

## SUMMARY REPORT

### *Virtual workshop: The roles and responsibilities of public investment funds in implementing respect for human rights*

On 10 November 2020, the [UN Working Group on Business and Human Rights](#) and [Norges Bank Investment Management \(NBIM\)](#) co-hosted a virtual dialogue with approximately 25 representatives of public investment funds, including public pension funds and the managers of those funds, as well as organizations that work with them.

The virtual workshop informed the Working Group's global "[UNGPs 10+ / Next Decade BHR](#)" project. Using the upcoming 10th anniversary of the UN Guiding Principles on Business and Human Rights (UNGPs) in June 2021 as a platform for reflection and forward-looking innovation, the project is taking stock of practice to date, identifying gaps and challenges, and developing a vision and roadmap for scaling up implementation of the UNGPs over the course of the next decade, including across financial systems and institutional investors in particular.

The objectives of the dialogue were as follows:

- Provide a platform for direct dialogue and shared learning between public investment funds regarding their implementation of the UNGPs;
- Identify public investment funds' inputs on: (1) opportunities and challenges for implementing the UNGPs in investment activities; (2) practical examples related to human rights policies, practices and reporting; and (3) priorities and recommendations for driving responsible and accountable investment within the public investment fund community throughout the next decade and beyond; and
- Feed into a dedicated position paper by the UNGPs 10+ project on the state of play and future action when it comes to the roles and responsibilities of public investment funds in implementing respect for human rights.

The one-hour dialogue included:

- Introductory remarks from NBIM's Chief Corporate Governance Officer;
- Framing remarks from the UNGPs 10+ team, outlining the investor responsibility to respect human rights, including relevant standards and frameworks, as well as the project's objectives, methodology, deliverables, timelines, and additional opportunities for input;
- An open discussion among all participants, with co-facilitation by NBIM and UNGPs 10+ and covering the following 3 questions:

1. What are the specific opportunities and challenges faced by the public investment fund community when it comes to human rights?
2. What are concrete examples of promising practice and persisting gaps? What lessons should we take away from these?
3. What approaches, strategies, and actions should be prioritized in the next decade in order to further advance implementation of the responsibilities of public investment funds when it comes to respect for human rights?

The summary below aims to capture the key themes that emerged during the workshop in relation to each of these three questions. The themes for the first question resulted from an interactive exercise via an online whiteboard for informal brainstorming discussions, as well as the broader discussion.

*1. What are the specific opportunities and challenges faced by the public investment fund community when it comes to human rights?*

Opportunities

- **Mandates with responsible investment at the core:** Participants reflected on how public investment funds typically operate with specific and possibly multi-faceted mandates, which allows for integration of human rights risks into the core of the business. Participants also pointed out that these funds' long-term financial interests require integration and ongoing management of longer-term risks, such as human rights risks, in their investment decision-making and stewardship activities. In addition, the governance of these funds in some cases includes beneficiaries, which participants said could also encourage a more societal outlook.
- **Foundation of investor responsibility:** Participants stressed that the establishment of widely accepted human rights frameworks, such as the UNGPs and the OECD Guidelines for Multinational Enterprises, and clarifications from OHCHR, the OECD, PRI and others that these standards apply to investors have all provided a strong foundation for action by public investment funds. These frameworks and the expectations set out therein have allowed many public investment funds to have an aligned perspective internally and with their peers, as well as a consistent, principled way of managing risks to people connected with their investment activities.
- **Individual and collective uses of leverage:** Participants stressed that many opportunities for improvement and expansion of their human rights work are linked to a better understanding of how they might use their leverage, particularly in cases of minority holdings and across business relationships that are outside of the investor-investee dynamic (e.g., data service providers, stock exchanges, index fund providers, proxy advisors). Participants discussed examples of dialogues with companies leading to larger conversations across a sector as well as with peer investors. Participants pointed to the value of collective leverage in the context of climate change (e.g., Climate Action 100+) and the potential to have similar coordinated initiatives in the human rights space, such as via PRI as it builds out its human rights program.

- **Momentum toward mandatory measures and platforms for engagement with policy makers:** Participants flagged regulatory developments, particularly in the EU context, around sustainable finance and mandatory human rights due diligence and how these developments are lending a sense of urgency and importance to human rights efforts within their institutions. Many participants expressed a support for these developments as mandatory human rights due diligence by companies allows for better due diligence by investors. This facilitates the levelling of the investment playing field, and participants were generally encouraged by the investors increasingly playing a public and supportive role in human rights policy discussions.
- **Heightened attention on stakeholder capitalism and the 'S' in ESG:** With the updated statement on the purpose of corporations by the Business Roundtable in 2019, the transition from shareholder to stakeholder primacy has been a hot topic across the business community. Several participants pointed to these discussions on stakeholder capitalism as a useful platform for internal and external momentum-building around social issues, including human rights.

### Challenges

- **Meaningful and consistent data to prioritize actions and measure impact:** Many participants identified a lack of reliable data that consistently speaks to meaningful human rights outcomes as one of the greatest challenges in implementing respect for human rights throughout the activities of public investment funds. Without the ability to confidently measure which investor and investee actions are most effective and when, participants face difficulties in prioritizing efforts across large equity portfolios.
- **Internal expertise and capacity-building:** Participants also expressed that robust knowledge of human rights issues and frameworks is not yet mainstreamed throughout many public investment institutions. This in turn contributes to a lack of capacity in meaningfully engaging external managers and other business partners on human rights and holding them to account for integrating human rights across all facets of investment activity.
- **Leverage with minority holdings:** Participants pointed out the unique challenges associated with minority shareholding, where opportunities to promote change through voting and engagement efforts may at times be limited. Participants also pointed to the trend toward global, diversified portfolios that are often passive and how this trend makes it difficult to take action on particular companies or even sectors. Many participants also expressed a strong interest in avoiding a cut-and-run approach but identified challenges in proactively managing human rights risks with continuous assessment and engagement rather than just reactively responding.
- **Case studies and practical tools:** Participants flagged the currently limited number of case studies that are based on the actual experiences of public investment funds in aiming to implement the responsibility to respect human rights. Participants were encouraged to hear about PRI's building practice in this area and identified the OECD guidance for institutional investors and the Investor Toolkit on Human Rights as valuable resources in putting their responsibilities into practice. At

the same time, participants expressed that additional guidance is needed to focus in on particular asset classes and investment styles, and they identified a lack of robust human rights expertise within advisory firms as a key gap.

- **Managing expectations of external stakeholders:** Participants shared their concern with the stakeholder engagement piece of human rights due diligence and how investors have limited access to affected stakeholders such as workers and communities connected to their investments. Participants identified a need for more widespread discussion of practical options for meaningful engagement and practice in this particular area.

## 2. *What are concrete examples of promising practice and persisting gaps? What lessons should we take away from these?*

- **Moving from developing to embedding human rights policy commitments**, including building the capacity of fund managers and workshopping scenarios that can demonstrate how the policy should apply in practice, across a range of relevant functions.
- **Collaborating with other public investment funds to increase leverage** with target companies, as well as other business relationships such as proxy advisors, index fund providers, data service providers, and government partners.
- **Identifying high-risk sectors, locations, and business models** to inform prioritization and drill down on high-impact actions across large portfolios while staying abreast of emerging issues through collaborative networks and stakeholder engagement.
- **Moving from exclusion to inclusion policies** to go beyond screening out certain investments to focus on engagement and improvement across the whole of portfolios, as this will promote implementation of respect for human rights at scale.
- **Avoiding a 'revolving door' of issues** by focusing engagement and investment decision-making around credible and robust human rights due diligence processes rather than individual issues.
- **Integrating human rights in less targeted areas** such as systemic governance issues in private equity, which the pension system is heavily involved with, and creative ways to use leverage in the context of passive investment, such as collective engagement with index fund providers.
- **Proactively planning for crises** whether health crises like the COVID-19 pandemic, environmental crises like climate change or human rights crises like the treatment of the Uighur population in Xinjiang province in China.

3. *What approaches, strategies, and actions should be prioritized in the next decade in order to further advance implementation of the responsibilities of public investment funds when it comes to respect for human rights?*

- **Building out a case study database**, ranging from beginning practice to more mature implementation, individual to collective uses of leverage, and across various asset classes and stages of the public investment fund lifecycle.
- **Linking human rights to the full range of ESG factors**, as well as outside of ESG portfolios, to demonstrate the human rights implications of climate change, for example.
- **Clarifying the relationship between materiality and saliency**, and what the business implications are specifically in the public investment fund context, where links to long-term financial interests are needed, and what strong approaches are when issues may not yet be shown to be material.
- **Prioritizing engagement at the regulatory level**, rather than narrowly focusing on engagement with individual investees, to address systemic issues and drive accountability for human rights harms when they do occur.
- **Building an investor platform on human rights** that takes lessons from the climate space (e.g., Climate Action 100+) and centralizes a system for collective engagement and action while supporting regional and more local actions as necessary.
- **Generating more reliable and meaningful data** on corporate human rights performance that can be verified with stakeholder engagement and taken to scale across diversified portfolios.