

# PRI RESPONSE

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## CORPORATE ACCOUNTABILITY IN THE CONTEXT OF HUMAN RIGHTS AND CLIMATE CHANGE

30 November 2023

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### PRI Association

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**United Nations**  
Global Compact

# ABOUT THE PRI

The Principles for Responsible Investment (PRI) works with its international network of signatories to put the six Principles for Responsible Investment into practice. Its goals are to understand the investment implications of environmental, social and governance (ESG) issues and to support signatories in integrating these issues into investment and ownership decisions. The PRI acts in the long-term interests of its signatories, of the financial markets and economies in which they operate and ultimately of the environment and society as a whole.

The six Principles for Responsible Investment are a voluntary and aspirational set of investment principles that offer a range of possible actions for incorporating ESG issues into investment practice. The Principles were developed by investors, for investors. In implementing them, signatories contribute to developing a more sustainable global financial system.

The PRI welcomes the opportunity to respond to the United Nations Special Rapporteur on Climate Change call for input on corporate accountability in the context of human rights and climate change.

# ABOUT THIS CONSULTATION

The United Nations Special Rapporteur on Climate Change is seeking [input](#) to inform the Special Rapporteur on the promotion and protection of human rights in the context of climate change's report on corporate accountability in the context of human rights and climate change, to be presented to the 56th Session of the Human Rights Council in 2024. The Special Rapporteur is seeking input from States, business enterprises, civil society organizations and intergovernmental organizations on corporate accountability with respect to human rights and climate change. This includes issues of corporate disclosure, investment fiduciary duties, and the application of the UN Guiding Principles on Business and Human Rights with respect to climate change.

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# KEY RECOMMENDATIONS

The PRI welcomes the intention from the UN Special Rapporteur to review the role of corporates and of the finance and banking sector in addressing the connection between human rights and climate change.

The PRI has published resources for investors and policymakers on how to integrate human rights and social issues into investments and financial regulation, including with respect to climate change. We stand ready to support the Special Rapporteur and will be available to share the results of our updated Reporting Framework when these are available later in the year.

PRI's key recommendations are:

- Include in the Special Rapporteur's report a reference to the need to fully integrate social issues into economic transition strategies and planning, including through sustainable finance and real economy policy and regulatory reforms.
- Highlight in the report the need for policy reform to enable the improvement of the sustainability outcomes of investments, in line with the recommendations in the Legal Framework for Impact report published by PRI, UNEP FI and the Generation Foundation. Achieving the goals of the UN Guiding Principles on Business and Human Rights is a necessity to ensure the positive outcomes of the economic transition. However, currently investors face a range of impediments to accelerating action on sustainability goals. Policy reforms are essential to facilitate investing for sustainability impact and to overcome barriers to action, while ensuring a level playing field for market participants.
- Integrate in the report the findings of PRI's [Investor data needs framework](#). This proposes a structure to identify decision-useful corporate sustainability data for responsible investors, while explicitly recognizing the diversity in investors data needs due to differing objectives, strategies, jurisdictions, etc.

# DETAILED RESPONSE

## 1. Disclosure mechanisms

*What experience or knowledge do you have with corporate disclosure mechanisms?*

*Do you have examples of best practices or poor practices?*

*Do reporting requirements under environmental, social and governance measures (ESG) provide an effective way of ensuring that corporations are compliant with general obligations under human rights and obligations to meet Paris Agreement goals?*

*Do corporate disclosure systems address human rights concerns and greenhouse gas emissions throughout their supply chain?*

*Do you have evidence to suggest that they have been effective or not?*

The PRI regularly engages with global and regional standard setters and regulators on corporate sustainability reporting, on behalf of our signatories. We have recently engaged in the ESRS development process (including through a recent [reaction statement](#) on adoption of ESRS S1 and S2), the ISSB consultation on [ISSB exposure drafts](#) and recent consultation on [agenda priorities](#), and the SEC [consultation](#) on a proposed climate disclosure rule.

The PRI has recognised a clear example of good practice is the IFRS sustainability standards, which we support in their mission to deliver a high-quality global baseline of sustainability-related financial disclosures. However, we also recognise the importance of disclosure mechanisms beyond the ISSB, for more disclosure of a company's sustainability performance and its alignment to long-term sustainability goals and thresholds.

The PRI's measure of good practice is ultimately rooted in whether the data that is expected to be reported through the mechanisms will be decision-useful for responsible investors. The PRI's [Investor Data Needs framework](#) summarises the set of requirements for these mechanisms to meet this expectation.

Disclosure mechanisms play an important role in providing this decision-useful data, as they provide an accessible source of disclosure that is of sufficient quality – i.e. a **fair representation** of what the company intends to report, **comparable** across multiple dimensions, **applicable** to a specific investor and allowing the investor to **verify** the data reported. This plays an important role in ensuring accountability of corporations' obligations to meet human rights expectations and Paris Agreement goals. As evidenced by PRI's report [Climate Data and Net Zero – Closing the Gap on Investors' Data Needs](#), this corporate disclosure is seen as a pre-requisite for investors to meet their net zero commitments and informs their engagement with their investee companies.

At the moment there is not sufficient data to assess whether corporate disclosure systems address human rights concerns and greenhouse gas emissions in the supply chain. However, the PRI is of the view that disclosure frameworks should help companies to identify and monitor these risks.

It is, however, increasingly understood that good practice for corporate disclosure systems includes disclosure of their supply chains. Recent disclosure frameworks – namely from the ISSB, EFRAG and TNFD – clearly require disclosure along supply chains.

The PRI identifies this as one of the characteristics of data (agnostic of issue) that is required to inform investors' decisions and is further evidenced for human rights in PRI's work on [What data do investors need to manage human rights risks](#). This report analyses challenges that investors face in understanding how, and how well, investees manage their impacts on people. Its findings suggest a particular focus is needed on four categories of information:

- companies' inherent human rights risks;
- how the board and leadership help embed commitments into company culture and practice;
- the quality of companies' human rights due diligence;
- quantitative information about positive human rights outcomes to which companies have contributed.

For further information regarding the role of the finance sector in advancing sustainability goals, including through supporting corporate disclosure requirements, please refer to the PRI's report [Why and how investors should act on human rights](#) and the response to the [UN Working Group on Business and Human Rights call for input on Investors, ESG and Human Rights](#).

## 2. Climate change risks and corporate accountability

*To what extent are corporations giving consideration to climate change risks associated with investments in the fossil fuel industry or greenhouse gas intensive industries?*

*What are investors and asset managers legal duties in relation to such climate change risks?*

*What role does the insurance sector play in helping address climate change risks?*

*How are corporations, including the insurance sector, disclosing and addressing such risks?*

*What board member liabilities are in place, and what jurisdictions do they apply to, with respect to climate change risks associated with investments in the fossil fuel industry or greenhouse gas intensive industries?*

*Do you have examples of litigation against corporations or their directors or board members for failure to report on climate change risks or failure to disclose investments in the fossil fuel industry or greenhouse gas intensive industries when legally required to do so?*

The PRI has recently published papers focused on the **role of policymakers in ensuring the transition to a sustainable and equitable economy that benefits natural and social systems**.<sup>1</sup> These papers highlight the crucial role of policy in ensuring that economic activities protect both the environment and the human rights of communities affected by the transition.

The economic transition should be a whole-of-economy and whole-of-government one. To this end, governments should take coordinated and integrated action across three levers: addressing economic externalities, incentivising markets for solutions, and enabling finance to support the transition.

To ensure the success of the transition, both public and private finance should be mobilised. Policymakers should provide policy certainty over the short, medium and long term, remove barriers

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<sup>1</sup> PRI (2023) [Investing for the economic transition: the case for a whole of government policy reform](#) and PRI (2023) [Adopting a strategic approach to human rights and social issues policy](#).

to private finance, remove perverse incentives, set up green development banks, and support the private sector with concessional finance, grants, guarantees and other risk-sharing instruments, long-term credit lines and investment guidelines.

Human rights and social issues should be at the base of policy interventions towards the transition, Evidence shows that the shift to a resilient, low-carbon economy will boost prosperity and be a net driver of job creation. This will however carry transitional challenges for workers, communities and countries as this shift takes place. Managed well, the transition to a net zero economy will not only help to reduce the immense human and economic costs of climate disruption, but it could also generate sustainable, inclusive growth, now and into the future, and lead to a greater number of jobs overall. However, these benefits will not happen automatically. Moreover, failing to deliver a just transition could slow or even stall climate progress, while contributing to economic stagnation and political instability.

With regards to **considerations of legal and fiduciary duties**, we invite the UN Special Rapporteur to consider the findings of the report [Fiduciary Duty in the 21<sup>st</sup> Century](#), published by the PRI, UNEP-FI and the Generation Foundation. The report describes how the integration of ESG issues into investment practice and decision making is an increasingly standard part of the regulatory and legal requirements for institutional investors, along with requirements to consider the sustainability-related preferences of their clients and beneficiaries, and to report on how these obligations have been implemented. It also identifies areas where further work is required and reflects on how investors' duties and obligations may further evolve over time.

The global sustainability goals identified in the report include those set out in international agreements such as the Paris Agreement, the UN Guiding Principles on Business and Human Rights (UNGPs), and the Sustainable Development Goals (SDGs).

The findings of this seminal report were further developed in the 2021 report [A Legal Framework for Impact](#), authored by Freshfields Bruckhaus Deringer and commissioned by the PRI, UNEP FI, and The Generation Foundation. This work identifies, across 11 jurisdictions,<sup>2</sup> that investors are generally permitted to consider pursuing sustainability impact goals where this would contribute to their financial return objectives.

The report highlights how investors sometimes need to address sustainability impacts in order to manage ESG risks and opportunities that affect financial returns for clients and beneficiaries – particularly when sustainability impacts cause system-level risks such as climate change and growing inequalities. However, this is often overlooked in mainstream investment practice.

While financial return is generally regarded as the primary purpose and goal of investors, investors are likely to have a legal obligation to consider pursuing sustainability impact goals, where doing so can contribute to achieving their investment objectives. Since systemic risks cannot be mitigated simply by diversifying portfolio holdings, investors should mitigate these risks in line with their fiduciary duties by taking action on sustainability outcomes as a way to directly address the drivers of these system-level risks and promote long-term value creation.

In this setting, investing for sustainability impact (IFSI) goes beyond ESG incorporation (which focuses on how investors manage the effect of ESG risks and opportunities on their portfolios) to

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<sup>2</sup> The jurisdictions analysed in this report were: Canada, United States, Brazil, United Kingdom, EU, France, Netherlands, South Africa, China, Australia, and Japan. Further in-depth analyses were carried out for [Japan](#), [Canada](#), [Australia](#), [UK](#), and [EU](#).

deliberately target sustainability outcomes in the real world. The concept is used in the report to describe any activities that involve an investor intentionally attempting (through investment decisions, stewardship or engagement with policy makers) to bring about assessable behavioural changes – among investee companies, policy makers or other third parties – that are aligned with positive sustainability outcomes.

To this end, we invite the Special Rapporteur to reference, in his report to the 56th Session of the Human Rights Council, the need for policy reforms in the following areas, as highlighted in the PRI's [Legal Framework for Impact: briefing for policymakers](#).

- Clarify investors' existing legal duties. To this end, policymakers should:
  - Update standards and guidance to clarify when investors' legal duties enable or require them to considering pursuing sustainability impact goals.
  - Update standards and guidance to clarify that purpose-related requirements (sometimes described as a duty to act in the “best interests” of clients or beneficiaries) may entail consideration of sustainability impact goals.
- Ensure sustainable finance policies facilitate investing for sustainability impact. This should be achieved through the following measures:
  - Adopt comprehensive corporate sustainability disclosure frameworks which meet the needs of investors seeking to understand material sustainability risks, opportunities and impacts.
  - Ensure that sustainability disclosure and labelling regulations address not only integration of ESG risks, but also how investment entities and products assess sustainability outcomes, set sustainability impact goals and take steps to contribute to positive sustainability impacts.
  - Create and implement sustainable taxonomies to help investors understand and promote economic activities that are environmentally and socially sustainable;
  - Strengthen regulatory support for effective and accountable stewardship, including for using stewardship powers to address sustainability risks and sustainability impacts.
  - Support collaborative action by investors seeking to improve sustainability outcomes. Provide regulatory guidance to ensure that sustainability-related collective action by investors does not fall foul of anti-trust rules, including considering establishing a safe harbour where required.
  - Explore ways to enable investors to take client and beneficiary sustainability preferences into account in their asset allocation and stewardship activities.
  - Establish corporate due diligence requirements to ensure that negative sustainability impacts are identified and addressed, ensuring coherence with international standards including the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.

## 5. UN Guiding Principles on Business and Human Rights

*To what extent are the UN Guiding Principles on Business and Human Rights being applied with respect to climate change?*

*Are these Guiding Principles effective with respect to climate change?*

*What other measures should be applied, if they are not effective?*

The PRI's work with its signatories shows that the UNGPs are seldom being applied with respect to climate change, with the main focus being on their application to human rights risks and impacts. However, there is movement towards further integrating human rights and climate consideration in due diligence requirements. For example, the updated version of the OECD Guidelines expanded on the already existing provisions on climate and the environment, and the OECD recently published a paper on [Managing Climate Risks and Impacts Through Due Diligence for Responsible Business Conduct](#).

*The PRI has experience of contributing to public policy on sustainable finance and responsible investment across multiple markets and stands ready to support the work of the Special Rapporteur further to ensure that human rights are considered in investment decisions.*

Please send any questions or comments to [policy@unpri.org](mailto:policy@unpri.org).

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