarises signs of investor progress as well as gaps.

Signs of progress:

- Human rights policy commitments growing in numbers among investors.
- Human rights benchmarks, such as the Corporate Human Rights Benchmark, are supporting investor efforts to assess companies on human rights.
- Investors are activating their collective leverage to engage companies on the uptake of the UNGPs among portfolio companies. This includes pressing companies to improve their human rights performance on a range of key benchmarks in response to reported cases of severe risks or impacts.
- Shareholder resolutions increasingly call on companies to implement the UNGPs, and some of the world's largest asset managers have cast votes in favour of human rights due diligence in the past two years.
- A number of factors are helping bolster investor uptake, including mandatory measures in the

EU, the growing evidence that severe human rights risks are also material risks for business; and support from industry initiatives and associations, such as PRI and the Investor Alliance for Human Rights.

Despite this progress, we also see:

- A corporate culture of short-termism fuelled by investors is still widespread in financial markets, with serious consequences of human rights and the environment.
- Also, 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 human rights due diligence looks like remains limited.
- The ability of investors to meaningfully assess human rights risks connected with their investments has also been challenged by still limited meaningful corporate human rights disclosure. A root cause has been the inconsistent integration of the UNGPs framework across corporate reporting frameworks, benchmarks, and other data and research products used by investors.
- Also, where investors engage on human rights, we find that few promote a holistic, governance-based approach to human rights risks management or identify human rights responsibilities as relevant to board oversight roles.
- While there is progress in public equities, investors in private equity are especially behind when it comes to taking up the UNGPs. That said, we also found that even areas of investor activity where consideration of social impacts are embedded, such as investing toward the SDGs, have largely not used the human rights due diligence framework laid out by the UNGPs.
- Enabling all of this is the still widespread misalignment between legal and policy frameworks for investment decision-making and the UNGPs.

Wilhelm Mohn, Norges Bank Investment Management

Welcome and introduction on the role of institutional investors and the challenges of integrating UNGPs into investment decision-making

It is hard to exaggerate the implications for responsible business conduct of the UNGP and its' subsequent adoption into the OECD guidelines. This has driven the change and actions highlighted by the UNWG. This development provided clarity on what all businesses are expected to do to demonstrate respect for human rights and a logic for how business respect for human rights relates to institutional investors through their investments.

NBIM (invests largely in listed equities – public markets) initially focussed on child rights since 2008, not least on child labour in the supply chains of investee companies. The broader "human rights journey" started about 8 years ago – largely linked to the OECD Sector Guidelines. Since then, the UNGPs and OECD guidance has been integrated by NBIM, through development of own strategies and processes for promoting respect for human rights by the companies NBIM invests in. Not least the scope and understanding of your business relationships, and the very practical concept of human rights due diligence, shaped public expectations of companies on human rights in 2016. About the same time, NBIM included the UNGPs in its own principles for responsible investment.

NBIM's principles and expectations give a basis for responsible investment activities on human rights - including company dialogue and voting - as well as engagement with standard-setters and other external stakeholders. As shareholders, NBIM efforts need to be aligned with good principles of corporate governance. The expectations therefore start with the role of the board. NBIM expects the boards to integrate human rights considerations in corporate business strategy, risk management and reporting. They need to have clear policies to respect human rights, carry out due diligence, and report transparently on their efforts.

Engagement wise, this is an area where NBIM has a high level of activity – and interest, from portfolio managers, NBIM's owner, and wider stakeholders:

- In 2020, NBIM raised social topics with companies representing some 40% of the value of equity investments, just under 20% on core human rights issues. Issues cover a very broad range of topics in a broad range of sectors. Examples include children's safety and rights online, nutrition and food retail, working conditions in the textile sector, business activities in war and conflict and human rights risks in battery supply chains.
- NBIM has voted on about 60 human rights or human capital proposals to date in 2021, compared to around 70 in 2020.

NBIM's experience is that social risks, where human rights risks are at the core, are increasingly being taken into consideration by investors as part of their investment and ownership activities, and by companies in their business operations. NBIM annually assesses how 700 companies deemed to be exposed to human rights risks report on their policies and systems for assessing and managing the risk of negative human rights impacts. There is a lot of variation. In 2020, NBIM found 55 companies with indications of very good management, and 290 with indications of weak or very weak management.

Overall, 53 percent of the companies had policies referring to international principles and standards for human rights, and 39 percent had policies approved at board level, while 60 percent shared some information on their processes for identifying and assessing possible negative impacts on human rights in their operations or value chains. This is NBIM as an investor would like to see.

We have come a long way over the past 10 years, but clearly there is more work to do, including with regard to information. There are many gaps in our knowledge about how businesses affect rights, effective mechanism to address this, and reporting.

Investor panel

Overall question: Tell us about where you are in your "human rights journey". What have you found to be challenges and opportunities for scaling up investor action on human rights?

Danielle Essink, Robeco

Robeco screens around 5,000 companies. There is need for reliable data. There are some good developments, however, we need more to enable investors to address human rights risks in portfolios.

Investors need to move toward assessing and acting on salient human rights risks. The UNGPs clarify that risk to people must be the primary focus of assessing companies. Robeco is working internally with its investment teams to build understanding around the concept of 'saliency' (as opposed to materiality). However, it makes things easier if human rights information using a saliency lens comes from the market and data providers. The concept of 'double materiality' is promising, as saliency and material risks (like regulatory risk) increasingly overlap. This makes it easier for investors to assess risk and influence companies.

A key challenge seen among companies is lagging practice in terms of implementing policies and ensuring board oversight.

In one example from the tech sector, Robeco escalated by filing a shareholder proposal on board oversight. The company later complied with the resolution's ask.

There is a need for more investors to use their leverage, not only to highlight specific topics, but to ask companies about their implementation of the UNGPs, including a saliency assessment and board oversight. There is also need for investors to exercise and drive enhanced due diligence for conflict areas and in relation to impacts on human rights defenders.

Michelle Edkins, BlackRock

BlackRock (BR) has long advocated for sustainable business. As long-term investors, BR sees it as a responsibility to engage on human rights issues and encourage companies to focus on material risks linked to business models (environment and social impacts, including human rights).

Covid and BLM led BR to revisit its investment stewardship policies to be more specific regarding expectations of companies when it comes to impacts on people. These issues may pose legal, operational and reputation risks to companies and can be key to a company's social license to operate.

In its engagement policy, BR asks companies to recognize their role in society and to ensure that they have business models that serve all their stakeholders. The revised policy sets out that companies need to demonstrate board oversight of impacts on people, have in place human rights due diligence that is appropriate to risks, have policies that reflect global norms such as the UNGPs, and describe remediation efforts. It remains a challenge to assess how thorough companies are.

Holding companies accountable on behalf of shareholders includes voting against the re-election of responsible directors and for shareholder resolutions. BR's voting at Top Glove and Tyson Food reflected human rights due diligence issues (voted over concerns of impacts on people).

For long term shareholders, engagement is a key issue. BR engaged 1300 companies on social impact in 2020. It is also important to engage the value chain, which includes large cap global companies and small cap companies in emerging markets. BR is typically a minority shareholder in emerging market companies – which may affect the degree of leverage, but BR can engage with the buyers from developed markets, which can have positive knock-on effect.

It is also important to engage with civil society organizations that have expertise in the field. Challenges are often very localized, and there is a need to understand the nuance of situations.

BR has focused attention on companies known for breaches of the UNGPs and the OECD Guidelines and seeks to engage systematically with these companies. BR is unable to divest as it is index holder.

The greatest challenge for investors is not only the accessibility of data but managing expectations. Investors can engage and vote, but the board determines how a company is led and operated. Governance is thus very important, and so are regulatory penalties if there is lack of compliance.

Anna Pot, APG

APG is a long- term investor (pension assets). Three key points from APGs' "human rights journey":

1. Embedding the responsibility to respect (R2R): For clients, R2R is being explicitly mentioned in the process for investment decisions. ESG is key factor in all decisions. APG has defined indicators for different sectors to identify risk. If high risk, APG demands companies to have risk management in place. APG also reviews performance based on available data.
2. The importance of data: Investors need quality data to make sound decisions on all companies in the investment universe. This was a driver for APG to contribute to the creation of the Corporate Human Rights Benchmark (CHRB). Now there are good data sets for four sectors.
3. Data is not enough: We need good corporate performance. Investors need to engage and drive companies to demonstrate good performance including throughout the transition to a green economy. They need to demonstrate effective due diligence and that human rights governance is in place. At the moment, climate change is front and centre for investors. R2R in transition to carbon neutral economy is key, however. APG uses this concept in engaging with the automotive industry. There is a need for an inclusive approach that takes workers and communities into account.

Call to action: Investors need to engage with companies to improve performance and transparency.

Investor ecosystem panel

Overall question: How has your organization sought to support and inform investor action to human rights? What future plans do you have that will help scale investor action?

Nikolaj Pedersen, PRI

PRI has made clear that human rights are the foundation for sustainable investment and addresses the S in ESG. Human rights rest on international standards and are thus the codification of social sustainability. PRI supports alignment and prepares investors for relevant due diligence regulation, which is on the rise. Also, due diligence has entered financial regulation, e.g., in the EU taxonomy and sustainable finance regulation.

The UNGPs have been used in responsible investment for years, but only by a subset of investors. The anchor for PRI in this space is the position paper launched last year that builds on the UNGPs.

A level playing field for responsible investment is emerging thanks to the UNGPs.

In practice, investors have a range of measures to influence companies. They can use the standards in their investment decisions, in stewardship activities, they can set expectations, and play a role in public policy development (often overlooked) as seen in the EU.

PRI looks at five areas:

1. Investment practice – PRI is collecting case studies on how investors can use the UNGPs.
2. Public policy making – PRI provides technical input to mandatory due diligence processes.
3. Data – a real issue. Investors have a wider universe than what is covered by CHRB and are thus often dependent on data providers.
4. Reporting framework – PRI collects information from members but will develop its framework further.

5. Stewardship – there is strength in numbers. PRI is looking to set up a platform for more collective action.

Anthony Miller, Sustainable Stock Exchanges Initiative

How to improve investor access to human rights data? Stock exchanges (SEs) have a role.

The UNGPs have brought clarity. SSEI recently published paper on ESG disclosure guidance as input to the UNGPs 10+ process.[2]

ESG disclosure and more mandatory rules are a clear trend - up from almost zero a decade ago and expected to increase, especially due to the attention to climate change.

The SSEI mapping found that human rights are mentioned widely in SE ESG disclosure guidance, directly and indirectly (labour, diversity etc). Some challenges: fewer mentions of the UNGPs (around a quarter) and grievance mechanisms and human rights due diligence even less.

More work is needed. There is a need to raise awareness among SEs. SEs also provide training on ESG guidance – and there is a need to integrate capacity building on the UNGPs in this context. Moreover, there is a need to further strengthen implementation of recommendations among SEs. There is often a gap between recommendations and implementation among issuers. Opportunities exist to engage more closely around market education programmes.

There is also a need to monitor progress.

Finally: stakeholders can make enquiries to SSEI to formally adopt the UNGPs. SE have unique questions about how the UNGPs apply to them and what due diligence means in the context of SEs – this should be explored further.

Camille Le Pors, CHRB Lead, World Benchmarking Alliance

The first CHRB benchmark was published in 2017. CHRB has assessed high risk sectors. The benchmark is a public good.

CHRB is used by companies, CSOs, policymakers, international bodies, and financial institutions.

How financial institutions have used the benchmark:

1. In individual company engagement and in collective engagement. A great example is the investor statement (coordinated by Investor Alliance for Human Rights) where investors put on notice the companies that scored 0 on due diligence and urged improvement.
2. In voting strategy, e.g., Aviva has used CHRB in voting against in the management of companies that have weak score and fail to demonstrate due diligence.
3. Fed into shareholder resolutions. Have led to companies introduce human rights policies.

[2] https://sseinitiative.org/wp-content/uploads/2021/06/Policy-brief-Stock-exchange-guidance-on-human-rights-disclosure.pdf

We need to scale up efforts. Companies report that only a minority of investors ask about human rights impacts. “Mainstreaming” needed. How to achieve this?

- Collective impact coalitions to accelerate systemic change.
- With CHRB we have a proof of concept which has been tried and tested. Now it is being scaled up to 2000 companies covered.

Q&A	
Questions from the audience	1. Stakeholder engagement: how should investors engage and embed stakeholder in investment decision. How to do it proactively, rather than reactively? 2. Considering data landscape, how to systematize data to investors and how does it align with the UNGPs? 3. Overlap of R2R and lobbying: Is the next fight around political spending and human rights? 4. Is the EU taxonomy useful to create a holistic approach? 5. Climate action has picked up – what does it take to get there on human rights? 6. Is corporate governance enough? Do we need international and national binding standards?
Panellists' responses	Taxonomy: Climate change is the most important human rights issue, but issues often separated/siloed. Investors can no longer deny addressing climate change, so there is a need to integrate human rights into climate action. We need a smart mix. The EU taxonomy is a good tool, but the disclosure regime along won't cut it. Policymakers also need to take appropriate action. Stakeholder engagement: Part of the process is to understand what civil society organizations are seeking from companies. As part of the picture, there is also a need to understand that investors and civil society have different constituents. As asset managers, investors are also required to take the interests of clients into account. There is often overlap, but interests are not always the same. The bottom-line is that stakeholder engagement is key. Investors want to see good human rights performance at the companies they invest in. To know that human rights risks are being managed, investors need to make use of all sources, and engagement with stakeholders is key to being well-informed. For example, dialogue with labour organizations is critical for access to information about respect for workers' rights. Civil society organizations should also engage directly with data providers, which can help increase the leverage and can sometimes be more effective than engaging individual investors. On climate, how to move human rights to same priority level: investors should include impacts on people among engagement priorities. In the climate change policy arena, the Task Force on Climate-Related Financial Disclosures (TCFD) has been a key driver with its recommendations having been picked up by policymakers. We need to avoid silos but recognize how human rights due diligence should incorporate climate risk and vice versa. On legally binding instruments: several legally binding treaties exist for human rights, but violations remain widespread. New regulation around disclosure is important. How investors can incorporate engagement proactively: they should conduct human rights due diligence and call for systematic due diligence by the companies they invest in. Investors need to be better prepared.