



**ROYAL NORWEGIAN
MINISTRY OF FOREIGN AFFAIRS**

Mr. Manfred Schekulin, Chair
OECD Investment Committee
OECD Headquarters
2, rue André Pascal
F-75775 Paris Cedex 16
France

Your ref.:

Our ref.:
13/06339-4

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The OECD Guidelines for Multinational Enterprises

Dear Mr. Schekulin,

The OECD Guidelines for Multinational Enterprises have been a part of a broad base of international guidelines guiding the responsible investment strategy for the Norwegian Government Pension Fund Global since 2004. Norway sees the OECD Guidelines for Multinational Enterprises as important in setting principles and standards for responsible business conduct.

In a recent specific instance, the Norwegian National Contact Point (NCP) concluded that the Guidelines do apply to minority shareholders. The Manager of the Fund, Norges Bank (the Central Bank of Norway), claims on the other hand that the guidelines apply to companies where the Fund has invested, but not to minority shareholders in their relation to investee companies. The Fund and other large funds have expressed the need for a clarification of the applicability of the Guidelines for minority shareholders.

We have noted that the report commissioned by the Netherlands in support of the Proactive Agenda under the Working Party for Responsible Business Conduct, which was discussed in meetings in the Investment Committee in June this year, shows that representatives from different parts of the financial sector claim there is a lack of clarity regarding the applicability of the Guidelines.

The recent case against Norges Bank in the Norwegian NCP raises important issues relating to the applicability of the Guidelines for sovereign wealth funds and central

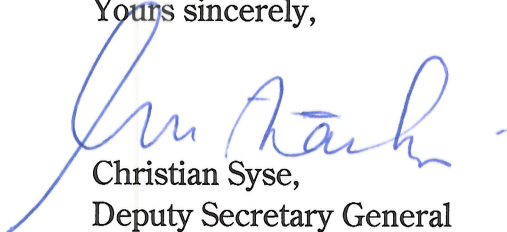
banks with financial assets on their balance sheets. We therefore urge the Investment Committee to discuss these issues and to clarify to what extent the Guidelines are adapted to fit the role for sovereign wealth funds like ours and central banks. Clarity on the applicability of the guidelines is important to ensure efficient use of time and resources for the OECD, NGOs, companies, financial sector and investors. Companies, investors and other practitioners should be invited to participate in this process.

A reference to the recent interpretation of the UN Guiding Principles on Business and Human Rights from the Office of the High Commissioner for Human Rights is useful but is in our view not sufficient. We believe it is appropriate and necessary that the OECD interprets and clarifies terms in, and the scope of, the guidelines. Reference is made to the Implementation procedures of the OECD Guidelines for Multinational Enterprises, stating that the Investment Committee shall be responsible for clarification of the Guidelines.

The combination of the Guidelines' non-binding principles and standards and the implementation mechanism of National Contact Points is unique and calls for careful monitoring by the signatories. We are concerned about the substantial discretion given to NCPs when it comes to the interpretation of the Guidelines. In the recent specific instance mentioned earlier, the local NCP and the Norwegian NCP reached different conclusions on whether there should be further proceedings or not. It can be questioned if such outcomes are in line with the general principle of non-discrimination between OECD countries. In the specific instance, the Central Bank and one other investor were the only targeted minority shareholders, while the total number of shareholders in the relevant company amounts to almost 200 000. That raises questions relating to the consistency in the processing of specific complaints under the Guidelines. In our view, a procedure where the local NCP, being closest to the company in question, takes the lead and in consultation with other NCPs involved makes a final decision, should be the preferred solution.

Norwegian authorities believe there should be a broad discussion in the Investment Committee on how key terms in the Guidelines should be interpreted and whether they are actually adapted to fit the role of sovereign wealth funds like ours and central banks which manage financial assets.

Yours sincerely,



Christian Syse,
Deputy Secretary General