The Norwegian Government Pension Fund Global. Risk Based Versus Ethical Investments

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Summary: Access to finance is crucial if we are to achieve the fundamental transition of our time: securing a safe and just society operating within the planetary boundaries. In the era of global market capitalism and deregulation, Sovereign Wealth Funds (SWFs) offer one of the few public economic institutions capable of injecting ecological and social values into global markets. This article undertakes a case study of one of the world's largest SWF, the Norwegian Government Pension Global (The Fund).
The Fund is well-known for its Ethical Guidelines recommending exclusion of companies based on products and conduct as well as the Fund's public statements when withdrawing from companies. Still, the ethical basis of overlapping consensus leads to responding to public opinion and media controversy when considering divestment, rather than undertaking due diligence beforehand.

In addition, and not well known, more firms have been excluded from the Fund based on the financial risk against the portfolio than based on the Ethical Guidelines. In this article we discuss the basis of both the Ethical Guidelines and of the financial risk management of the portfolio. Still, the majority of the Fund's investments are on an unsustainable path of 'business as usual'. A principal thesis of this article is the paradox that the more unsustainable 'business as usual' becomes, the importance of financial risk assessment increases and the relevance of the Ethical Guidelines decreases.

Zusammenfassung: Der Zugang zu Finanzmitteln ist entscheidend, wenn wir den grundlegenden Wandel unserer Zeit erreichen wollen: die Sicherung einer sicheren und gerechten Gesellschaft, die innerhalb der Kapazitäten unseres Planeten funktioniert. Im Zeitalter des globalen Marktkapitalismus und der Deregulierung bieten Staatsfonds (Sovereign Wealth Funds, SWFs) eine der wenigen öffentlichen ökonomischen Institutionen, die in der Lage sind, ökologische und soziale Werte in die globalen Märkte zu bringen. Dieser Artikel enthält eine Fallstudie über einen der weltweit größten Staatsfonds, den staatlichen norwegischen Pensionsfonds (The Government Pension Fund Global).

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Der Fonds ist bekannt für seine Ethikrichtlinien, die den Ausschluss von Unternehmen aufgrund von Produkten und Verhaltensweisen empfehlen, sowie für die öffentlichen Erklärungen des Fonds beim Rückzug aus Unternehmen. Die ethische Basis eines übergreifenden Konsenus führt dazu, dass die öffentliche Meinung und Mediendebatten bei der Prüfung von Veräußerungen berücksichtigt werden, anstatt vorher eine sorgfältige Prüfung vorzunehmen.

Weitgehend unbekannt ist, dass darüber hinaus mehr Unternehmen aufgrund des finanziellen Risikos des Portfolios als aufgrund der Ethikrichtlinien aus dem Fonds ausgeschlossen wurden. In diesem Artikel behandeln wir die Grundlagen sowohl der Ethikrichtlinien als auch des finanziellen Risikomanagements des Portfolios. Dennoch befindet sich der Großteil der Investitionen des Fonds auf einem nicht nachhaltigen Weg des „business as usual". Eine Hauptthese dieses Artikels ist das Paradoxon, dass je unhaltbarer das „business as usual" wird, desto mehr nimmt die Bedeutung der finanziellen Risikobewertung zu und die Relevanz der Ethikrichtlinien ab.

1 Introduction

Sovereign wealth funds (SWFs) have gained an increasingly significant presence in global financial markets since the 1970 s and, more recently, have come under public scrutiny to invest ethically and sustainably (Madden 2008). In the era of global market capitalism and deregulation, SWFs offer one of the few public economic institutions capable of injecting ecological and social values into the inner workings of global markets. This article[1] provides a timely case study of the world's largest SWF, the Norwegian Government Pension Fund Global (the Fund).

The Fund is well known for its impressive market value, which by the end of 2018 amounted to 8,256 billion Norwegian kroner (NBIM 2019c), or nearly $1 trillion US dollars. The Fund is also renowned for its ethical profile, overseen by the Council on Ethics that assesses alleged breaches of the Fund's Ethical Guidelines and proposes exclusion of companies that violate them (Kourabas 2014).

This article raises the question of whether the Fund in practice is more reactive rather than proactive, responding to public opinion and media controversy when considering divestment, rather than undertaking due diligence beforehand and continuously monitoring its investments on ethical and environmental criteria. Further, this article discusses Norges Bank's (Norway's central bank) fund management in light of the Fund's mandate, questioning whether we are seeing responsible management with minimisation of financial risk, which according to the mandate itself is meant to be an integral element in a long term, sustainability-oriented direction of the Fund's governance. Does the Fund's mandate need changing, or is the problem in the operationalization of its requirements?

Section 2 of this article presents the Fund and its dual system: The risk-based management for long-term high returns combined with that which has given the Fund its reputation as the gold standard (The National 2009): its Ethical Guidelines and Council on Ethics. In Section 3, the Fund's ordinary fund management is analysed, followed by Section 4 on the Council of Ethics, both sections discussing whether important aspects of the Fund's contribution to sustainability fall between these

1 This article is a shorter version, with some new analyses due to updated data, of the article by Sjåfjell, Beate, Nilsen, Heidi Rapp, and Richardson, Benjamin R. (2017). *Investing in Sustainability or feeding on stranded assets? The Norwegian Government Pension Fund Global.* Wake Forest Law Review, Volume 52, issue 4, pp. 949–979.

two approaches. Is the Fund partaking in a shift towards sustainability or still feeding on so-called "stranded assets" at odds with sustainability? Section 5 concludes with reflections on how and to what extent the Fund could realize its potential to be a driver for sustainability.

2 The background of the Fund

The Norwegian government established the Petroleum Fund under the Government Petroleum Fund Act in 1990, to invest globally the financial riches from its North Sea oil industry (Gjedrem 2008). Later renamed the Government Pension Fund Global, it began practicing socially responsible investment (SRI) in 2001. Broadly, SRI means investments and loans that consider social and environmental criteria alongside conventional financial metrics (Richardson 2012). With their public institutional status and growing market presence, SWFs have become of particular interest to the global SRI movement. The movement has sought not merely to dissuade SWFs from investing in environmentally deleterious activities, but to embolden them to be role models for best practice (Richardson 2012). Social investors seek to make SWFs a catalyst for green finance, albeit within a framework of "enlightened" global capitalism rather than any alternate economic system (Richardson 2012: 162).

From the outset, the Fund's approach to SRI has been influenced by international legal considerations but without questioning the ecological sustainability or social justice of global capitalism in which it participates (Richardson 2015). In other words, the approach has been to eschew or mitigate only the most problematic economic activities and actors. Following a government committee inquiry (The Norwegian Ministry of Finance 2003), in 2004, the Norwegian Parliament issued regulations for the Fund that delineated its SRI philosophy and procedure, which were revised in 2010 and 2016 (Council on Ethics 2016). These regulations, as discussed below, emphasize international human rights and environmental standards as the benchmark for the Fund. Moreover, the Fund has within its portfolio a small part to be invested in explicitly pro-environmental activities and companies (NBIM 2018b).

The Fund's financial investments are overseen by the government through several entities (Norwegian Ministry of Finance 2018). Until 2014, the Norwegian Ministry of Finance had overall responsibility for the strategic policy and management of the Fund, including any decisions to divest from a company for SRI considerations. That oversight is now effectively exercised by the Norwegian Parliament. The Norges Bank continues to have operational control of the funds, and through its share ownership rights in companies it handles corporate engagement including exercise of shareholding rights (Norwegian Ministry of Finance 2018). The Norges Bank has delegated many of its responsibilities to Norges Bank Investment Management (NBIM) and external fund managers with whom it contracts. NBIM consists of around 550 employees from more than 30 nations, and they also take part in SRI. NBIM's overall mission is "to support the fund's objective by maximising the long-term financial return on our investments and reducing the financial risks associated with environmental, social and governance issues at the companies we invest in." (NBIM 2017) The third entity, the Council on Ethics, performs an advisory role, conducting due diligence on companies that the Council has decided to scrutinize in depth, and makes recommendations on divestment or observation of companies in light of those inquiries (Council on Ethics 2016). The Norwegian Parliament oversees all of these entities by approving the Fund's investment strategy and receiving annual reports of the Ministry of Finance (Norwegian Ministry of Finance 2018). The Fund is governed by the Government Fund Act 2005, which is silent on SRI issues, but regulations passed by the Parliament in 2004 and revised in 2016 and 2017 provide the legal framework for the foregoing activities of the Fund (Norwegian Ministry of Finance 2014).

Hence, the two sets of regulations that presently govern the SRI practices of the Fund are the Management Mandate (NBIM 2018a) and the Guidelines for Observation and Exclusion from the Fund (Council on Ethics 2016). We analyse these two approaches in the following sections.

3 High returns in a sustainable way

The Management Mandate requires NBIM to achieve the "highest possible return" from the investment portfolio (NBIM 2018a, § 1–3(1)), and this objective is "dependent on sustainable development in economic, environmental and social terms [and] well-functioning, legitimate and efficient markets." (NBIM 2018a, § 1–3(3)) Relatedly, the Mandate obliges NBIM to integrate good corporate governance, environmental, and social issues in its investments (NBIM 2018a, § 2–2(3)), and to foster robust international standards in responsible management and active ownership (NBIM 2018a, § 2–3(2)). Of explicit environmental relevance, the 2016 Mandate also requires NBIM, in relation to its real estate investments, to consider "energy efficiency, water consumption and waste management" (NBIM 2018a, § 2–2(5)). The Fund's investment regulations do not instruct NBIM on how to resolve any trade-offs between ethical and financial considerations, which invariably arise given market failures to internalize all the social and environmental impacts of business activity.

The Fund's Mandate prescribes the aim of highest possible return and states that this presupposes, in the long run, development that is economically, environmentally and socially sustainable (NBIM 2018a, § 1–3(3)). Through the 2014 reform of the Fund's Mandate, the aim of highest possible return was amended to expressly state "within the applicable management framework" as an attempt to further integrate responsible investment and the recognition of sustainable development in the Fund's management (NBIM 2018a, § 1–3(1)).

However, the Fund's own report on Responsible Investment gives reason to question the Fund's order of priority. The report states that it discusses "responsible investment management within the mandate's return objective, as operationalized by [NBIM]."(NBIM 2016a: 13) If the mandate's statement that long-term returns are dependent on sustainability is to be taken genuinely, the approach should be the other way around: seeking the highest possible returns within the fund's responsible investment management. It is not surprising that the Fund interprets its mandate in this way given the approach taken by the Bank's Executive Board in its principles. In the introduction to the principles, they clarify that "responsible investment management shall support the objective of the fund by furthering the long-term economic performance of our investments and reducing financial risks associated with the environmental and social practices of companies in which we have invested" (NBIM 2016a: 14).

The Fund's Guidelines for Observation and Exclusion from the Fund ("Ethical Guidelines" or "Guidelines") are well known within finance, among politicians and academics, and to a certain degree also in the general public of Norway. However, in spite of the questions that may be raised concerning the Bank's approach to responsible investment (as something that it will do "within" the quest for highest possible returns (NBIM 2016a), over time it may turn out that the Bank's own risk assessment is more important for the Fund's contribution to sustainability. According to the Bank's

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own principles for responsible investment, “risk factors associated with environmental, social and corporate governance related issues” will be considered as an integrated part of the overall risk analysis (NBIM 2016a).

In 2012, NBIM itself decided to divest from firms due to environmental, social, and governance related risk factors for the first time, although the Fund had made some divestments in the preceding decade (Skancke et al. 2014). Analyses and decisions related to these risk-based divestments are carried out by NBIM and differ from exclusions under the Ethical Guidelines, which are decided by the Bank’s Executive Board following a recommendation from the Council on Ethics (Council on Ethics 2016). The exception is the coal criterion, where the proposal to divest can be made either by the Council on Ethics or by NBIM (NBIM 2016a). The fact that coal is also the most obvious potential “stranded asset” of fossil fuels illustrates how the emphasis on risk has led to issues previously not even perceived as sufficiently serious to be deemed of ‘ethical’ concern now being integrated into the Fund’s management.

In total, by the end of 2017, 216 firms have been excluded based on risk against the portfolio, whereas 152 firms are excluded due to breach with the Ethical Guidelines (discussed further below). These 216 firms include sixty-eight that were excluded based on their greenhouse gas emissions, fifty-eight due to deforestation, forty-five because of water issues, and forty-five for social and governance issues (NBIM 2018b). Unlike the firms which are excluded based on recommendations from the Council on Ethics, NBIM does not make public the list of companies from which it has divested. This reduces the reputational effect of NBIM’s divestments.

The exclusion based on risk is a promising development, but it is tentative. Although NBIM has divested from more companies based on risk than based on recommendations from the Council on Ethics, this is still a minute fraction of the companies in which the Fund is invested (NBIM 2018b). Even with its 550 employees, in addition to some use of external consultants, NBIM is clearly not capable of conducting proper due diligence into 9,000 companies. This displays the limitations of what is denoted “negative screening”: broadly investing in practically all companies, as is required by the Mandate, and then divesting from those that are regarded as problematic.

NBIM claims to actively engage with all companies by exercising other forms of share ownership rights through voting at shareholder meetings and engaging in dialogue with board members, senior management, and specialists in the firms (NBIM 2019a). NBIM reports that it votes at every general meeting of all of the approximately 9,000 companies in which the Fund has shares (NBIM 2016a). A lot of this voting is done by proxy. NBIM’s voting is transparent—the casting of the votes is accessible online (NBIM 2019a). The Global Voting Guidelines concentrate mainly on mainstream corporate governance issues, with only the last item mentioning NBIM’s expectation of the company addressing its impact on “society and the environment,” and that business strategy and policies should secure “business practices that are consistent with sustainable development” (NBIM 2016b: 9). As with the tentative inclusion of corporate social responsibility (CSR) issues in corporate governance codes for listed companies in general, this is unlikely to be sufficient to shift business from business-as-usual (Sjåfjell 2017a).

In 2016, NBIM reportedly had 3,790 meetings with 1,589 companies during which it allegedly raised environmental, social, or governance issues in half of the meetings (NBIM 2016a). Such meetings lack transparency, making NBIM’s claim impossible to verify, which also accords with general mainstream corporate governance penchant for these "dialogue meetings" (Sjåfjell et al. 2015).

It is difficult to assess the ultimate impact of NBIM's engagement with companies. In spite of the information available from NBIM, there is little available on the actual impact of the Fund. The only area in which we can find information regarding its impact is the carbon intensity of its investment portfolio, which decreased by one percent from 2015 to 2016 (NBIM 2016a: 72). This tangibly contributes to fulfilling the goal of the Paris Agreement (Carbon Brief 2015).

Another focus area of NBIM is water management. Here we also see the difficulty of assessing the effects of the active ownership activities, including divestment. In 2015, NBIM assessed 470 companies' exposure to water risks and concluded that fifty-one companies showed very good results, whereas on the other end of the scale, approximately 135 firms had "very weak" results in water management (NBIM 2015a: 78). The same kind of assessment in 2016 and 2017 with 600 firms, yielded approximately 180 firms in the portfolio with "very weak" water management in 2016 and 130 in 2017. The number of divestments in 2015 based on water risk exposure was nine, zero in 2016, and one in 2017 (NBIM 2018b). We do not know if practicing the other active ownership instruments has made the worst firms change their practices. There does not seem to be any effort to measure such a development either—or at least not one that is communicated publicly.

The Bank can influence its own Mandate. It has, according to the Mandate, both a right and a duty to suggest changes to its own Mandate when this is deemed necessary, which it can do when asked by the Ministry or on its own volition (NBIM 2018a). Whether through a recognition of the increasing risk of "business as usual" on its portfolio or through a genuine wish to contribute more broadly to sustainability, NBIM has recently put forward several interesting proposals (NBIM 2019b). With the Panama Papers accentuating the unsustainability of the tax behaviour of business, the Fund's move to put pressure on businesses it invests in to report along the lines of the European Union's new country-by-country reporting indicates a willingness to gradually integrate issues that previously have been perceived as solely "ethical" (and accordingly left to the Council of Ethics to investigate) into its ordinary fund management (Milne 2017).

It is also the Bank itself that has suggested that it should be allowed to invest in non-listed infrastructure. Two reports have been commissioned as a basis for the Government's recommendation to the Parliament on this issue. The first, the McKinsey report, concentrated on the risks of investing in non-listed entities (McKinsey 2016). The second report, produced by the Institute for Energy Economics and Financial Analysis ("IEEFA"), emphasized the potential for high returns that such investment could generate, while at the same highlighting the need for this investment (Sanzillo et al. 2017). The IEEFA report points out that prudently-managed unlisted infrastructure investments, which include renewable energy, can produce returns of twelve to fifteen percent annually (Sanzillo et al. 2017: 37).

With the aim of securing investment returns from the unlisted infrastructure market while managing the risks associated with that action, the IEEFA report recommends that the Fund be given a mandate to invest five percent of its assets in unlisted infrastructure, including unlisted renewable energy investments (Sanzillo et al. 2017). Drawing on a different report from the McKinsey Global Institute, the IEEFA report stresses the need for such a shift due to the enormous infrastructure funding gap for renewable infrastructure – noting that the projected global funding gap triples when applying the United Nations' Sustainable Development Goals (Woetzel et al. 2016). The Bank itself stresses this investment gap in its discussion note with reference to the International Energy Agency's estimates that "53 trillion dollars in cumulative investment in energy supply and energy efficiency is required over the period to 2035 in order to keep global warming below 2 degrees. These projections imply annual investments of roughly 2 trillion dollars, or 2 percent of global GDP per year up to 2030. Although the amount invested has increased over the past few years, the actual invested volume of 1 trillion dollars still falls short of what is deemed necessary. Based on this, one could argue that there is a climate investment gap of 1 trillion dollars per year" (NBIM 2015b: 3).

Unfortunately, the Ministry of Finance recommended that the Fund should not to be given this opportunity (Gilbert 2017), and in June 2017 the Norwegian Parliament voted against this suggested change to the Fund's mandate. After two years, the Ministry has taken a different view on this important matter, now stating that it is acceptable to allow for the Fund to be invested in unlisted energy infrastructure, but, as part of the Fund's environment related mandates. The upper limit of these mandates are, as a result, doubled to 120 billion Norwegian kroner which constitutes 1.5 pst of the Fund's total value by the end of 2018.

4 Operationalizing ethics

The Council on Ethics has a pivotal role in the SRI decisions of the Fund, as the Ministry of Finance, and now the Bank itself, usually accepts its advice (Clark and Monk 2010). The five members of the Council, supported by a secretariat of eight staff, make recommendations on an ostensibly consensual basis to the Ministry on divestments with wide discretion in passing judgment on gross corruption, major human rights violations, severe environmental damage, and serious violations of fundamental ethical norms as recognised in international law (NBIM 2018b). The Council's recommendations to exclude or closely observe a company are based either on its products (for example, land mines) or its behaviour (for example, corruption). In so doing, the Council follows a process of gathering evidence, reviewing findings, and applying the SRI regulations (Richardson 2011). The Council is not a legal tribunal and thus not bound by rules of evidence or other judicial formalities, although its recommendations always include evidence and justification (Chesterman 2008).

The label of "Guidelines" is misleading because the regulations are legally binding (NBIM 2018a). Overall, they focus on avoiding the Fund's *complicity* in grossly unethical behaviour relating primarily to human rights or the environment (Chesterman 2008). The parliamentary committee that was tasked with drafting the earlier version of these regulations in 2002 looked to international agreements that Norway supports as the source of such ethical precepts (Richardson 2011). The Committee reasoned that "companies may aggravate or facilitate human rights and environmental violations committed by states, and the [Fund] might [thereby] contribute to companies' misdeeds through its stock ownership" (Richardson 2011: 9).

The 2017 revised guidelines require the Fund, on the advice of the Council, to exclude producers of specified harmful products, including tobacco and weapons, deemed to violate fundamental humanitarian principles (NBIM 2018b). A further ground of exclusion is where "there is an unacceptable risk that the company contributes to or is responsible for" specified concerns including "serious or systematic human rights violations," "severe environmental damage" and "acts or omissions that on an aggregate company level lead to unacceptable greenhouse gas emissions." (Council on Ethics 2016: 2). On climate change specifically, the Guidelines in 2016 introduced a new ground for exclusion: "Mining companies and power producers which themselves or through entities they control derive 30 per cent or more of their income from thermal coal or base 30 per cent or more of their operations on thermal coal." (Council on Ethics 2016: 2). As can be gleaned from these provisions, the Council is set up to target only the "worst case[s]" (Nystuen et al. 2011). Setting the bar so high might be justified given the huge size of the Fund's portfolio, at about 9,000 companies in 2016 (NBIM 2016a), but it risks leaving untouched businesses whose environmental impacts are piece-meal and only significant cumulatively.

By the end of 2017, a total of 152 companies were excluded from the investment universe, including sixty-nine companies based on the product-based coal criterion (NBIM 2018b). This is a net final divestment tally, as some companies have documented changes to their policies or practise that make them eligible for reinvest by the Fund.

The Ethical Guidelines are tethered to evolving normative stipulations. The theoretical foundation is the principle of "overlapping consensus," which is meant to achieve stability within a socially just system (Rawls 1987). The consensus is "overlapping" in that it allows people to have different reasons, premises, and arguments for supporting a system. This means that it is the values widely held by Norwegians, the ultimate beneficiaries of the Fund, that ultimately decides what is ethically acceptable (Nilsen 2010). How does the Council consider the values of Norwegian when implementing the Guidelines?

For the product-based exclusion, the Council is meant to have an overview of all the companies in the Fund whose operations may be caught by this stipulation (Council on Ethics 2016). The Council does not have to consider if the products violate any Norwegian norms—if the products are proscribed by the Guidelines, they are to be acted upon.

Following up on the conduct-based criteria works quite differently and has several questionable aspects. The following case may serve as an example. For several years, the Council had known about corruption accusations involving Petroleo Brasileira S.A., better known as Petrobras (Council on Ethics 2015a: 26). However, it was not until the scope of the accusations became generally known in 2014 that the Council decided to contact the company and investigate the accusations with the option of recommending exclusion. The Council's view is that the information, which became publicly known in 2014 and 2015, indicates that the company is responsible for gross corruption (Council on Ethics 2015b). The Council is open about the importance of the media in their work, especially in single cases. Massive media reaction indicates that the people react to a certain company's conduct, in other words, that there is an overlapping consensus that this is unethical (Sjåfjell 2017b). A thorough check of what Norwegians think about an issue should, to be accurate, be checked through a referendum or poll, which might be feasible with the availability of Internet-based, public opinion sampling tools. This demonstrates the awkwardness of having overlapping consensus as a basis for practicing the Ethical Guidelines. The origin of overlapping consensus shows that this approach was not constructed for value-based discussions at all, and the concept has been criticized for choosing the least demanding norm, as this is easier to reach agreement on, than more demanding norms (Cohen 1993). It is thus not surprising that the Council gauges media coverage – a creative database for an unfit ethical basis – as the best thermometer of Norwegian norms.

Another weakness in the follow up of the conduct-based criteria is demonstrated by no companies yet being excluded or put under observation due to acts or omissions that on an aggregate at the company level lead to unacceptable greenhouse gas emissions. This criterion was included in the Guidelines in February 2016, the same time as the product-based coal criterion (Council on Ethics 2016).

The Council stated in its 2017 annual report that it has now established a practice for assessing if emissions are unacceptable, and that several recommendations on exclusions has been made (Council on Ethics 2017: 18). However, the Bank's Executive Board which normally makes these decisions, has passed these cases to the Ministry of Finance, which is responsible for ensuring that decisions comply with the intentions of Stortinget – the Norwegian Parliament (NBIM 2019b). As of January 2019, this is the status and hence an unsolved issue of high principle importance as this is the first time the Ethical Guidelines have been applied to a globally aggregated environmental problem.

The conduct-based criteria have in total resulted in only twenty-eight firms, net, being excluded, making it reasonable to conclude that the conduct-based criteria are only applied to the tip of the iceberg. The intent to exclude the worst offenders may be seen in how all of the conduct-based criteria are formulated: *serious* human rights violations, *severe* environmental damage, *gross* corruption, and so forth. The very low number of firms excluded of the approximately 9,000 firms in which the Fund is invested makes it highly unlikely that anything close to all conduct encompassed by the Guidelines is captured.

A company that is being considered for observation or exclusion is given an opportunity to present information and opinions to the Council. Then, if the Council decides to recommend observation or exclusion, NBIM must consider whether engagement with the company is more appropriate. Only after such decisions are made is the public informed (Council on Ethics 2016). The public announcement of an exclusion, with a justification, is a part of the Fund's gold star reputation because it is seen as high-level "naming and shaming" (Albright Group and Chesterman 2008).

5 Conclusion

The mandate of the Fund integrates sustainability in the framework of the management of its investment portfolio. There are some positive signs that financial risk assessment can facilitate integration of responsible investment practices into fund management. However, the positive tendencies are too incremental and illustrate the insufficiency of negative screening, demonstrated inter alia through the Fund's reaction to climate change. While the Fund itself may only be nudging incremental change within its own investment portfolio, it has the capacity to be a catalyst for wider change as already evident in the growing fossil fuels divestment movement that has benefited from the publicity given to the Fund's recent efforts to reduce its holdings in coal mining companies (Carrington 2015). To realize this potential and be a front-runner, changes are necessary to the Fund's mandate and management.

The great challenge of our time is how to achieve the social and human rights goals of the United Nations' Sustainable Development Goals set in 2015 while staying within planetary boundaries (United Nations 2019, Folke et al. 2016). The climate is only one of nine currently identified planetary boundaries which we need to respect in order to achieve a safe operating space for humanity (Rockström et al. 2009, Steffen et al. 2015). For example, reduced biodiversity and excessive use of nitrogen and phosphorous are threatening the planet's ability to produce food, with potentially devastating ramifications (Steffen et al. 2011). We risk societal breakdown unless sufficient capital is channelled to environmentally, socially, and economically sustainable projects within the planetary boundaries. In this scenario, it will not be possible to achieve a stable return on any investment over the long term.

The unsustainability of global market capitalism is a systemic issue rooted in mainstream paradigms of economic and demographic growth (Vivas 2010). Clearly a fundamental shift is required in how international commerce and trade, and indeed business and finance in general, are conducted, so that it meets sustainability criteria. The Norwegian Fund is one of the few actors with the financial clout and global profile to leverage some positive change (Rockström et al. 2017). This requires political courage and will. With the adoption of the United Nations' Sustainable Development Goals and the 2015 Paris Agreement, there seems to be a new impetus in the debate. As the mandate will be changed to allow for investment in renewable infrastructure, the question remains whether we will continue to be on a path of incremental improvements or whether this will herald the beginning of the necessary fundamental shift. A starting point for the necessary fundamental shift is to stop discussing sustainability as a question of ethics over economics and recognizing that economic development – like everything else – is dependent on maintenance of the integrity of the biosphere.

If there were political will to make the necessary changes to ensure the Fund's contribution to sustainability, and thereby the Fund's potential for continued good returns in the long run, a broader set of reforms would need to be adopted. Sustainable investment requires positive screening or impact investing, which would require a change of the Mandate, and removal or nuancing of the dictate to stay broadly invested in the investment universe. The approach of the Fund would need to be changed from responsible investment within the goal of highest possible returns to good returns within truly responsible investment – within sustainability. Such a change gives rise to the question of whether we then would need to retain the Council on Ethics. It might have a useful role for raising public debate on value-based issues facing Norwegians and other nations. Such issues may relate to gene technology, animal welfare, including for aquaculture, and pollution. The issues should be chosen not because we estimate that the growing menace of marine plastic pollution that threaten sustainability (to the extent that they do, they would in a revised system belong within the Fund's ordinary management). Such discussions must dare to go deeply into different ethical theories and ontologies and formulate recommendations for both investments and corporate engagement.

NBIM's risk-based divestments should take the best from the Council on Ethics' practice and make public its divestments. Doing that with a justification based on risk because of environmental, social and governance issues could contribute to the Fund's position as a market leader for investing in sustainability. With its financial muscle and international visibility, the Fund has the potential to shift the direction of global investments, highly significant in itself, and also to be a potential facilitator for the other reforms. Although the Fund is limited to owning a maximum of ten per cent of the shares in any company (NBIM 2019c: 40), it is in the highly dispersed shareholding structures of many companies a relatively large investor (Løvold 2016). And it is certainly an influential one, with its reputation as the gold standard of responsible investment. It is time to put this to good use before the gold standards fades away.

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