

Guidelines for Observation and Exclusion of companies from the Government Pension Fund Global (GPFG)

This translation is for informational purposes only. Legal authenticity remains with the original Norwegian version, *Retningslinjer for observasjon og utelukkelse av selskaper fra Statens pensjonsfond utland*, that can be found on lovdata.no. This unofficial English version was last updated 19 November 2021.

Adopted 18 December 2014 by the Ministry of Finance pursuant to the Royal Decree of 19 November 2004 and section 2, second paragraph, and section 7 of Act no. 123 of 21 December 2005 relating to the Government Pension Fund. Amended 21 December 2015, 1 February 2016, 31 January 2017, 1 September 2019 and 13 September 2021.

I. Purpose and scope

§ 1 Purpose

The purpose of the Guidelines for Observation and Exclusion of companies from the Government Pension Fund Global (the ethical guidelines) is to avoid that the Government Pension Fund Global (GPFG) is invested in companies that cause or contribute to serious violations of fundamental ethical norms, as set out in these guidelines' sections 3 and 4.

§ 2 Scope

These guidelines apply to the work of the Council on Ethics for the Government Pension Fund Global (the Council on Ethics) and Norges Bank (the Bank) on the observation and exclusion of companies from the GPFG's equity and fixed-income portfolios. Advice and decisions pursuant to the criteria set out in section 3 may also apply to companies only included in the reference index or to be included in the reference index.

II. Criteria for observation and exclusion of companies

§ 3 Criteria for product-based observation and exclusion of companies

(1) The GPFG shall not be invested in companies which themselves or through entities they control:

- a) develop or produce weapons or key components of weapons that violate fundamental humanitarian principles through their normal use. Such weapons include biological weapons, chemical weapons, nuclear weapons, non-detectable fragments, incendiary weapons, blinding laser weapons, antipersonnel mines and cluster munitions
- b) produce tobacco or tobacco-products
- c) produce cannabis for recreational use

(2) Observation or exclusion may be decided for mining companies and power producers which themselves, or consolidated through entities they control, either:

- a) derive 30 per cent or more of their income from thermal coal,
- b) base 30 per cent or more of their operations on thermal coal,
- c) extract more than 20 million tonnes of thermal coal per year, or
- d) have the capacity to generate more than 10,000 MW of electricity from thermal coal.

§ 4 Criteria for conduct-based observation and exclusion of companies

Companies may be excluded or placed under observation if there is an unacceptable risk that the company contributes to or is responsible for:

- a) serious or systematic human rights violations
- b) serious violations of the rights of individuals in situations of war or conflict
- c) the sale of weapons to states engaged in armed conflict that use the weapons in ways that constitute serious and systematic violations of the international rules on the conduct of hostilities
- d) the sale of weapons or military materiel to states that are subject to investment restrictions on government bonds as described in section 2-1(2)(c) of the Management mandate for the Government Pension Fund Global
- e) severe environmental damage
- f) acts or omissions that on an aggregate company level lead to unacceptable greenhouse gas emissions
- g) gross corruption or other serious financial crime
- h) other particularly serious violations of fundamental ethical norms.

III. Organisation of the work

§ 5 The Council on Ethics' work

(1) The Council on Ethics makes recommendations to the Bank on the observation and exclusion of companies in the GPFG's portfolio, in accordance with the criteria set out in sections 3 and 4, and on the revocation of observation and exclusion decisions; see subsection 7 and section 6(7).

(2) The Council on Ethics monitors the GPFG's investments, see section 2, for the purpose of identifying companies that contribute to or are themselves responsible for the products or conducts set out in sections 3 and 4.

(3) The Council on Ethics takes up cases at its own initiative or at the request of the Bank. The Council on Ethics shall develop and publish principles for the selection of companies for closer investigation.

(4) The Council on Ethics shall be free to gather the information it deems necessary and shall ensure that each matter is thoroughly investigated before making a recommendation regarding observation, exclusion or revocation of such decisions.

(5) A company that is being considered for observation or exclusion shall be given an opportunity to present information and opinions to the Council on Ethics at an early stage of the process. In this context, the Council on Ethics shall clarify to the company what circumstances may form the basis for observation or exclusion. If the Council on Ethics decides to recommend observation or exclusion under section 4, its draft recommendation shall be presented to the company for comments.

(6) The Council on Ethics shall describe the grounds for its recommendations to the Bank. The Bank may adopt more detailed requirements relating to the form of such recommendations.

(7) The Council on Ethics shall have routines for assessing whether basis for observation or exclusion still exists. In light of new information, the Council on Ethics may recommend that the Bank revoke an observation or exclusion decision. These routines must be made public. Companies that have been excluded must be informed of these routines separately.

§ 6 Norges Bank's work

(1) Based on the advice submitted by the Council on Ethics, the Bank makes decisions on observation and exclusion in accordance with the criteria set out in sections 3 and 4, and on the revocation of observation and exclusion decisions; see section 5(7) and section 6(7). The Bank may, at its own discretion, make decisions on observation and exclusion, and on the revocation of such decisions under section 3(2).

(2) In assessments pursuant to section 3(2), importance shall also be attached to forward looking assessments, including any plans the company may have that will change the level of extraction of coal or coal power capacity relating to thermal coal, reduce the income ratio or business share based on thermal coal and/or increase the income ratio or business share relating to renewable energy sources.

(3) Advice and decisions on the exclusion of companies pursuant to section 3(2) shall not encompass a company's green bonds, where these are recognised through inclusion in indexes for such bonds or verified by a recognised third party.

(4) In assessing whether a company is to be excluded under section 4, the Bank may, inter alia, consider factors such as the probability of future violations of norms, the severity and extent of the violations and the connection between the norm violation and the company in which the Fund is invested. The Bank may also consider the breadth of the company's operations, including whether the company is doing what can be expected to reduce the risk of violations of norms within a reasonable time frame. Relevant factors in these assessments include the company's corporate governance, guidelines and efforts on environmental and social conditions, and whether the company is contributing to remedying measures with respect to those who are or have previously been affected by the company's conduct.

(5) Companies may be placed under observation if it is uncertain whether grounds for exclusion exist or what developments may occur forward in time, or when expedient for other reasons. Before any decision to exclude a company or place it under observation is made pursuant to section 6(1), the Bank must consider whether the exercise of ownership rights could be an appropriate way to reduce the risk of continued norm violations or could be more appropriate for other reasons. The Bank shall consider the full range of measures at its disposal and apply the measures in a coherent manner.

(6) The Bank shall ensure that sufficient information is available before it makes a decision regarding the exercise of ownership rights, observation or exclusion, or revokes any such decision.

(7) On the basis of new information, the Bank may ask the Council on Ethics to assess whether the grounds for observation or exclusion continue to exist.

§ 7 Exchange of information and coordination between the Bank and the Council on Ethics

(1) To facilitate good coordination between the Bank and the Council on Ethics, and the effective interaction of different measures, the Bank and the Council shall hold regular meetings.

(2) The Council on Ethics provides the Bank with information about companies it has selected for an initial assessment under these guidelines. The Bank provides the Council on Ethics with a list of the companies it is working on and company information that could be relevant for the Council's assessments.

(3) The Council on Ethics may ask the Bank for information on matters concerning individual companies, including how specific companies are dealt with in the context of the exercise of ownership rights. The Council on Ethics may ask the Bank to contact companies with which

the Council is unable to establish contact for the purpose of soliciting information. The Bank may ask the Council on Ethics to make its assessments of individual companies available to it and be given access to the Council's communications with the companies concerned.

(4) The Bank and the Council on Ethics shall establish detailed procedures for the exchange of information and coordination to clarify responsibilities and promote productive communication and integration of the work of the Bank and the Council on Ethics.

(5) Communication with the companies shall be coordinated. The Bank may attend meetings that the Council on Ethics has with companies. The Bank exercises the GPFG's shareholder rights; see Management mandate for the Government Pension Fund Global.

§ 8 The Council on Ethics' composition and organisation

(1) The Council on Ethics consists of five members based on nomination by the Bank and appointed by the Ministry of Finance. The Ministry also appoints a chair and deputy chair based on nomination by the Bank. The Bank's nominations shall be submitted to the Ministry no later than three months prior to the expiry of the appointment period.

(2) The Council on Ethics performs its work independently and autonomously. The Council on Ethics' composition must ensure that it possesses the required expertise to perform its functions as defined in these guidelines.

(3) Members of the Council on Ethics shall be appointed for a period of four years. If a Council member steps down during their period of appointment, a new member may be appointed before the remaining portion of the period has expired.

(4) The Ministry sets the remuneration payable to the members of the Council on Ethics and the Council on Ethics' budget.

(5) The Council on Ethics has its own secretariat, which falls administratively under the Ministry's purview. The Council on Ethics shall ensure that the secretariat has appropriate procedures and routines in place.

(6) The Council on Ethics shall prepare an annual operating plan, which shall be submitted to the Ministry. The operating plan shall describe the priorities set by the Council on Ethics for its work; see section 5.

(7) The Council on Ethics shall provide the Ministry with an annual report on its activities. This report shall be submitted no later than three months after the end of each calendar year.

(8) The Council on Ethics shall evaluate its work regularly.

§ 9 Meetings with the Ministry of Finance

(1) The Ministry, the Bank and the Council on Ethics shall meet at least once a year. The report on responsible investment management included in the annual report to the Norwegian parliament (Stortinget) on the management of the GPFG shall be based in part on the information exchanged at such meetings.

(2) The Ministry and the Council on Ethics shall meet at least once a year. The following matters shall be discussed at these meetings:

a) activities in the preceding year

b) other matters reported by the Ministry and the Council on Ethics for further consideration.

IV. Public disclosure

§ 10 Publication

(1) The Bank shall publish its decisions pursuant to these guidelines. Such public disclosure shall be in accordance with section 6-1(5) of the Management mandate for the Government

Pension Fund Global. When the Bank publishes its decisions, the Council on Ethics shall publish its recommendations. When the Bank makes decisions in accordance with section 6(1)(2) at its own discretion or decides to implement a measure other than that recommended by the Council on Ethics, the Bank shall explain its decision.

(2) The Bank shall keep a publicly available list of companies that have been excluded from the GPFG or have been placed under observation pursuant to these guidelines. Each year, the Bank shall publish details of the progress made in cases involving the exercise of ownership rights under these guidelines.

V. Other provisions

§ 11 Power of amendment

The Ministry may issue additions or make amendments to these guidelines.

§ 12 Entry into force

§ 4(1)-(3) enter into force immediately. Other sections enter into force 1 January 2015. From that same date, the Guidelines for Observation and Exclusion from the Government Pension Fund Global (GPFG) adopted on 1 January 2010 are rescinded.