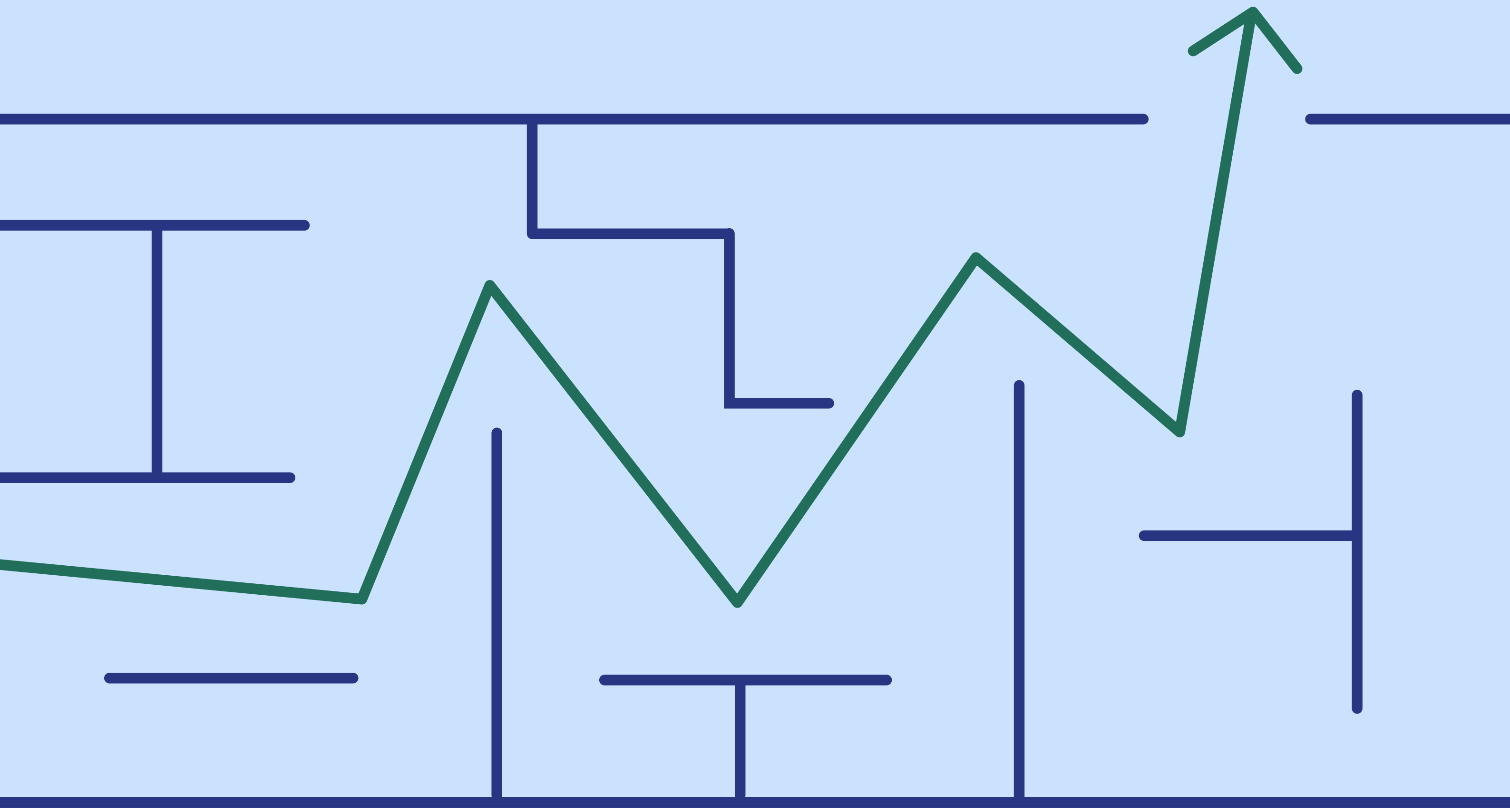
Developing

Best Practice Guidelines for Responsible Private Investments

in Sovereign Debt Instruments



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Part 1*

Sustainable Sovereign Debt Management

Authored by Dilmi Wijesekara

The COVID-19 pandemic, war on Ukraine and ensuing inflationary pressures has presented unique fiscal challenges for many developing countries. In fighting the current multiple crises, developing countries around the world have accumulated historic levels of sovereign debt from a variety of sources such as private lenders, the International Monetary Fund, multilateral development banks as well as from bilateral lenders[1]. Consequently, some developing countries that are amongst the most vulnerable to financial and climatic shocks are also facing a looming debt crisis[2]. Further, the World Bank (WB), the International Monetary Fund (IMF), the UN and others have stated that many developing countries will struggle to service their impending debt-related financial obligations[3]. As such, developing countries continue to be drained of resources in the absence of an appropriate institutional framework for public debt management and debt crisis resolution. Against this challenging backdrop, it is important to strengthen systems and processes that enhance responsible sovereign lending and borrowing to prevent further accumulation of unsustainable debt.

The 2015 Addis Ababa Action Agenda states that debtors and creditors must work together to prevent and resolve unsustainable debt situations and that the undersigning nations will work towards a global consensus on guidelines for debtor and creditor responsibilities in borrowing by and lending to sovereigns, building on existing initiatives[4]. In the 2021 UN General Assembly`s Second Committees annual resolution on external debt sustainability and development, the member countries resolved to work towards attainment of this goal[5]. In spite of these ambitions, little progress has been made in the past years. This report aims at bringing the conversation forward by proposing a synthesis of existing frameworks that could form the basis of such a global consensus, building on existing initiatives, but with a specific focus on the role of private investors in sovereign debt instruments.

*Part 1 of the report was first published in 2022

«The 2015 Addis Ababa Action Agenda states that debtors and creditors must work together»

Part one of this report synthesizes existing frameworks and makes recommendations on best practices based on this synthesis. The second part of the report discusses operationalization and implementation of the recommended best practice. The scope of the first part of the project is synthesizing existing frameworks and making recommendations on best practices based on this synthesis. The next report will discuss operationalization and implementation of the recommendations of this first part of the project.

While several initiatives have been enacted to advance good practices in sovereign lending and borrowing, robust implementation of such efforts have been lacking by both public and private lenders, as well as some sovereign borrowers. For instance, the UNCTAD Principles on Promoting Responsible Sovereign Lending and Borrowing and G20 Operational Guidelines for Sustainable Financing have seen limited implementation and systems for monitoring of compliance are weak. Additionally, public debt is governed by elusive legal rules and uncertain enforcement mechanisms. Creating a global consensus on principles for responsible sovereign lending and borrowing, and the subsequent operationalising of these principles, is essential in addressing debt vulnerabilities in developing countries and in ensuring responsible lending to sovereigns more broadly. The lack of clear, predictable and enforceable standards play a major role in the accumulation of unsustainable sovereign debt.

Assessing Existing Frameworks

The lack of an appropriate framework for securing responsible lending to sovereigns by private investors is what motivates this report. The aim is, therefore, to develop a concrete and detailed best practice guide for responsible sovereign lending practices for private creditors. Towards this end, the report apprises the quality of existing guidelines to identify gaps in current responsible debt management standards. We have chosen to consider the most influential standard-setting frameworks, including, but not limited to, the UNCTAD Principles on Promoting Responsible Sovereign Lending and Borrowing, the G20 Operational Guidelines, the joint IMF & World Bank Debt Sustainability Framework (the IMF/World Bank DSF) and the UN-supported Principles for Responsible Investment (UN PRI). These frameworks provide all sovereign debt actors with practical ways to protect the integrity of sovereign lending and borrowing practices. As such, this report will benchmark these frameworks against a selection of principles – which are further expanded on below – that will promote responsible investment practices. The benefits of benchmarking and developing best practices include improved public debt management practices, higher performance targets, increased accountability of private creditors and strengthening of our approach towards preventing and addressing debt vulnerabilities in emerging markets. While principles for responsible investment in sovereign debt instruments are not legally binding, they help in establishing a broadly recognised consensus around standards on responsible conduct.

The structure of this first part of the report is as follows: The first section introduces our best practice principles, which have been developed using a variety of sources, including recommendations from industry experts and industry-specific publications. Having assessed the strengths and weaknesses of existing frameworks, the second section provides a broad summary of our findings. The third section focuses on our recommendations for a best practice guideline for private investments in sovereign debt instruments.

Criteria for Assessment of Existing Frameworks

Aimed at Ensuring Responsible Sovereign Lending and Borrowing or Private Investments in Sovereign Debt Instruments

Common goals

1. PURPOSE

Is there a strong sense of aspirational purpose in the guideline to promote responsible investment in public debt?

An effective guideline sets the stage by clearly communicating the intentions of the framer and the underlying motivations of the document. Purpose and aim are important factors to consider given that it reflects the values and priorities of the guideline.

2. ACTORS AND AGENCY

Which actors does the guideline address?

The guideline should clearly identify which actors it addresses due to the complex nature of parties involved in sovereign debt transactions. In doing so, it contributes to better understanding of roles, rights, obligations, and responsibilities of all stakeholders in the sovereign lending process.

3. DESIGN

Was the guideline designed in cooperation with a variety of stakeholders?

The design process of the guideline provides relevant information on the interplay between various sovereign debt actors. Additionally, design standards influence decisions concerning the approach to framing solutions to public debt challenges. It is important to make effective use of consultation with all stakeholders to ensure non-biased standards. Further, it is important to consider whether the guideline takes into consideration international indicators and standards for assessing social and sustainability issues related to public debt.

4. APPLICABILITY

Which type of transactions does the guideline apply to?

Given that public institutions will employ various financial instruments to raise funds for development objectives, the guideline should specify which types of financing it addresses. It should also contain criteria for explicit information on the purpose of issued funds (e.g., purchase of government bonds or financing of a specific project). This will help ensure that hidden liabilities and debt owed to private creditors is sufficiently accounted for in assessing the debt sustainability of a country.

5. IMPLEMENTATION

What is the form of implementation?

The form of implementation is an important indicator to better anticipate application and interpretation of recommendations in the guideline. Form of implementation determines whether an institution can enforce or incentivise compliance with the guideline. Consequently, it can ultimately decide the outcome and/or effectiveness of the guideline.

6. FAIR BURDEN SHARING

To what extent does the guideline emphasise the need for fair risk-sharing and shared accountability among all parties regarding responsible lending and borrowing?

There should be information regarding the allocation of fair burden and risk sharing in the guideline to align responsibilities and goals of all sovereign debt actors, including, but not limited to, creditors, debtors, intermediaries, and credit rating agencies. It should also include criteria related to excessive accumulation of risk and risk-shifting behaviour. In this way, the guideline may contribute to eliminating moral hazard and free rider issues on part of all relevant actors during a debt contracting and restructuring process. It is important to note how failure to reduce such incentives, and thereby possibly lending beyond a borrower's reasonable capacity to repay, not only risks a default on the loan in question, but also adversely affects the position of all other previous creditors of that sovereign debtor.

7. COMPLIANCE WITH INTERNATIONAL LAW AND STANDARDS

Does the guideline promote compliance with international agreements and obligations relating to human rights, corruption, political and civil rights, etc (e.g., United Nations Security Council Consolidated List)? Does it consider international indicators for assessing poverty reduction, sustainable development, and institutional governance such as the Sustainable Development Goal indicators?

A guideline should endorse compliance with broader international laws and standards to benchmark debt transactions against international standards and indicators to preserve effective governance and ethical integrity of its mandate. Endorsing other well-regarded agreements and conventions also promotes a consistent approach to responsible investment.

8. SANCTIONS

What sanctions or consequences, if any, follow from non-compliance with the guideline, on the part of the creditor?

The guideline should recommend enforcement of repercussive or remedial measures for non-compliance. Violation of responsible standards relating to investment in public debt is governed by elusive and uncertain legal and enforcement mechanisms. As such, penalties and sanctions for non-compliance provide a strong incentive to meet debt sustainability assessment or evaluation requirements.

9. DEBT SUSTAINABILITY

Does the guideline stipulate requirements for sustainable lending by the creditor, and if so, what are they?

A guideline should clearly articulate the definitions of debt sustainability risk categories and the indicators that are considered. The definition is an important point of reference to understand the guideline's approach to resolving debt sustainability matters. It is important to have a broader definition of debt sustainability that takes into consideration human and social indicators beyond traditional macroeconomic parameters for debt management.

Criteria for Assessment of Existing Frameworks

10. TRANSPARENCY

Does the guideline stipulate requirements for publicly accessible shared information regarding the creditor's internal compliance and due diligence procedures and the results of these assessments?

To ensure responsible financing and debt management, the guideline should require creditors to disclose information pertaining to their internal control systems for evaluating a financing contract and the results of such assessments. In this way, the public can hold creditors accountable for potentially issuing unsustainable and/or irresponsible debt to a sovereign debtor. The information requirements should include terms of agreement, debt sustainability assessments, availability of information regarding the lending process, penalties and/or project cycle.

11. DOCUMENTATION

Does the guideline require public disclosure of relevant terms of loan or investment agreements, and does it stipulate requirements to monitor and disclose information on subcontractors receiving funds?

The guideline should stipulate public disclosure and documentation requirements to ensure transparency, accountability, and integrity of financing agreements, as well as to receive public comments on debt matters. Documentation is vital for creditors and rating agencies to assess sovereign creditworthiness, accurately price debt instruments, to avoid corruption and ensuring public accountability more generally. The guideline should stipulate documentation requirements that include all terms of agreement and information on transactions related to associated parties receiving funds to allow oversight in public borrowings.

Investment principles and guidelines for the lender/ Requirements for the lender

12. DUE DILIGENCE

Does the guideline provide due diligence standards for the creditor, and if so, what does the due diligence assessment entail?

For creditors, a due diligence investigation is essential to assess financial, legal, social, and operational risks associated with public debt transactions, and to make responsible credit decisions. Concrete due diligence standards are instrumental to accurately evaluate the debtor's financial standing and to reduce the potential for defaults. A comprehensive due diligence investigation should also consider whether the debtor is acting in the public interest.

13. DUE AUTHORIZATION

Is the creditor responsible for ensuring that the debtor has necessary authorizations for uptake of loans or has obtained due authorization from appropriate authorities?

The guideline should ensure that the debt transaction is made on sound legal and empirical basis that serve the public interest through necessary authorizations from appropriate authorities. Further, the guideline should also address due authorization requirements to guarantee that loan contracts are enforceable under relevant primary jurisdictions in the international financial markets. Illegitimate and/or irresponsible debt incurred by public institutions should not become a citizenry burden.

14. MONITORING

In relation to project loans, does the guideline have post-disbursement reviewing and assessment requirements with regards to the debtor's credit position and project impact, including civil, social, environmental, financial and operational implications?

Due to frequent changing circumstances of development and debt in low-income countries, a guideline should enforce requirements for periodic review of circumstances to ensure the efficacy of underlying assumptions, including debt sustainability indicators and whether investment objectives are met.

15. GOOD FAITH

Is the lender required to exercise cooperation in good faith in restructuring negotiations and does the guideline emphasise fair burden sharing amongst all relevant parties?

It is important that the guideline requires all stakeholders to behave fairly, justly, and reasonably toward each other to discourage perverse incentives. The power imbalance between sovereign debt actors in low-income countries and creditors necessitates that the latter act in good faith during debt negotiations to avoid protracted negotiations and holdout problems during debt restructurings. A responsible guideline should also require the inclusion of CACs in debt contracts.

Summary of Findings

«Many principles in current guidelines remain too vague to implement into practice»

Despite the fundamental importance of an inclusive framework to encourage responsible conduct in relation to sovereign financing, there are presently no widely adopted international standards that are unanimously endorsed by all sovereign debt actors. Further, having assessed the strengths and weaknesses of existing frameworks related to responsible investments in sovereign debt instruments, there are some recurring themes that should be addressed to pave the way for a well-executed path of action for responsible lending and borrowing. To this end, the following section provides a summary of strengths and weaknesses related to current frameworks.

The Problem of Debt Sustainability Definition

A recurring criticism of existing standards and best practices related to sovereign debt management is the way in which debt sustainability is defined. Existing frameworks primarily fall short in two ways, firstly, the definition of debt sustainability is often defined in obscure and non-transparent terms. Secondly, debt sustainability is frequently equated to public sector solvency[6].

In the IMF/World Bank DSF, debt sustainability is mainly explained in terms of the debtor's repayment capacity. This definition does however not address concerns pertaining to how debt servicing costs can undermine a sovereign's ability to meet welfare needs of its population. The necessary fiscal space for public investment in Sustainable Development Goals (SDGs) and other domestic infrastructure development across differing circumstances in the global financial market needs to be taken into account when defining debt sustainability. An inclusive definition of debt sustainability should, therefore, consider metrics such as human development, financing needs to comply with international obligations in relation to human rights and other international commitments (ie Paris Agreement on Climate Change, Agenda 2030 on SDGs or Beijing Action Plan on gender equality) and debt service to fiscal revenue.

By way of addressing the issue of obscure and non-transparent parameters for assessment of debt related risks, our findings suggest that many existing guidelines do not disclose their internal control parameters for sustainable debt. This begs the question as to what some investors consider sustainable. This issue is highlighted by civil society organisations who state that without having this definition subjected to public commentary, sovereign debt investors are free to lend into potentially unsustainable situations. Moreover, some guidelines adhere to debt sustainability standards set by the IMF/World Bank DSF. This subsequently leads them to inherit the flaws of the IMF/World Bank DSF, which has also been criticised for limited disclosure of its debt burden thresholds[7]. Debt risk definitions and categories should, therefore, be publicly disclosed in the interest of public accountability. Additionally, publicly disclosing risk definitions and categories could allow for more reliable and predictable levels of funding according to internationally agreed standards of debt.

Lack of Concrete Standards

The lack of concrete standards for operationalising existing guidelines has persisted as a gap in the sovereign borrowing and lending space. Many principles in current guidelines remain too vague to implement into practice. This overarching deficiency is compromising the possibility of implementing concrete international standards and the feasibility of enforcing existing standards and best practices. As discussed above, this lack of explicit benchmarks in guidelines also compromises our ability to understand the defining parameters of debt sustainability in many existing frameworks. Thus, a more enforceable sovereign lending process requires the formulation of concrete international standards for a variety of contexts and situations. Rather than stating vague principles with opaque paths of implementation, a focused and detailed guideline would enable more robust implementation of responsible sovereign lending practices. Assuming that a core characteristic of a best practice framework is to prevent and avoid

Summary of Findings

«Comprehensive information should be provided for public inspection»

negative outcomes, explicit standards could encourage stakeholders to remain compliant preemptively rather than pushing the boundaries to discern legitimate behaviour in relation to sovereign lending. That is, standards that contain actionable objectives clearly outline recommended conduct by debtors and creditors. Deviations or misconduct under these standards by any stakeholder is clearly identified, and is in turn, more easily held accountable for wrongful actions. From a practical standpoint, adopting more concrete standards, therefore, ensures that best practices are not only straightforward to implement and enforceable, but that misconduct and non-compliance is accountable. While lacking concreteness is a repeated issue throughout all the frameworks analysed in this report, the following section discusses the most notable instances of limitations to the existing frameworks.

Transparency

While various existing frameworks recognise that transparency is an important prerequisite to achieve debt sustainability and responsible sovereign lending, few concrete steps have been taken to enforce this principle. One key area of focus in the discussion on transparency standards is the incorporation and operationalisation of the Institute of International Finance (IIF)'s Voluntary Principles for Debt Transparency, which include, amongst others, criteria for good governance, sound risk management practices, ethical conduct, fiscal discipline and transparency[8]. Ensuring compliance with these principles would be a first step in improving the opaque nature of transparency requirements in many existing frameworks. Although many sovereign finance stakeholders, including the OECD, the IMF/World Bank and the G20, have endorsed the IIF's Principles for Debt Transparency, steps to enforce the detailed scope of disclosure recommendations by the IIF are lacking. Current debt transparency initiatives should ideally find it`s form in a public registry with binding disclosure of information[9]. A possible binding disclosure of the IIF Debt Transparency requirements would entail a strengthening of transparency related aspects of responsible sovereign lending practices, but would not alone suffice as an overall strengthening of responsible lending to sovereigns by private investors seeing as the scope of the principles is not sufficiently comprehensive.

Document Disclosure

Commonly used frameworks also advocate for enhanced documentation disclosure; albeit, many of them have failed to provide concrete standards for what kind of and when information should be made public. In the interest of public accountability, to ensure that the purpose, goals and objectives of sovereign financing is clear; processes and negotiations are transparent and timely, comprehensive information should be provided for public inspection. Thus, key documents should be easily accessible to the public, including, but not limited to budgets, impact assessments, performance reports, contractual terms of loans and accounting standards. For instance, Afrodad's Borrowing Charter and Eurodad's Responsible Finance Charter have codified clear disclosure standards for the sovereign loan contracting process, which includes detailed accounts of all debt transactions and suggestions for an improved legal framework to tackle debt management practices. These standards have designed and suggested accessible means to facilitate transparency in sovereign lending. Thus, other international standards should follow similar recommendations, and formulate concrete criteria for improved information sharing by all parties to a sovereign loan. The guidelines should also encourage dialogue with parliamentarians, field experts, civil society, and other interest groups to improve information openness.

Due Diligence and Due Authorization

Much like vague transparency standards, many commonly used frameworks also exhibit similar shortcomings in relation to due diligence and due authorization standards. Instances such as unsustainable lending to Argentina and Mozambique's debt crisis since 2016 exemplify the need to undertake due diligence against concrete standards in order to review risks associated with investment in sovereign debt instruments. While echoing international consensus on the need for such criteria, many existing guidelines remain vague on due diligence and authorization responsibilities for public and private creditors, even though they include avoidance of unsustainable debts. However, some of the frameworks do not include clear guidance on what standards to conduct its due diligence against. Again, an effective guideline should include specific and robust due diligence provisions for all parties to a sovereign debt transaction. Moreover, creditors should also be required to frequently report on their due diligence activities with records including, amongst others, relevant contractual terms, beneficial owners of partner companies, ESG-risks[10], country risks, etc. If any risks or potential adverse impacts have been identified in relation to the investment, the guideline should also require creditors to publicly disclose their mitigation strategy. Norfund's Operating Principles for Impact Management provide some concrete codes of conduct for due diligence procedures that can be replicated and improved upon more broadly in other guidelines[11]. Another aspect that is inadequately addressed in many frameworks are standards to ensure that the investment object is a legitimate contracting party and that the financing is used for legitimate purposes – the latter being a particularly important due diligence requisite for debt financed projects. For public accountability, it should be possible to substantiate that lending supports a borrowing country's economic and social progress.

«The guidelines should also seek to include concrete safeguards»

Good Faith and Fair Burden Sharing

Many of the commonly used frameworks fall short in terms of outlining responsibilities of private investors in contributing to fair burden sharing and acting in good faith. While many of them briefly discuss the importance of cooperation, few of the well-regarded frameworks, particularly the IMF/World Bank DSF, provision creditors to act in good faith during debt restructuring episodes. Moreover, in many existing frameworks, the contents of a good faith obligation is vague. As previously discussed, the power asymmetries between creditors and debtors in developing countries necessitates that the former fulfil and implement their contractual responsibilities equitably and in good faith. To this end, explicit standards contained in the guideline should aid in creditor coordination, impartiality and protecting the interests of all parties when engaging in debt restructurings. Further, clear details on preferred norms of behaviour in the guideline allows for accountability in cases of creditor misconduct, such as abusive hold-out behaviour. The guidelines should also seek to include concrete safeguards and measures in ways that strengthen shared responsibility and accountability.

Recommendations for Best Practice Principles

for Ensuring Responsible Private Investments in Sovereign Debt Instruments

The table below provides a recommendation for best practice principles for responsible sovereign lending and investments in sovereign debt instruments. These recommended principles are compounded from the strengths of several prominent frameworks (see Appendix) and addresses some of the latter's weaknesses. It is important to note that this guideline is primarily aimed at creditors. The scope of the recommendations are limited to the realm of what creditors could reasonably be expected to have influence over. The scope of this due diligence is therefore focused on the private investors obligation to act in a responsible manner. This means that the aim is primarily to ensure the responsible and ethical conduct of the private inverstor, in the hopes that this will contribute positively to a country`s debt sustainability. The recommended best practice does not aim at influencing aspects of the borrowing process that is and should be the sovereign borrowers sole responsibility with regards to responsible borrowing practices. Where this line should be drawn is not self-evident, but when implementing these recommendations identifying this balance is vital. Moreover, while the principles of this guideline are intended to cover the majority of investments in sovereign debt instruments in both the primary and secondary market, these differences should be addressed in more detail during later research.

Table 1: Recommended Best Practice Principles

Principle(s)	Feature	Analysis
Purpose	The guideline should clearly and unambiguously formulate its purpose and aim to its users.	To make clear the purpose and aim of the guideline, it should clearly and comprehensively state its commitment to responsible sovereign investment practices. The guideline should communicate the parties adopting the guideline, why it is being adopted, and what is being adopted. The purpose statement in the guideline should also reflect the specific topic it intends to address.
Actors and Agency	The guideline should contain a detailed description of which actors it addresses.	The guideline should clearly delineate which actors it is concerned with to ensure the proper allocation of roles and responsibilities. If relevant, this includes subcontractors and other third parties receiving funds.
Design	The guideline should be designed in a participatory manner through consultation with a broad variety of creditors, debtors, field experts, international organisations and other relevant stakeholders in order to secure process legitimacy.	A central tenet of an effective guideline should be inclusive design with respect to all stakeholders. It should be developed independently of any stakeholder's personal interests or preferences. To this end, the guideline should be designed through a participatory approach, and should also include joint problem-solving mechanisms. In this way, various grievances are addressed, ensuring that the guideline objectives are met. All consulted parties should be disclosed in the guideline.
Applicability	The guideline should clearly communicate the nature of transactions it addresses.	Given the diversity of the current debt landscape, which goes beyond public external debt, the guideline should concretely tackle the issue of applicability to operationalise the best practice principles. This is because there is a need to apply different guidelines in accordance with the type of financial instruments, such as general government bonds and project finance.

Principle(s)	Feature	Analysis
Implementation	The creditor should state explicit obligation to adhere by the principles of the guideline.	The guideline should include strong incentive structures to ensure enforcement of the guideline.
Fair Burden Sharing	The guideline should formulate concrete criteria for fair burden sharing amongst all stakeholders.	The guideline should include criteria that are designed to guarantee fair burden sharing. To this end, the guideline should strongly support the inclusion of last generation CACs in all debt and project contracts. It should also recommend retroactive implementation of CACs in sovereign debt contracts and, where applicable, state contingent clauses. Due to the varying capabilities of sovereign actors, the guideline needs to explicitly advocate for fair burden sharing amongst all stakeholders to deter moral hazard and free rider behaviour. Further, the criteria should address excessive accumulation of risk and risk-shifting behaviour.
Compliance with International Law and Standards	The guideline should require compliance with international standards, legislation and regulations with respect to human rights, UN sanctions, transparency, terrorism, bribery, corruption, etc.	The guideline should require compliance with the UN Human Rights Declaration, ESC Rights Pact, the UNCTAD PPRSLB, UN PRI, Agenda 2030 for Sustainable Development and the IIF's Voluntary Principles for Debt Transparency.
Sanctions	Ramifications for violation of the guideline or remedial mechanisms should be explicitly stated in the guideline.	The guideline should include sanction mechanisms for non-compliant actors. These sanctions should reflect the capabilities of the various actors.
Debt Sustainability	The guideline ought to state an explicit definition of debt sustainability risk categories under which the guideline operates. These parameters should be publicly disclosed. These definitions should also include clear requirements with respect to human development and citizens' welfare.	This is particularly important to understand under which debt sustainability assumptions the creditors are operating. Creditors should also be required to conduct regular debt sustainability assessments throughout the project cycle.

Recommendation for Best Practice Principle

Principle(s)	Feature	Analysis
Due Diligence	The guideline should explicitly communicate due diligence standards for its users.	All sovereign debt actors should be required to implement robust due diligence practices, such as conducting environmental and human rights impact assessments as well as free, prior and informed consent from local and indignous communities in the case of project loans, in accordance with field relevant international standards. Creditors should also be required to disclose their due diligence procedures publicly.
Due Authorization	The guideline should direct all creditors to ensure that the contracting party is duly authorized to enter into the contract.	The contracting party should have necessary authorizations from relevant public bodies to enter into the credit agreement in the relevant jurisdiction. The debt should be considered illegal and unenforceable if provisioned in breach of this principle.
Monitoring	Regarding project financing, creditors should monitor and document the implementation and use of funds in the investment project, along with regular performance assessments.	Such reviews should take place regularly and be easily accessible for public scrutiny. We note that this does not pertain to sovereign bonds and loans.
Transparency and Documentation	The guideline should stipulate clear debt transparency requirements, including public disclosure of terms and conditions of loan contracts, contracting parties, monitoring assessments, etc.	The guideline should not only promote debt transparency, but transparency requirements should be improved on both the debtor and creditor sides. Beyond broad statements on transparency, the guideline should explicitly state transparency requirements and standards to ensure concrete transparency objectives. To enhance transparency, the guideline should also implement requirements for how soon after entering a contract the information should be publicly available.
Good faith	The guideline should hold creditors to standards of honesty, fairness, and good faith, particularly during debt negotiations and restructurings.	All creditors should be required to act in good faith and in a cooperative manner during the entirety of the debt cycle. The good faith principle should be formulated in such a way that it deters opportunistic behaviour, especially in the case of aiding and abetting corruption.

Part 2

Operationalizing Best Practice Guidelines: Building from what we got

Authored by Amalie Ramslien Næss

Putting principles into practice can be complicated, but it is not impossible. The expanding field of Environmental, Social and Governance (ESG) investing in sovereign debt shows an interest in looking beyond traditional investment objectives, and a growing recognition of institutional investors' social responsibility. As interest grows, the lack of practical tools has become increasingly clear. This part two report picks up where the first left off: How can we translate principles for responsible lending into operational guidelines?

We focus on what the first part of the report identified as the main weaknesses of existing frameworks, namely debt sustainability definitions and methodologies, standards for due diligence and due authorization, transparency and document disclosure, and good faith and fair burden sharing. In addition, we look at compliance with international law and standards, and how private lenders can incorporate human rights considerations systematically in their investment decisions.

While the first part addressed the broad range of debt instruments, this one focuses on sovereign bonds as it can be understood as the "least common denominator". The realm of what creditors can reasonably be expected to have influence over is the most limited when it comes to such investments. Narrowing down the focus allowed for greater specificity, yet thinking through how the principles apply to bonds let us also say something more general as it addresses a set of core questions every investor should answer.

The sections on linking human rights with sovereign bonds and due diligence stands in conversation with the UN Principles for Responsible Investments' (PRI) recent work. In particular, the report *Human Rights and Sovereign Debt: Role of Investors* (Nuzzo & Cox, 2022). Previous research on the linkages between human rights, private investors and practical solutions is sparse. The report's systematisation of the due diligence process has been particularly helpful in writing this report, and helped structure our thinking about the process' different steps and stages.

TRANSLATING INTENT TO ACTION

The focus of part two is how principles for responsible lending can be applied and put to use. As a point of departure, there is a lack of previous research to build on. Most existing guidelines, such as the UNCTAD principles, only go so far as outlining what should be done. In other words, they create check-lists without much practical guidance. This lack of agreement on methodologies and adequate tools should shift the focus from *what* gets done to *how* it gets done. It underscores the need to develop solutions, and to that end, a need both for flexibility and transparency – the latter to support and ensure accountability.

Putting guidelines into practice – translating intent to action – begins with clarifying what you want to achieve. This report focuses on compliance with international human rights law and the Agenda 2030 for Sustainable Development. It aims to show how investors can contribute positively to a country's debt sustainability through the adoption of ethical guidelines.

Legal experts have shown that debt sustainability goes beyond mere economic considerations to encompass social and environmental dimensions as well. [12] As Guzman (2018) writes, a sovereign's capacity to repay its debts is intrinsically related to its capacity to achieve primary fiscal surpluses, but the entire stream of future revenues cannot be used for debt service. Part of it must be used on government spending. Recognizing this should prompt investors to consider a broader range of factors when assessing a sovereign's ability to repay. Relying on financial credit ratings alone is not enough.

LINKING SOVEREIGN LENDING TO HUMAN RIGHTS

There are barriers to engaging with human rights in sovereign lending, but also challenges that may arise from avoiding it.[13] First, there is a growing focus on the linkages between finance and human rights.[14] It is increasingly recognized that being one-step removed from activity "on the ground" does not excuse institutional investors from meaningful engagement with their human rights responsibilities. Being at the forefront with developing robust systems for due diligence can decrease possible future risks linked to non-compliance with regulations. Second, respecting human rights is key to creating an environment where both people and business thrive. Today, more and more investors are incorporating human rights considerations into their investment frameworks.[15]

The UN Guiding Principles on Business and Human Rights (UNGPs) helped clarify the links between business and human rights. Although the principles did not explicitly address the role of investors involved in sovereign lending, they offer guidance to investments in sovereign bonds. In *Human Rights and Sovereign Debt*, the UN PRI argue that institutional investors can draw on the UNGPs and meet their responsibility to respect human rights by:

1. Publishing a policy commitment;
2. Implementing a due diligence process; and
3. Enabling or providing access to remedy.

They suggest that a commitment to respect human rights can be operationalized by establishing rules that limit the investable universe to certain countries or regions. To support robust implementation, they emphasise that policy commitments should be adopted at the most senior level, embedded with proper resources throughout the organisation, integrated in governance frameworks and management systems, and used to inform investment decisions and engagement. Changing a system begins by changing its purpose.

The abovementioned actions that the UNGPs emphasise are consistent with the recommendations of the UN Guiding Principles on Foreign Debt and Human Rights (2011). Although the latter principles have not achieved the same recognition as the UNGPs, they are relevant as they attend specifically to how human rights standards pertain to problems that arise from the external indebtedness of states. Expanding on private lenders' duty to respect human rights, they emphasise the need to:

- Conduct due diligence on creditworthiness, corruption/mismanagement risks and debt sustainability;

Operationalizing Best Practice Guidelines: Building from what we got

«Debt sustainability is a contested concept.»

- Conduct human rights impact assessments in cases of specific project financing; and
- Establish legal and institutional frameworks for transparency and accountability.

Debt sustainability is a contested concept. The principles provide clarification on their understanding by stating that "all lenders should conduct due diligence to ensure that the proposed loan will not increase the Borrower State's external debt stock to an unsustainable level that will make debt repayment difficult and impede the creation of conditions for the realization of human rights".[16] Here, an assessment of a country's debt sustainability is about substantiating whether the proposed loan will compromise the governments' fiscal space for fulfilling basic rights.

DEFINING THE SCOPE OF DUE DILIGENCE

Building on the UNGPs and the UN Guiding Principles on Foreign Debt and Human Rights, due diligence should be conducted along the following three dimensions:

- Creditworthiness
- Social, environmental and other non-financial issues
- Political institutions

The first two dimensions operationalize a holistic understanding of countries' ability to repay, while the third encompasses corruption risks/economic mismanagement. For a similar example, see box 1 on the risk management system of the Norwegian Government Pension Fund Global (GPFG). Additionally, due diligence should be conducted with regards to how the debt came to be – covering issues such as due authorization, informed decisions, and free, prior and informed consent (FPIC).[17] These issues pertain to the legitimacy of the debt instrument.

Regarding due authorization, it is the responsibility of lenders to determine to the best of their ability whether the instrument has been appropriately authorised, and if the resulting credit agreements are valid and enforceable. In practical terms, what constitutes due authorization should take into account the legislation of all relevant jurisdictions, including that of the borrowing country. The African Forum and Network on Debt and Development (Afrodad) has developed a framework for governments to ensure due authorization. It can be used to inform the data collection on the part of private investors.[18] In sum, they emphasise the need for parliamentary approval and constitutionalism in order to protect the public interest.

BOX 1. RISK MANAGEMENT AT THE NORWEGIAN GOVERNMENT PENSION FUND GLOBAL (GPFG)

Norges Bank Investment Management (NBIM), tasked with the management of the GPFG, assesses risks related to sovereign bond investments along three dimensions:

- **Stability** - assessment of political stability, risk of war/terrorism, abuse and misuse of public authority, the rule of law, and protection of private property rights.
- **Sustainability** – assessment of environmental, social and governance factors, such as exposure to climate change, emissions intensity, water and waste management, protection of natural resources, biodiversity, living standards, labour rights and social standards, corporate governance and corruption risks
- **Serviceability** – assessment of the issuer's expected ability to service its debt, and government finances' resilience to financial crises.

The establishment of this system came after years of advocacy work by Debt Justice Norway and other Norwegian civil society organisations. It is similar to the recommended due diligence process of this report, but differs in some notable ways. For example, we recommend that corruption risks are placed together with political institutions and not 'sustainability' because of how they are measured and weighed. Factors on the first should all constitute individual reasons for not investing; e.g. the risk of corruption is either too high or not. It should not be weighed against rule of law. The interrelatedness of factors on the sustainability dimension and the lack of a single objective may make it more suitable to assess the scores taken together.

For more details on NBIM's system, see the page on their website *Approval of financial instruments, markets and bond issuers.*

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In *Human Rights and Sovereign Debt*, the UN PRI writes that the due diligence process has three main parts: (i) data collection; (ii) investment decision; and (iii) engagement. The next three sections of this report cover the first two, as we agree that they are part of any due diligence process. How the latter fits in the context of sovereign lending is less clear, and may depend on the nature of the bond, as well as the investor. How engagement – integral to responsible investments at large – can be operationalized is as much a political question as a technical one.

Drawing on a familiar and recognized framework such as the UNGPs to operationalize guidelines can be a fruitful strategy, but raises some fundamental questions about the difference in roles[19]. Investing in a sovereign bond does not result in the investor becoming an owner. As Nuzzo and Georgieva (2020) argues, engagement with sovereigns is particularly challenging as it can be interpreted as lobbying or attempts to interfere with the government's policy options. Concepts such as "active ownership" or "stewardship" – common in equity investing – do not translate well to sovereign bonds.

While it is correct that engagement can play a role in due diligence as it can assist research efforts and inform investment decisions, this should only happen as long as it builds on explicit recognition of country ownership of development strategies and policies. The UN guiding principles on foreign debt and human rights argue that creditors and international financial institutions "must not take advantage of an economic, financial or external debt-related crisis as an opportunity to push for structural reforms in debtor States, however useful such reforms might be perceived to be in the long term".[20] This holds for private investors and sovereign bond investments as well.

INDICATORS

Choosing which indicators to use is of critical importance as they frame what you are able to see and not. Indicators are devices that answer questions: They provide specific information on the state or condition of something. Rather than deciding on specific indicators, this section identifies questions that investors should answer as part of their due diligence process. By doing so, it allows for flexibility while remaining clear on the investors' responsibilities.

Assessing ability to repay

Currently, there exists no agency or institution that provides holistic debt sustainability assessments that incorporate a broad set of considerations. This contributes to a systematic neglect of both states and lenders' duty to respect human rights – which should constitute a building block of these assessments. The large body of work that calls for an alternative approach has yet to result in an operationalized framework that could replace the one underlying the debt sustainability analyses (DSAs) of the International Monetary Fund (IMF) and World Bank, see box 2. Following this, we argue that ability to repay should be broken down into two separate assessments: (1) "creditworthiness" and (2) potential impact on social, environmental and other non-financial issues. At a minimum, the latter should capture whether the added debt can compromise the sovereign's ability to fulfil basic rights.

Creditworthiness is a malleable concept. It is here understood in narrow economistic terms, in line with the common practice of assessing a sovereign's ability to repay its debt in terms of its ability to withstand economic shocks or financial stress.

Regarding social, environmental and other non-financial issues, lenders should seek to answer the following questions:

- Does the financial agreement under consideration add to the sovereign debt burden in a way that makes cuts to core social spending likely?
- Will the financial agreement be used in ways that strengthen the ability of a government to increase social spending in the future, or support its effort towards SDG achievements?
- Does the financial agreement directly or indirectly increase the capacity for, or likelihood of, human rights violations or state oppression of political opposition?

The list is not meant to be exhaustive. Furthermore, these are questions that should be answered in relation to all sovereign debt instruments. For instruments other than bonds, such as project financing or export credit arrangements, a broader set of questions are likely relevant, as the realm of issues that the creditor could reasonably be expected to have influence over is larger.

Some may argue that the difficulty of measuring impact of specific bonds is a barrier to asking questions such as these. Although it calls into question the possibility of impact investment, in its traditional sense, it does not preclude a more "limited" do-no-harm approach. Here, do-no-harm refers to the approach of identifying the likelihood of contributing to certain outcomes, and seeking to avoid investments that likely will deter the debt sustainability of a country or contribute towards human rights violations that are known and identifiable.

«Research has shown that when a country's external debt payments exceed 15% of government revenue, it tends to lead to a decline in government spending»

In a paper on how banks can operationalize free, prior and informed consent (FPIC), Oxfam International makes an argument that is relevant and helpful to our argument here.[21] They write that operationalizing FPIC will be a process of continuous learning,

> "[where] banks will refine and build tools as they push forward, and even banks that work hard to apply FPIC may not get it right at first. However, all too often, banks systematically fail to take even the most basic steps to avoid contributing to land-related human rights abuses – this points to problems that are *not due to the complexity* of FPIC, but a fundamental lack of commitment to uphold its most basic tenants".

They identify a set of "red lines", which if not met throw into doubt the banks' sincerity. Among these are acting on community concerns, acting on readily identifiable issues and withholding finance from projects and companies that are at high likelihood of committing or being complicit in human rights abuses. The main point is that while there exists legitimate questions regarding how to operationalize the principle, these are not insurmountable in terms of taking meaningful action on the commitment to respect FPIC – or in this case, human rights more broadly. In short, even without the tools to determine the precise impact of a given bond, it is possible today to consider the human rights situation of a country and whether you want to fund it or not.

An example is warranted. Most of the abovementioned questions can be interpreted either as exclusion criteria or guidelines for positive screening when building an investable universe. For instance, the question on whether it will make cuts in social spending more likely: We know that the current debt architecture creates incentives for states to continue repayment even as it means cuts to necessary public spending. Research has shown that when a country's external debt payments exceed 15% of government revenue, it tends to lead to a decline in government spending.[22] The ratio of external debt payments to government revenue can therefore be used as an initial screening, excluding those who exceed 15%.

BOX 2. ALTERNATIVE DEBT SUSTAINABILITY METHODOLOGIES

The International Monetary Fund (IMF) and World Bank's debt sustainability frameworks guide not only their own lending practices but signal to other lenders the expected ability to repay of borrowing countries. It has therefore been a key focal point for academics and civil society groups for years. Both the framework for low-income countries and the one for market-access countries have been updated several times, yet sovereign debt sustainability is still defined in narrow economic terms; namely as the ability to withstand economic crises or financial stress.

The IMF's new framework, T*he Sovereign Risk and Debt Sustainability Framework for Market Access Countries* (SRDSF), illustrates this point. The SRDSF was adopted in 2022, and is the new analytical approach for conducting analyses of the risk of sovereign debt-related stress and public debt sustainability for the 120 members who are not eligible to borrow from their lower interest fund (by the IMF called "market access countries", though some lack precisely this). While the ability to perform stress-tests has been improved, it still does not incorporate factors such as climate change and human rights issues (Maldonado & Gallagher, 2022).

Most of the work on alternative methodologies are still in development and focus primarily on creating frameworks to better determine the appropriate level of debt reduction in order to bring it back to sustainable levels – not on creating debt crisis prevention tools.

One notable exception is UNCTAD's *Sustainable Development Finance Assessment (SDFA) Framework*. The SDFA is being developed as a tool for policymakers in developing countries to assess their development finance needs to achieve structural transformation through the most significant SDGs while at the same time ensuring the sustainability of the external and public sector financial positions. As it signals whether a country is moving towards an unsustainable and unstable situation in the external and public sector accounts, it could be considered a tool for debt crisis prevention (UNCTAD, 2022, 4; 15). It too, however, is still in development, and has to date only been applied to three countries considering four SDGs (1-4).

Source: Laskaridis (2021), International Monetary Fund (2021), Maldonado & Gallagher (2022), and UNCTAD (2022).

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BOX 3. COMMERCIAL SOVEREIGN ESG RATINGS

- Verisk Maplecroft's *Sovereign ESG Ratings*
- Beyond Ratings' *Sovereign Risk Monitor*
- Sustainalytics' *Country Risk Ratings*
- Robeco's *Country Sustainability Ratings*.

Political institutions
The third due diligence dimension, political institutions, is meant to cover, amongst other issues, risks of corruption and economic mismanagement. This follows from the emphasis of the UN Guiding Principles on Foreign Debt and Human Rights on determining who the proposed financial agreement will likely benefit. Sovereign debt is contracted on behalf of a country's citizens, and should serve public interest. If an investor cannot sufficiently substantiate that this is the case, they should not invest in that bond. In addition, this dimension may cover public sector accountability and transparency, political stability and government effectiveness, and rule of law. Among the relevant questions are:

- Will the proposed financial agreement likely benefit the public interest?
- What is the perceived risk of corruption of the issuer?

CHOOSING THE RIGHT DATA

Answering the questions outlined in the previous section should be informed by both quantitative and qualitative data. A wealth of datasets and indexes are available, varying between open-sourced material and those only commercially available. We include both in Table 1 to showcase the range of available resources. The list is compiled of recommendations from interviews with investors, civil society organisations and field experts. Not on the list, but commonly used, are a range of commercial sovereign ESG ratings (see box 3). As we will elaborate on in this section, research has however called into question the added value of such ratings based on current methodologies. Lastly, the list is not meant to be exhaustive and may include indexes that are subject to legitimate criticism and concerns.

There are important concerns worth noting in relation to social, environmental and other non-financial issues.

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«How you measure what you measure matters.»

First, ESG investing is currently the most common way sustainability issues are incorporated into investment decisions, but whether it will deliver in terms of human rights fulfilment or SDG achievement should not be taken for granted. ESG data can be used to address social, environmental and other non-financial impact, but the linkages should be explicitly stated. How you measure what you measure matters. Investors should seek an approach of dual materiality and choose datasets accordingly, thinking about ESG not only as input but also output.

Second, research published by the World Bank Group has shown that existing sovereign ESG ratings are marred by an ingrained income bias, and that up to 90 percent of a country's ESG scores can be explained by their gross national income.[23] This calls into question the added value of such ratings. Some providers have addressed the income bias in their methodologies. See for example Impact Cubed that enables investors to see the level of SDG performance weighed against each country's rate of progress.[24]

Third, the income bias is especially relevant in relation to questions of whether the debt instrument will likely strengthen the government's ability to fulfil basic rights. While human rights are indivisible, interdependent, and interrelated, they are realised on different trajectories. Economic, social, and cultural rights are subject to the principle of progressive realisation, making a country's income level relevant information. The ingrained income bias in ESG metrics can steer investments away from lower-income countries to richer countries. To counter this effect, investors can use data that takes into account how effective a country is at achieving social and other nonfinancial goals within their income level – taking into account its trajectory. See for example [*Human Rights Measurement Initiative*]'s (HRMI) dataset.[25] It can be used to tilt an investable universe or benchmark.[26]

Fourth, there is an argument for incorporating human rights impact assessments (HRIAs) into the due diligence process. For instance, The UN Guiding Principles on Human Rights Impact Assessments on Economic Reforms (2018) argues that private lenders should "assess the human rights impacts of their own actions as well as those of the activities financed by them, *unless* they have ascertained that debtor States or international and regional financial institutions have carried out effective assessments".[27] HRIAs provide a structured process for understanding and addressing potential or actual negative effects of a proposed loan or bond, in contrast to merely assessing and reporting on risks.

Calls for making HRIAs standard comes from concerns that ESG frameworks insufficiently capture the impact on human rights.[28] Currently there is a lack of standardised methodologies, and, to our knowledge, few examples of it in relation to sovereign lending. An alternative can be to use country HRIAs on annual budgets, but as of today, few countries do this.[29] If available, HRIAs should be used to inform the due diligence process.

TABLE 1. USEFUL RESOURCES

DATASETS		
Resource	**Availability**	**Explanation**
The World Bank: Worldwide Governance Indicators	Open	Provides data on a range of governance indicators, such as political stability, corruption, rule of law, absence of violence/terrorism and government effectiveness.
Transparency International Corruption Perceptions Index (CPI)	Open	Ranks 180 countries/territories based on how corrupt a country's public sector is perceived to be by experts and business executives.
Sustainable Development Indicators	Open	Contains over 200 indicators tracking country-by-country achievement of the SDGs.
UN Development Programme, Human Development Reports	Open	Contains data related to human development, including the Human Development Index that combines measurements on health, education and standard of living. Has also composite indices with thematic focus on groups that fall behind.
Human Rights Watch	Open	Produces country-level reports on human rights abuses.
International Labor Organization World Social Protection Data Dashboards	Open	Shows data on social protection on a country-level.
The World Bank: Sovereign ESG portal	Open	Contains a range of indicators relevant to human rights, environmental, social and governance issues.
Impact Cubed Sovereign Impact Dataset	Paywall	Measure sustainability using the SDG, and score countries on the basis of 29 indicators. Allows investors to see "leaders and laggards".
Human Rights Measurement Initiative (HRMI)	Open	Collects data that tracks countries' human rights performance, including on economic and social rights which is compared to their income level to capture the concept of progressive realisation. As of 2022, *an indicator* based on their work has been included in the World Bank's sovereign ESG portal.

INVESTMENT DECISION: HOW TO WEIGH DIFFERENT CONSIDERATIONS

The decision to invest, remain invested or disinvest will be informed by a variety of considerations, some outside the scope of this report.[30] One of the main interests of this report is to show how due diligence processes can be broadened to operationalize a holistic understanding of debt sustainability. To achieve this, it is crucial that (i) financial creditworthiness and (ii) social, environmental and other non-financial issues – the two parts of ability to repay – are equally weighted. Factoring in human rights, a sovereign's ability to fulfil human rights becomes as important as its ability to withstand economic shocks and financial stress. A way to ensure their equal standing can be to create "traffic-light" thresholds that indicate tolerated risk level and establish that if any investment falls below yellow on either dimension, it provides reason for exclusion or disinvestment.

A comment is warranted. Becoming less willing to contribute to the accumulation of unsustainable debt – raising the standard – will today exclude many lower-income and middle-income countries from the investable universe. On one hand, it is unwanted as these countries are in need of financing to achieve the SDGs or transition to "green" economies. On the other, it is not a solution to provide financing that further deteriorates the debt situation. Based on what data you use and how you use it, it should be possible to exclude countries based on their debt levels rather than their income-level. Looking beyond the current elevated debt levels, frameworks for responsible lending could in the long term contribute towards sustainable debt accumulation, rather than systematically excluding lower-income and middle-income countries.

With regards to assessment on how the debt came to be, such as due authorization or informed decisions, each issue should individually constitute a reason for not investing. The debt instrument either has or has not been authorised by the appropriate authorities. If an investor cannot substantiate that they have tried to the best of their ability to obtain assurances on these issues, they cannot know that the debt instrument will benefit the public good and should therefore not invest.

Regarding political institutions, each indicator should provide sufficient reason for exclusion/disinvestment. Same argument goes as with considerations of how the debt came to be. In comparison, because of the interrelatedness of certain issues and lack of a single objective, it makes sense to assess the indicators for impact on social, environmental and other non-financial issues collectively.

TRANSPARENCY

The importance of transparency to responsible finance is widely acknowledged, yet few concrete steps have been taken to enforce this principle among commercial lenders. Overall, current initiatives for creditor transparency are much weaker than those for debtor transparency.[31] The efforts of The Institute of International Finance (IIF) together with the OECD to strengthen private sector transparency through the operationalization of the IIF's *Voluntary Principles for Debt Transparency* have largely failed, and the resulting OECD register is best known for its shortcomings – most importantly, its voluntary nature and the resulting lack of investors actively engaging in its implementation: Just two banks have disclosed six loans in total on the registry, as of June 2023.

In general, the need for greater transparency is talked about in two different contexts: (i) the lack of sufficient and reliable data, and (ii) lack of accountability. While the two are connected – and overlap in efforts to create a publicly available debt register – they are not the same. Initiatives that aim to collect better and more accurate data do not necessarily lead to public disclosure that would enable public inspection, thereby supporting accountability on specific investment decisions. For example, continuous effort is made to improve the World Bank Debt Statistics Databank, but with the ambition to collect better data and release to the public only aggregated statistics. Investors should be both transparent on specific loans and loan conditionalities, and their broader lending practices. Informed by these considerations, investors should take action along two tracks:

- Support and participate in efforts to collect better and more accurate data
- Publish reports on their lending practices and activities to support accountability

Debt registry

Currently, *the OECD register* for international commercial loans offers the best available framework to be used by private lenders. It allows for disclosure on financial transactions entered into with a sovereign, a sub-sovereign or other entities that are guaranteed by the former, that represent debt liabilities included in the the sovereign balance sheet or explicit contingent liabilities for the aforementioned. Due to its broad scope of disclosure and public availability, it would be an improvement to the current situation if more lenders used it.

The OECD register operationalizes the IIF's *Voluntary Principles of Debt Transparency*, and is originally meant to cover only loans to IMF Poverty Reduction and Growth Trust countries (70 countries in total), and not to add to the disclosure burden where "existing disclosure and transparency standards are already adequate".[32] The IIF argues that

«There is growing recognition by policy makers and market participants for the need for greater debt transparency.»

this is the case with bond investments and export credit arrangements, but this information is only available behind paywalls. In sovereign lending, the investors' counterpart is government officials acting as agents on behalf of the state and its citizens tasked with protecting the public interest. Recognizing this should prompt investors to contribute to public disclosure of debt information. Those who have already used the register have demonstrated it can be used to disclose all debt instruments to all countries.

Regarding the appropriate timeframe for disclosure, the IIF argues that it can be no earlier than "60 days and no later than 120 days after the date on which funds first move".[33] They argue that this is driven by legal considerations, but as Goldmann (2014, p. 23) writes: Transparency is "emerging as a global norm for public authority, [and therefore] it appears more appropriate to consider disclosure as the rule and [business] confidentiality as the exception". Investors should seek to disclose loans no more than 30 days after signing. Relevant jurisdictions can introduce legislation that makes disclosure a requirement for contract enforcement to make transparency mandatory.[34]

There is growing recognition by policy makers and market participants for the need for greater debt transparency. If a more comprehensive framework is created, effort should be made towards supporting this.

Accountability

Transparency is a precondition for accountability, but only useful insofar as the information is *accessible*. On one hand, it is unrealistic to expect civil society organisations, journalists and parliamentarians to go through hundreds of different websites to find individual loan-by-loan data, making the case for a common debt registry. On the other hand, lenders should publish information on their websites since they can elaborate more holistically there on their investment framework and practices – necessary information to enable accountability.

At a minimum, it should be possible for the public – both in borrower and lender nations – to access information on (1) what type of debt instruments a lender invests in, (2) under what guidelines, and (3) in which countries. This information should be subject to regular updates. See for example how NBIM publishes their investment strategy in sovereign bonds, their due diligence process and a list of approved issuers *on their website*.[35] All of NBIMs investments are also searchable in a comprehensive publicly available *database*. Another way to operationalize a commitment to transparency on lending activities is to publish annual reports.

GOOD FAITH AND FAIR BURDEN SHARING

The principles of fair burden sharing and good faith are interrelated, as seeking to extract undue, excessive advantages from debt crises goes against both. The principle of good faith is arguably broader than that of fair burden sharing, and applies throughout the debt cycle. As a legal principle, good faith has different bearings on the different stages of a loan agreement. Scholarly attention has so far been focused on how it applies to facts that occur after the debt has become unsustainable – that is, to debt restructurings.[36]

It can be argued that how the principles can be operationalized falls outside immediate interest when the focus is narrowed to sovereign bonds, since adopting systems for responsible lending in this context will to a large degree revolve around establishing routines that keep lenders out of "bad debt". Yet taking less risks does not guarantee a smooth sailing: Unexpected shocks occur, and situations can deteriorate quickly. Furthermore, "simply" selling off debt when a situation shows signs of deteriorating may not be the practice of a responsible lender, depending on who then buys it (e.g. vulture funds). This is a dilemma for further research and conversation.

Figuring out what good faith and fair burden sharing means in practice, and being explicit about it, is important as it can disincentivize excessive risk accumulation. Furthermore, getting a broad set of investors on board, adopting standards on fair burden sharing and good faith, is important to developing a new best practice – an issue further addressed in section 10.

Fair burden sharing

Fair burden sharing is not the norm under the current global debt architecture. On the contrary, states and their population – and in particular, marginalised groups – are left to bear the biggest burden following defaults. Rather than accepting the loss as risk materialised, lenders are allowed to continue to demand repayment long after it is clear the state lacks the capacity to do so without undermining their ability to honour their human rights obligations. Fair burden sharing is defined in part by how risk was allocated when the loan was agreed upon, and in part by private creditors' duty to respect human rights. While it is reasonable that investors want to be repaid and "rewarded" for the risk they take, lenders who benefit from higher returns because of the "risk premium" must also be willing to take the consequences of that risk.

Putting the principle of fair burden sharing into practice concerns two relationships: (i) debtor-creditor and (ii) inter-creditor. The current lack of a binding debt restructuring mechanism creates incentives for excessive risk accumulation and abusive hold-out behaviour. Furthermore, for the individual investor seeking to act responsibly, it creates the problem of being the first

to move. Thinking about how to put the principle of fair burden sharing into practice sheds light on the necessity of binding solutions through legislation: No amount of clarification on operationalization or implementation will bring all commercial lenders to the table, and ensure their participation. If anything, the trouble of making the G20's *Common Framework for Debt Treatments* work has put any question of this to rest.[37]

In the absence of legislation, investors should strongly support the inclusion of latest generation collective actions clauses (CACs) in all sovereign bond agreements. While CACs do not ensure fair burden sharing in the debtor-creditor relationship as the latter can simply vote no, they indicate a process of debt restructuring. In addition, investors should support the inclusion of catastrophe clauses, also known as hurricane clauses or natural disaster clauses. Though newer than CACs, catastrophe clauses are gaining traction as a means to provide temporary debt relief in times of humanitarian crises. They work by allowing the issuer to defer payments of interest and principal in the event of a qualifying natural disaster, thereby providing fiscal space and avoiding unnecessary defaults.[38]

Good faith

The practical implications of the good faith principle remains vague, if mentioned, in existing guidelines on responsible lending. In general, it means to treat the other party fairly, represent one's motives truthfully, and refrain from taking unfair advantage of the counterpart. In the context of sovereign lending, legal experts have argued that it may have implications for intercreditor equity issues in debt restructurings. As of today, such an interpretation does not hold sway in any of the key jurisdictions.[39] What consequences it might have in other stages of the debt cycle is less explored. As one legal expert has put it,

> "Although the normativity of good faith (...) in international law seems well established, its application within particular contexts is still debated. The field of sovereign debt restructurings is no exception"[40]

In this context, how can investors put a stated commitment into practice or, at least, support the development of more explicit standards? One alternative is to acknowledge and adopt duties along the lines of an operationalization that was prepared for an UNCTAD working group in 2014, see box 3. The proposal shows how good faith, as a general principle of international law, can lend guidance to the development of a best practice by providing the basis for a set of duties. With time, a new best practice could support a new legal interpretation of the principle, making it a tool for cohesion among different interpretations, resulting in a more coherent legal framework.

BOX 4. GOOD FAITH OPERATIONALIZED

Legal scholar Matthias Goldmann developed a tentative proposal for how the principle lends guidance to debt restructurings for a session on good faith and transparency at the UNCTAD Working Group on Debt Workout Mechanism in 2014. He argued that good faith, as a general principle of law, provides the basis for at least four duties in relation to debt restructurings. We include it here as it provides clarification on how a responsible investor ought to behave.

1. Duty to Participate in Debt Workout Negotiations

- **a.** Creditors have an obligation to participate in debt workout negotiations on the request of the debtor state provided that a competent international organisation has confirmed that its debt is unsustainable in the medium term.
- **b.** Creditors comply with this duty by choosing representatives for creditor committees. Retail creditors should choose such representatives. Committees should represent significant amounts of debt. Representation within a committee should reflect the financial interests of the creditors represented.

2. Duty Not to Obstruct Debt Workout Negotiations

- **a.** No party may terminate the negotiations unless it has made a good faith effort to set up a debt workout agreement. A good faith effort requires sufficient time and resources.
- **b.** As long as negotiations are ongoing, creditors should refrain from enforcing their claims. Debtors should refrain from repudiating debt.

3. Good Faith and the Content of Debt Workouts

- **a.** Debt workouts should lead to an economically sustainable outcome. They should be based on realistic assessments of the economic situation of both creditors and debtors and be mindful of potential systemic effects. No party may extract undue advantages from debt workouts.

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- **b.** Debt workouts should be equitable. This requires comparable treatment for all creditors. While debt workouts in principle should be forward-looking, it might affect the terms of a debt workout or the enforceability of debt whether a party acted in good faith when it incurred the debt.
- **c.** Debt workouts should lead to a legally sustainable outcome. This requires that they pay due respect to the international legal obligations of the debtor state.

4. Good Faith and the Acceptance of Debt Workouts

- **a.** The exercise of voting rights should respect good faith. No party should reject debt workouts for reasons which it could have articulated during negotiations but failed to do so. States should refrain from exercising voting rights if they own debt instruments issued by themselves, either directly, or through intermediaries controlled by them.

- **b.** Creditors who buy debt of troubled states for the purpose of extracting a preferential treatment act abusively. In establishing whether a creditor intended to extract a preferential treatment, courts or other competent institutions should take into account whether the creditor made a good faith effort to reach a debt workout. Further criteria might include:
  - **i.** the difference between the nominal and market price at the time of the acquisition of the debt;
  - **ii.** the time of the acquisition;
  - **iii.** the volume acquired, especially whether the creditor acquired a blocking minority under the applicable collective action clause;

- **c.** Creditors who refuse to accept a debt workout for no pertinent reason other than to extract a preferential treatment act abusively.
- **d.** Creditors acting abusively may only [sue for] [enforce] a fraction of their claims which affords them comparable treatment.

Source: Goldmann (2014).

BUILDING INDUSTRY SUPPORT

So far the report has focused on operational challenges facing the individual investor. Resolving these issues pertains to one aspect of developing a new best practice: specifying its contents. Another is getting everyone on board – that is, getting investors to agree that this is the correct or most appropriate way of doing investments. How do we get there, in the absence of regulatory reform ensuring broad participation?[41]

One alternative is to use voluntary certification schemes to establish common goals and create incentives for investors to improve their guidelines. It would allow investors to apply for a certification that, if granted (contingent on the ability to document compliance with relevant criteria) would signal to consumers and shareholders that the relevant product is the most "ethically responsible" on the market. The benefits of this approach is that it focuses on those that want to go ahead, while attending to the challenge of being the first to change.[42] It may also help to decrease the current scepticism towards regulatory measures among investors and politicians by showcasing the feasibility and benefits of investing more responsibly. Lastly, it can strengthen trust and credibility in investors' sustainability claims.

The approach is not without possible downsides. First, as mentioned, it is reliant on consumer demand. However, there exists well-known ecolabels that could be leveraged, see box 4. Second, it can become a tool for greenwashing if the criteria for obtaining certification is too abstract or hard to measure. The lack of standardised methodologies and ensuing flexibility could pose a challenge, but the opposite might also be true: Leveraging certification schemes would ensure that sustainability claims and methods are reviewed and that only the best is rewarded and acknowledged.

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BOX 5. LEVERAGING THE NORDIC SWAN ECOLABEL

The Nordic Swan Ecolabel was established in 1989 as the official ecolabel of the Nordic countries, and extends today to over 200 different product types within 59 different product categories, including funds and other investment products. It is well-known, and certified funds are in demand by consumers. The review is performed by an independent third party, and while there is an application fee, the ecolabel is state-funded and not reliant on this income. It is open to all investors, Nordic or not.

For a fund to obtain certification, investors must document compliance with the requirements laid out in the relevant *criteria document*. Three requirements specific to government bonds are mentioned. A ecolabelled fund may not invest in government bonds from countries that:

- are subject to EU or UN financial sanctions;
- have not ratified the Paris Agreement, or;
- has a score worse than 40 on the Transparency International's Corruption Perceptions Index.

In addition, a fourth requirement that could be relevant for sovereign debt investments (though not interpreted as such today, to our knowledge):

- A ecolabelled fund must conduct "an assessment of environmental, social, governance ESG and EU Taxonomy performance on all holdings" (p. 3, added emphasis).

The existing requirements pertaining to bond investments are minimalistic. It should be broadened in line with the recommendations of this report: Lenders should be able to document that they have conducted holistic debt sustainability assessments, and that all debt holdings are disclosed in an accessible way for the general public.

One way to do this could be to broaden the interpretation of the requirement to conduct ESG performance to include sovereign debt instruments. Transparency on methodology and data collection would be crucial as sovereign ESG is a growing field still lacking clarity and common standards.[43]

Sources: The Nordic Swan Ecolabel (2023a, 2023b).

FURTHER IMPLICATIONS OF IMPLEMENTATION

The focus of this report has been on issues pertaining to lenders' *own* investments in sovereign debt, but it can be used in relation to other investments as well. In short, a commitment to sovereign debt sustainability should extend to a lender's entire investment universe. Once a lender has adopted a framework for responsible sovereign lending, this should inform the expectations they have towards other companies they are invested in that also lend to sovereigns and thereby influence their engagement with such companies.

Conclusion

Historically, more time has been spent trying to solve the problems of debt restructurings than building systems that can prevent unsustainable debt accumulation. The current debt crisis should not take away focus from the need to build better systems for the time that comes after the defaults and ensuing restructurings. Within the existing regulatory landscape, widespread adoption of strengthened systems for responsible lending among private investors can be an important contribution to the systemic prevention of sovereign debt crises. This report is an effort towards greater clarity on how principles of responsible lending can be put to practice, and can be seen as part of the broader conversation on developing practical tools and guidance on rights-respecting investment practices.

One of the main findings that came out of the research for this report, was the limited amount of previous research and work that has sought to put what exists in conversation. Future research should address more detailed issues and concerns regarding data availability and usage. For example, to identify what specific datasets can be used, and in what ways, to answer specific questions of social, environmental and other non-financial impact. This work should involve a broad range of stakeholders to ensure that the perspectives of those affected are included and heard.

In addition, future research should examine how the principles for responsible lending can be applied to the broader range of debt instruments. The arguments of this report can serve as a point of departure. The realm of what bond investors can reasonably be expected to have influence over is the most limited, compared to other debt instruments, and defines a set of core considerations relevant for all sovereign debt investments.

Thinking practically about responsible lending among private lenders makes visible the current patchwork of standards, methodologies and varying data availability. Navigating this field can be difficult, but possible as a growing number of investors seek to incorporate human rights issues into their investment practices. Developing new tools and ways of doing business will be a process of learning and failing, making the case for leveraging certification schemes to establish a process of review and credibility. Operationalizing a new best practice for responsible lending means building from what we got, using available data to make informed decisions on which countries to invest in and not, and being transparent about it.

KEY RECOMMENDATIONS FOR INVESTORS

- Broaden the scope of due diligence to include impact on a sovereign's ability to fulfil basic rights in line with the suggestions found in this report, such as using the ratio of external debt payments to government revenue to screen countries (p. 7).
- Strengthen transparency: Publish your investment framework – at a minimum, (i) what type of debt instruments you invest in, (ii) under what guidelines, and (ii) in which countries – and disclose loan-by-loan data in a publicly accessible register.
- Support the inclusion of latest generation collective actions clauses (CACs), and the inclusion and development of natural disasters clauses. While CACs do not ensure fair burden sharing in the debtor-creditor relationship, they indicate a process of debt restructuring.
- Provide your customers with the alternative of purchasing a fund product certified by the Nordic Swan Eco Label, or a similar relevant provider, that can document responsibility in your investments in sovereign debt instruments.
- Request specific certifications for investments in sovereign debt instruments from relevant providers to be developed.
- Commit to act in good faith and be explicit about what it entails, such as participating in debt workout negotiations and refraining from extracting undue advantages.
- Extend your commitment to sovereign debt sustainability to the entire investment universe: Let your framework for responsible sovereign lending inform the expectations you have towards the companies you invest in.

RECOMMENDATIONS FOR NORDIC POLICYMAKERS

- The Nordic Swan Ecolabel: Single out and broaden the criteria for government bonds so as to create a new category of certification specifically for private investments in sovereign debt instruments.

Appendix

Appraising the quality/ scope of existing guidelines

Table 1: UN Principles for Responsible Investment (PRI)

Principle(s)	Analysis
Purpose	UN-supported Principles of Responsible Investment (PRI), launched in 2006, are aspirational principles for dealing with environmental, social and governance (ESG) issues in investment practices across asset classes. The PRI communicates its purpose and issues covered in broad terms.
Actors and Agency	The PRI is a comprehensive and broad framework that is applicable to a range of asset classes, companies, and investors. The PRI has 4,197 signatories that comprise of asset owners, investment managers and service providers.[44]
Design	The PRI was devised by the UN in cooperation with global institutional investors and experts from civil society and intergovernmental organisations.
Applicability	The PRI provides a broad framework for considering ESG issues in relation to a range of transactions and asset classes, including equity investments, project financing, commodities, and private equity.
Implementation and Endorsement	The PRI are "voluntary and aspirational" principles that promote the integration of ESG in investment practice.[45] While the implementation of the principles is voluntary, all signatories must produce reports on their implementation efforts in accordance with PRI's reporting framework. The PRI also produces multiple guidelines and case studies to support the implementation of the principles.
Fair Burden Sharing	Although the PRI does not formally address fair burden sharing, due to the broad nature of the principles, one could argue that the PRI vaguely tackles cooperation and equitable burden sharing. However, the power of these principles is limited due to the lack of concrete measures on how to allocate fair burden sharing among all relevant actors.
Compliance with International Law and Standards	The PRI recommends adoption of other international initiatives, standards, and codes of conduct for responsible investment, such as the UN Global Compact.
Sanctions	The PRI is a soft power initiative that does not have any sanction mechanism to deter non-compliance.
Debt Sustainability	The PRI does not have a formal definition of debt sustainability. Instead, the PRI holds that following the principles should lead to more sustainable debt.
Due Diligence	Principle 6 of the PRI deals with integrating some form of ESG-related due diligence within investment practices. To support implementation, the PRI launched a detailed ESG-oriented due diligence questionnaire for infrastructure investments in 2018. The PRI should extend the applicability of such a questionnaire to include other asset classes.
Due Authorization	The PRI does not address due authorization standards for investors.
Monitoring	The PRI encourages investors to develop an active ownership policy that is consistent with the PRI. In extension of this, the PRI encourages regular monitoring of investee companies on ESG issues and tracking of results relating to the implementation of the principles.
Transparency and Documentation	The PRI's transparency standards are twofold. First, the principles state that companies should disclose ESG issues in investment objects. Second, companies should also report on their own "activities and progress towards implementing" the PRI. This includes information on how ESG issues are integrated into business practice and active ownership activities. The PRI also recommends disclosing ESG issues within annual financial reports. Some PRI practical guidance reports related to listed equities also provide additional document disclosure recommendations for ESG engagement activities. However, the transparency and documentation requirements of the PRI could be significantly improved and concretized.
Good faith	While the PRI encourages collaborative engagements in dealing with ESG matters, it does not directly state that investors should act in good faith.

Table 2: IMF's Debt Sustainability Framework for Low-Income Countries (LIC-DSF)

Principle(s)	Analysis
Purpose	The IMF's debt sustainability framework for Low-Income Countries (LIC-DSF) is an assessment framework for conducting standardized debt sustainability analysis in developing countries. This is to meet development needs though sovereign debt financing, while accounting for debt sustainability. Having been introduced in 2005, the current LIC-DSF was revised and implemented in 2018.
Actors and Agency	The LIC-DSF guides lending decisions of multiple international finance and development institutions, including, but not limited to, the IMF, the World Bank, the OECD, the African Development Bank and the Asian Development Bank. Other sovereign debt actors, including institutional investors, multilateral development banks and debtor countries, consult the LIC-DSF when making borrowing decisions. The LIC-DSF is not formally applicable to private sector lenders.
Design	The LIC-DSF is jointly developed by the IMF and the World Bank. It undergoes a regular reviewing process, having undergone multiple modifications since its debut – the latest being 2018. According to the IMF, the reviews and modifications to the LIC-DSF were informed by consultations with authorities from developing countries, staff of multilateral development banks, discussions in international forums and feedback from civil society organizations. The IMF and the World Bank has also produced multiple policy papers and guides to aid the implementation of the LIC-DSF.[46]
Applicability	The LIC-DSF assesses all multiple public sector debt components, including domestic and external. It also covers both public debt and publicly guaranteed debt. A weakness of the LIC-DSF is that it does not include private domestic debt of the borrowing country or implicit. The LIC-DSF informs the IMF's Debt Limit Policy in IMF-supported lending programs and determines the International Development Association's (IDA), which is a part of the World Bank, grant allocation.
Implementation and Endorsement	Lending decisions by the IMF and the World Bank are mandated to follow the LIC-DSF. While the recommendations of the guideline are not mandatory to follow, most lending decisions of the IMF and the World Bank are governed by the LIC-DSF, particularly in relation to countries that are considered in high debt distress.

Principle(s)	Analysis
Fair Burden Sharing	A major flaw of the LIC-DSF is that it does not address the need for shared responsibility between creditors and debtors in relation to lending decisions. Further, the guideline should also stress shared responsibility among all stakeholders to avoid accumulation of unsustainable debt.
Compliance with International Law and Standards	Since the guideline largely focuses on assessing the financial capacity for repayment of debt, it does not suggest any international laws or standards for its adherents to follow. Given the broad support and influence that the LIC-DSF has among sovereign debt actors, a major improvement of the guideline would be to commit its adherents to follow other well-regarded laws and standards.
Sanctions	A major critique of the LIC-DSF is that it does not have any sanction mechanisms for dealing with any breaches of the guideline. Since the LIC-DSF is dependent on accurate data to assess debt sustainability, it should include some remedial or corrective measures to sanction the dissemination of flawed or inaccurate data by any stakeholder.
Debt Sustainability	The LIC-DSF uses several debt indicators to assess debt sustainability. This includes the CPIA[47] and a set of macroeconomic variables. The macroeconomic framework forecasts potential for growth of an economy, using multiple assumptions and predictions, such as world growth, GDP growth and foreign exchange reserves of the borrowing country, etc. The macroeconomic projections are subsequently stress tested to assess whether a country's debt path is realistic. The LIC-DSF has received widespread criticism regarding its definition and assessment of debt sustainability. Most notably, many civil society organisations, including Eurodad, have criticised the guideline's definition of debt sustainability for being too focused on a borrower's repayment capacity. Eurodad suggests that the LIC-DSF should have a more poverty-centred approach that considers human development. The guideline should also consider whether debt servicing is compromising a borrowing country's ability to deliver welfare services to its citizens. Additionally, the guideline is criticised for its overreliance on the CPIA, which is, in turn, criticised for its one-size fits all approach to ideal development policies. The latest version of the LIC-DSF has moved away from only considering the CPIA when assessing debt carrying capacity of a debtor.

Principle(s)	Analysis
Due Diligence	The LIC-DSF includes firm standards for due diligence on macroeconomic data. The guideline outsources some due diligence responsibilities by using the CPIA for underlying analytical assumptions. Overall, the LIC-DSF should direct its adherents to consider a broader and more concrete due diligence procedure.
Due Authorization	None of the principles in the guideline address the need for due authorization in relation to sovereign debt financing. Introducing due authorization standards will help ensure that creditors behave responsibly.
Monitoring	The LIC-DSF does recommend monitoring of the country-specific debt sustainability situation since a widening investor base could give rise to new vulnerabilities in low-income countries. To help monitor the borrower's debt situation, the guideline also advocates for additional assessments of the short-term debt situation in conjunction with the LIC-DSF. Moreover, the LIC-DSF recommends states that creditors should monitor the sovereign's debt management performance of.
Transparency and Documentation	While the LIC-DSF encourages increased transparency and disclosure of all debts of the borrowing country, it does not pose similar requirements for creditors. Another critique of the LIC-DSF has been that while it advocates for enhanced debt data disclosure, some debt sustainability thresholds were kept confidential due to market sensitivity. As such, the guideline should introduce standards to address transparency and disclosure issues, such as legal and financial terms of debt contracts.
Good faith	The LIC-DSF does not address any good faith requirements for any stakeholders, compromising its ability to safeguard the integrity of the sovereign debt management process. While notes published by the IMF have addressed the use of CACs in sovereign restructurings pertaining to debts involving private creditors, it does not directly address this issue in the LIC-DSF.

Table 3: UNCTAD's Principles on Promoting Responsible Sovereign Lending and Borrowing (PPRSLB)

Principle(s)	Analysis
Purpose	The purpose and aim of the PPRSLB is to establish a common set of principles and practices to guide sovereign financing practices. The principles seek to contribute to better debt management strategies, and to serve as a point of reference for policymakers to promote responsible sovereign financing.
Actors and Agency	The broad scope of the principles lends itself to guide government policymakers and other actors involved in sovereign lending and borrowing towards responsible sovereign debt practices. The 15 principles address responsibilities of both sovereign lenders and borrowers.
Design	According to UNCTAD, an expert group composed of field experts, private investors and civil society contributed to the drafting of the principles. Representatives from the IMF, the World Bank and the Paris Club participated as observers of the expert group. While the UNCTAD principles echo and compliment sentiments of the IMF and the World Bank standards, they are intended as stand-alone set of principles.
Applicability	The comprehensive scope of the guidelines captures the whole debt cycle; that is, the principles stipulate both ex-ante and ex-post measures for responsible and sustainable investment practice. As such, the scope and applicability of the PPRSLB include a broad range of debt transactions.
Implementation and Endorsement	The PPRSLB is a soft law instrument that is voluntarily implemented and adhered to by sovereign debt actors. There has been a push for consolidating the PPRSLB with international law relating to sovereign debt practices; albeit the results have been limited.
Fair Burden Sharing	In the PPRSLB, fair burden sharing across all debt actors is a clear goal.
Compliance with International Law and Standards	The guidelines stipulate that lenders "have a duty to comply with [UN] sanctions"[48]. It also recommends compliance with international and national laws against corruption and other illegal behaviours. An improvement to the PPRSLB would be to delineate in more detail which international laws and standards to follow.

Principle(s)	Analysis
Sanctions	There are no sanctions or enforcement actions in the PPRSLB. Nor does it offer any remedial or corrective measures for non-compliance.
Debt Sustainability	Although the guideline stresses the need for prudent design and implementation of debt management strategies that takes into consideration a country's debt sustainability, it does not inform the elusive debate on how to define debt sustainability.
Due Diligence	While the PPRSLB notes that relevant due diligence should be conducted, it does not offer concrete due diligence standards. It does, however, state that the lenders should ensure that the sovereign is informed and educated on the risks and benefits of the debt transaction.
Due Authorization	The PPRSLB shows great strength in directing lenders to ensure that the parties to sovereign debt contracts have due authorization to partake in the process. In operationalising the principles, UNCTAD should also provide suggestions as to how confirmation of due authorization should be conducted (e.g. parliamentary approval).
Monitoring	The PPRSLB outlines multiple ex-post measures for ensuring the productive use of sovereign financing. For instance, the PPRSLB suggests post-disbursement monitoring of a wide range of project implications, including financial, civil, cultural, etc. The guideline also recommends frequent audits of how the proceeds are used, and whether it is in accordance with country-specific debt sustainability assessments. This is a major strength of the PPRSLB, which offers more concrete suggestions on how to operationalise the monitoring principle.
Transparency and Documentation	Transparency is an important tenet of the PPRSLB. The guideline tackles multiple transparency and disclosure measures throughout. The PPRSLB states that governments should implement a "legal framework that clearly defines procedures, responsibilities and accountabilities".[49] Further, the PPRSLB recommends transparency to operate on both the transactional level (e.g., disclosure of relevant standards and audits) and the aggregate government sector level, including guarantees made by public entities (e.g., state-owned enterprises). However, the PPRSLB shows deficiencies in not outlining equally firm transparency standards for lenders. An equitable debt management process necessitates transparency and accountability of all parties.
Good faith	The PPRSLB emphasises the need for all creditors to act in good faith and in a cooperative spirit. In their operationalization, the PPRSLB principles are also conducive to including CACs in sovereign debt contracts. The guideline advocates for good faith in the debt management process and rejects abusive behaviour by creditors.

Table 4: OECD's Recommendation on Sustainable Lending Practices and Officially Supported Export Credits

Principle(s)	Analysis
Purpose	The OECD aims to help boost sustainable public investment in developing countries through official export credits. OECD's principles build upon pre-existing OECD guidelines and recommendations, including, but not limited to, the 2007 Debt Sustainability and Responsible Lending: 2007 Statement of Principles on Unproductive Expenditure. The guideline recognises that export credits to the public sector can result in run-up of unsustainable external debt. As such, the principles clearly delineate its purpose and aims.
Actors and Agency	The OECD Recommendation on Sustainable Lending Practices and Officially Supported Export Credits (the OECD Recommendation) principles are endorsed by the Members of the OECD Working Party on Export Credits and Credit Guarantees (ECG) and are applicable to the whole OECD membership. The principles are primarily directed at official export credit agencies of the OECD member states.
Design	The OECD Recommendation is based on previous OECD guidelines and standards for sustainable investment in lower income countries, including the Principles and Guidelines to Promote Sustainable Lending Practices in the Provision of Official Export Credits to Lower Income Countries (the Principles and Guidelines), which were enforced in 2016. The Principles and Guidelines were changed into the official OECD-recommended practice in 2018. The guideline echoes and endorses the standards of the Joint World Bank-IMF Debt Sustainability Framework for Low Income Countries.
Applicability	The principles of the OECD Recommendation are applicable to all officially supported export credits, including loans, loan guarantees and risk insurances, of the OECD memberships. As per OECD, although the OECD Recommendation is not legally binding, the guideline stipulates the common position of the entire OECD membership, and therefore, entails some form of political commitment by Member governments. Yet, it is unclear how the OECD enforces this political commitment.
Implementation and Endorsement	The guideline is managed by the members of the OECD Working Party on Export Credits and Credit Guarantees (ECG) and is implemented by OECD member countries.

Principle(s)	Analysis
Fair Burden Sharing	The OECD Recommendation does not direct its Membership to account for fair-burden and/or risk-sharing in their investment practices.
Compliance with International Law and Standards	The OECD Recommendation purports that investors should take into account the IMF and the World Bank's recommendations on limits to public sectors non-concessional borrowing and country-specific debt sustainability analyses (DSA) when investing in developing countries. While the OECD Recommendation does not stipulate requirements for upholding international standards and laws pertaining to human and social conditions themselves, it commits to upholding such standards through its commitment to the IMF's debt sustainability framework.
Sanctions	A deficiency of the OECD Recommendation is that it does not stipulate any corrective measure or sanctions for transgression of the guideline.
Debt Sustainability	The OECD Recommendation defines debt sustainability in accordance with the IMF's debt sustainability framework for low-income countries (LIC -DSA). As such, the OECD Recommendation inherits the same analytical shortcomings of the LIC -DSA's definition of debt sustainability.
Due Diligence	While the OECD Recommendation does not stipulate any specific due diligence requirements related to the provision of officially supported export credits, its adherents are mandated to conduct sustainability assessments in line with the LIC -DSA.
Due Authorization	The OECD Recommendation stipulates that investors should ensure that they are not lending outside of the IMF's Debt Limits Policy or the World Bank's Non-Concessional Borrowing Policy. However, the guideline does not directly deal with making sure that proper authorization is in place from appropriate government authorities in the debtor country.
Monitoring	Although the OECD Recommendation does not detail any specific requirements for monitoring, it does direct its adherents to assess that official export credits are not provided for unproductive purposes and that they are in line with aims set by the IMF DSA for these countries. The guideline also instructs the ECA to monitor the implementation of the recommendation. The OECD Recommendation could be improved by way of asking the ECA to publicly disclose update reports on the implementation of the guideline.

Principle(s)	Analysis
Transparency and Documentation	The guideline recommends its adherents to annually disclose data on transactions to lower income countries to the IMF and the World Bank through the OECD Secretariat. However, this vague principle does not provide details on what data should be disclosed. The OECD Recommendation could improve by improving its transparency requirements for its adherents.
Good faith	The OECD Recommendation does not tackle the matter of good faith, which is a limitation to the guideline.

Table 5: G20 Operational Guidelines for Sustainable Financing (the G20 Guideline)

Principle(s)	Analysis
Purpose	The aim of the G20 Guideline is to ensure responsible sovereign financing for development purposes while safeguarding debt sustainability and a transparent debt contracting process.
Actors	The G20 Guideline is directed at all parties to sovereign debt contracts in G20 countries. In particular, the G20 Guideline is focused on creating sustainable financing practices by creditors.
Design	The G20 Guideline, which was primarily developed for G20 members, has been implemented beyond its memberships. The guideline is intended to provide an operational implementation framework of the principles in the Addis Ababa Action Agenda. The scope of the guideline is broad, which is rendering the principles vague. To improve implementation, the IMF and the World Bank has also developed a diagnostic tool to aid in the implementation of the principles.
Applicability	The G20 Guideline provides a broad framework for considering a range of debt instruments, including direct loans and officially supported export credits and guarantees. It also advocates for the use of new contractual clauses and debt instruments to minimize litigation issues in sovereign financing.
Implementation and Endorsement	The G20 Guidelines are a voluntary set of principles, endorsed by the G20 Finance Ministers and Central Bank Governors in 2018. The guideline is also endorsed and supported by the IMF and the World Bank.
Fair Burden Sharing	The G20 Guidelines advocate for burden sharing and shared responsibility among sovereign creditors and debtors to maintain sustainable debt levels. The principles also advocate for cooperation among all stakeholders of sovereign debt transactions.
Compliance with International Law and Standards	The principles promote the consideration of IMF's Debt Limits Policy (DLP) and of the International Development Association's Non-Concessional Borrowing Policy (NCBP). The guideline also recommends creditors to consult with the latest country specific DSAs prior to an investment. Beyond this, the G20 Guideline commits the G20 countries to supporting UNCTAD, the IMF, the World Bank and other international initiatives that enhance sovereign debt management.
Sanctions	The G20 Guideline does not detail any sanction mechanisms for non-compliance. Nor does it provide any information on corrective measures to deal with a potential breach of the guideline.
Debt Sustainability	The G20 Guideline uses the IMF's DSA to assess the macroeconomic and financial situation of the borrowing country. As such, the guideline inherits some of the shortcomings of the IMF's approach to assessing debt sustainability.
Due Diligence	The guideline does mandate due diligence responsibilities for creditors, including avoiding the accumulation of unsustainable sovereign debt. However, beyond increased transparency and debt sustainability, the guideline is imprecise in terms of what due diligence standards to implement.
Due Authorization	While the G20 Guideline vaguely touches upon due authorization by way of ensuring that creditors contribute to debt sustainability in the borrowing country, the guideline does not address the matter in concrete terms.
Monitoring	The G20 Guideline emphasises the need for long-term financing options for developing countries. It is also unique in suggesting technical assistance to debtor countries in order to enhance debt management capacities. However, the guideline is inadequate in terms of monitoring standards.
Transparency and Documentation	A major strength of the G20 Guideline is that it advocates for information-sharing and enhanced transparency in the debt management process. The guideline also states that creditors should disclose information on debt and indirect liabilities to the IMF and other international financial institutions. Additionally, the guideline states that information on past debt restructurings should be publicly disclosed. An area for improvement of the G20 Guideline is to include more concrete standards on transparency and disclosure requirements.
Good faith	The guideline stipulates that all stakeholders should act in good faith during debt restructurings. It also states that sovereign debt contracts should include CACs to avoid protracted and litigious debt negotiations.

Table 6: The African Borrowing Charter by Afrodad (Afrodad's Borrowing Charter)

Principle(s)	Analysis
Purpose	Afrodad's Borrowing Charter outlines nine principles and three undertakings.[50] The purpose of the guideline is to foster inclusive and sustainable growth in Africa by promoting responsible debt management principles.
Actors and Agency	Although Afrodad's Borrowing Charter mainly addresses responsibilities of African Government actors, it briefly ascribes responsibilities on the part of the creditor to ensure the legality of public debt contracts and the purposes for which the money is borrowed. The principles of the Charter should, however, improve on this by concretising and elaborating on the responsibilities of multiple debt actors.
Design	Principles and guidelines of Afrodad's Borrowing Charter are derived from UNCTAD's Principles on Promoting Responsible Sovereign Lending and Borrowing, recommendations from the African Union, and good practice experiences from multiple African countries, including South Africa, Kenya, and Nigeria. Afrodad has also adopted some standards from the West African Economic and Monetary Union (WAEMU).
Applicability	Afrodad's Borrowing Charter is applicable to all public liabilities, including public guarantees and debt financed projects.
Implementation and Endorsement	Afrodad aims to promote the Borrowing Charter as an "authoritative, legal guiding Charter for governmental borrowing".[51]
Fair Burden Sharing	The Borrowing Charter briefly states the need for equitable debt restructurings and the need for shared risk between the public and private sectors.
Compliance with International Law and Standards	Afrodad's Borrowing Charter states that all public debt should be secured by the African Charter on Human and People's rights. Though, the Borrowing Charter does not explicitly address compliance with international law or standards beyond that.

Principle(s)	Analysis
Sanctions	While Afrodad aims to promote the Borrowing Charter as a legally binding document, it does not tackle any sanctions or remedial efforts for violation of the principles or non-compliance.
Debt Sustainability	The Borrowing Charter has a brief and vague definition of debt sustainability that touches upon the need for legitimacy and a forward-looking understanding of sustainable debt accumulation. It recommends an annual public debt ceiling of 50% of GDP, as adopted by the WAEMU.
Due Diligence	Afrodad's Borrowing Charter shows strength in emphasising the need for an ex-ante and post-ante due diligence assessment of, among others, financial, operational, social and environmental implications of the project and funding. Yet, it could improve by providing more specific standards for due diligence assessments.
Due Authorization	Another strength of Afrodad's Borrowing Charter is its detailed emphasis on ensuring due authorization of the incurred public debt. Afrodad's Borrowing Charter outlines suggestions for creating a robust legal framework to ensure that government borrowing is approved by a legitimate government body, and issued on legitimate terms.
Monitoring	Afrodad's Borrowing Charter also advocates for frequent reporting, monitoring and assessment of the debt management situation to confirm that planned investment objectives are adequately met.
Transparency and Documentation	The Borrowing Charter places great importance on transparency and provides suggestions for disclosing terms and conditions of loans obtained by public institutions.
Good faith	While the Borrowing Charter recognises the need to uphold conditions of debt contracts, it also recognises that the sovereign should not be bound by illegitimate debt contracts. Afrodad's Borrowing Charter could develop in the area of good faith by encouraging the use of CACs[52] in debt contracts and equitable burden sharing amongst all parties.

Table 7: Eurodad's Responsible Finance Charter (Eurodad's Charter)

Principle(s)	Analysis
Purpose	Eurodad's Charter consists of several technical standards to prevent unsustainable and irresponsible financing and investments in developing countries. In the introduction, Eurodad clearly highlights the fundamental values and guiding principles of the Charter, which includes a fair and transparent sovereign debt process.
Actors and Agency	Eurodad's Charter is directed at contracts that are signed by IFIs and DFIs with investee companies and projects with a development mandate.
Design	Eurodad's Charter draws from multiple well-regarded international treaties and conventions; including, but not limited to, the World Bank's safeguard policies, IFC's Performance Standards, the Equator Principles, and the ILO's core labour standards.
Applicability	Although Eurodad's Charter mostly covers public and publicly guaranteed direct investments, loans and private lending by development institutions, the Charter is relevant for private creditors.
Implementation and Endorsement	While Eurodad recommends national governments and creditors to adopt the Charter as legally binding legislation, it is yet to be implemented in this manner.
Fair Burden Sharing	The Charter highlights the need for amicable and equitable debt resolution standards, such as the inclusion of CACs to achieve fairer restructurings. Further, the Charter also stresses the need for shared responsibility for sustainable lending among all debt actors.
Compliance with International Law and Standards	Eurodad states that all parties to a loan must comply with all relevant international and national laws and regulations.
Sanctions	While Eurodad's Charter recommends sanction mechanisms for non-compliance of debt contract terms and conditions by any creditor or lender, it does not detail any suggestions for sanction mechanisms.
Debt Sustainability	The Charter recommends a more inclusive definition of debt sustainability - beyond traditional macroeconomic criteria - to include human indicators and basic development needs.
Due Diligence	Despite the Charter stating the need for due diligence assessments, it does not elaborate on what factors to include in such an investigation.
Due Authorization	Eurodad states that any loan and investment contract process should include parliamentary and citizens' participation, and that the creditor should ensure that the debt is incurred with the public's consent.
Monitoring	Eurodad's Charter calls for periodic review of changes in the host country's debt circumstances and debt contract terms. Such reviews should be transparent and subject to due process of approval in accordance with host country's laws and regulations. According to Eurodad's Charter, contract renewals should be subject to renegotiations.
Transparency and Documentation	Eurodad's Charter highlights multiple suggestions for how to improve transparency in debt contract processes; albeit more concrete transparency requirements would be beneficial for contract negotiations.
Good faith	Eurodad's Charter states that debt arbitrations should be based on good faith by all parties. An elaboration on how good faith should successfully be exercised could add to the strength of the recommendations.

Table 8: Eksfin's Sustainable Investment Policy Framework

Principle(s)	Analysis
Purpose	Eksfin's Sustainable Investment Policy consists of three principles: 1) promoting Norwegian exports; 2) sustainability; 3) responsibility. While Eksfin's sustainability policy and strategy communicates their intention of combating social, governance and operational issues, the guideline is narrow in scope, and does not tackle the issue of responsible financing in specific terms.
Actors and Agency	Eksfin's guideline outlines their own responsibilities in relation to risks and impacts associated with their offers of loans and guarantees. The guideline, however, does not detail how the principles apply to other stakeholders involved in Eksfin's value chain.
Design	Eksfin's guideline is partly derived from multiple well-regarded international standards and laws by OECD and the UN; albeit this does not include UNCTAD's sustainable debt framework.
Applicability	Eksfin's guideline states that the sustainability policy is applicable to all their loan and guarantee activities. An improvement of Eksfin's guideline would be to concretise the guideline's applicability by further detailing the types of transactions, and how the guideline is practiced in relation to different transactions.
Implementation and Endorsement	Eksfin is required to apply the principles of their guideline in relation to all its business activities. Eksfin's CEO and the Board are responsible for approving sustainability related guidelines and policy.
Fair Burden Sharing	Eksfin's guideline does not address the issue of fair burden and risk sharing.
Compliance with International Law and Standards	They are committed to upholding multiple international principles and standards pertaining to responsible and sustainable business conduct, including UN Global Compact and OECD Guidelines for Multinational Enterprise, in Eksfin's Sustainable Investment Policy.

Principle(s)	Analysis
Sanctions	Eksfin does not reflect on their remedial approach to conflict resolution during potential debt negotiations. Nor does Eksfin elaborate on any disciplinary measures should there be any violation of standards set by the guideline.
Debt Sustainability	Eksfin's guideline does not elaborate on their definition of debt sustainability or sustainability standards beyond ESG factors. Eksfin is committed to follow OECD Recommendation on Sustainable Lending Practices and Officially Supported Export Credits to prevent developing countries from incurring unsustainable levels of debt.
Due Diligence	As per Eksfin's guideline, they are required to assess risks and impacts of its financial instruments; albeit more comprehensive information regarding their due diligence assessment is not disclosed.
Due Authorization	Due authorization and legitimacy of financing is not addressed in Eksfin's guideline.
Monitoring	As part of its due diligence process, Eksfin also follows up on projects and activities during the loan or guarantee period. These reviews and assessments vary depending on the type of transaction.
Transparency and Documentation	The guideline states that Eksfin will publish information regarding their sustainability work in Eksfin's annual reports. As part of its commitment to OECD Common Approaches, Eksfin will also provide information regarding projects that could potentially have high or medium negative social impact, which is then considered by the OECD's Secretariat and made publicly available on the latter's website. Eksfin should potentially take it upon themselves to additionally share such information directly with the public to better facilitate input on debt matters.
Good faith	Eksfin does not address the issue of fair burden and risk sharing within its own guideline; as such, information on Eksfin's approach to fair burden sharing is limited.

Table 9: NBIM's Framework for Approving Financial Instruments, Markets, and Issuers of Government Bonds (NBIM's Guideline for Responsible Investment)

Principle(s)	Analysis
Purpose	NBIM's responsible investment policy establishes a clear sense of purpose towards achieving ethical investments and sustainability. It puts forward 23 principles to make systematic assessments of investment and operational risks.
Actors and Agency	NBIM's guideline and investment policy primarily outlines its own obligations and responsibilities in relation to the Norwegian government.
Design	NBIM's responsible investment policy is derived from multiple international standards and principles to ensure sustainable business conduct, including the OECD Guidelines for Multinational Enterprises and the UN Global Compact.
Applicability	NBIM's Guideline for Responsible Investment provides some information regarding their investment policies pertaining to various financial instruments; however, this information is vague.
Implementation and Endorsement	NBIM's responsible investment policy is compulsory and operationalised for all its investment activities. The Council on Ethics for the GPFG[53] is responsible for screening and recommending investment entities for exclusion. The board of the Central Bank approve issuers of government bonds based on a detailed routine aimed at securing responsible lending though investments in government bonds.[54]
Fair Burden Sharing	The guideline does not contain any specific statement on the need for fair risk sharing and accountability amongst relevant debt actors.
Compliance with International Law and Standards	Through its adoption of international standards and principles, NBIM has committed to ensure corporate responsibility in its activities.
Sanctions	NBIM utilizes divestment based on ethical exclusion, observation, positive screening of investment objects prior to incorporation into the index, approval of issuers of government bonds, risk-based divestment, active ownership dialogues as well as voting and shareholder proposals in their active ownership strategy. All of these strategies have concrete sanction mechanisms, most notably approval of issuers of government bonds and divestment.

Principle(s)	Analysis
Debt Sustainability	The fund's principles for responsible investment reference the UNCTAD principles on promoting responsible sovereign lending and borrowing as useful guidance. NBIMs routine for approval of issuers of government bonds has a broad definition of debt sustainability incorporating such aspects as political stability, rule of law, sustainability, standard of living, labor rights, risk of corruption, creditworthiness, and the ability of state finances to withstand exogenous shocks, to mention a few.
Due Diligence	The fund's investment managers, the Council on Ethics and the Board of the Central Bank are jointly responsible for NBIM's execution of due diligence. The scope of NBIM's routine for securing due diligence in investments in government bonds is detailed, broad and concrete. The criteria are clearly stated and the process of approval is embedded in the funds mandate.
Due Authorization	NBIMs routine for approval of issuers of government bonds does not detail a prerequisite for the securing of due authorization explicitly.
Monitoring	NBIM's mandate states that the approval of investment instruments such as government bonds are subject to periodic review.
Transparency and Documentation	NBIM's responsible investment policy places importance on being transparent about their activities with investment partners and ensuring a principles-based approach to investments. The guideline also states that NBIM is committed to becoming even more transparent. NBIM's responsible investment policy places some limitations on the scope of their transparency policy due to it potentially compromising investment objectives. However, NBIM should be more concrete about their transparency guidelines. Further, NBIM's code of conduct in terms of investment is fragmented, with some information provided in annual reports and others in the guideline. Moving forward, NBIM should consolidate this information for improved access and transparency. When looking at approval of government bonds specifically it is a strength that the criteria by which the board approves issuers of government bonds, the process by which the board approval is executed and that the list of approved issuers are publicly available at NBIMs website.
Good faith	NBIM's responsible investment policy does not address the issue of fair risk and burden sharing, nor their approach to debt negotiations. When an issuer of government bonds no longer fulfill the criteria for approval the fund will sell off this investment. This entails that the fund in most instances will have allready sold their shares if and when an issuer of government bonds stand the risk of default.

Table 10: KLP's Guideline for Responsible Investment

Principle(s)	Analysis
Purpose	KLP's guideline for responsible investment clearly states its purpose to ensure that the KLP's funds act as responsible investors and owners. They also emphasize the need for corporate social responsibility and sustainable value creation. KLP's Guideline for Responsible Investment consists of six overarching principles pertaining to being a responsible investor.
Actors and Agency	According to KLP's Guideline for Responsible Investment, the principles govern KLP's funds and their investments. They concern responsibilities in relation to their investors and customers as capital owners.
Design	KLP's guideline is anchored in other well-regarded international conventions and standards, including, but not limited to, OECD's Guidelines for Multinational Enterprises, ILO's core conventions and UN Universal Declaration of Human Rights.
Applicability	KLP's guideline is applicable to investment activities in all funds managed by KLP Kapitalforvaltning. According to KLP, the guideline applies to all investments and asset classes in the funds.
Implementation and Endorsement	Compliance with the guideline is compulsory, and the board is responsible for ensuring that the guideline is adopted by KLP's funds. The guideline is also approved by the Board of KLP Kapitalforvaltning.
Fair Burden Sharing	KLP's guideline is mainly focused on their own responsibilities and lacks information on the need for equitable risk-sharing to achieve sustainable lending.
Compliance with International Law and Standards	KLP has committed themselves to the UN PRI and UN's Global Compact principles, which in turn is based on other well-regarded international conventions and standards. KLP's guidelines also echoes the ethical guidelines of the GPFG.
Sanctions	KLP does not specify any repercussive measures for non-compliance of the guideline. Nor does it provide any information regarding how KLP copes with resolution of a potential guideline breach. However, KLP does have sanction mechanisms in place to freeze purchases or divest from debt instruments if the investee company breaches KLP's principles.
Debt Sustainability	KLP's guideline does not disclose information regarding its definition of debt sustainability.
Due Diligence	KLP conducts assessments of a company's compliance program to detect any breaches of corporate compliance. Further, KLP has outlined compliance requirements, which are based on the Council on Ethics for GPFG's recommendations, for their investments in companies.
Due Authorization	KLP does not specify any requirements for due authorization of their investments beyond what it has committed to as a signatory of international conventions and standards.
Monitoring	KLP's guideline states that the company is required to frequently monitor its investment activities and partners.
Transparency and Documentation	In accordance with relevant industry requirements and standards, KLP is committed to the principle of transparency. The company also says that it will report externally on how the guideline is complied with and disclose relevant underlying assessments. Through UN's PRI, KLP has committed themselves to report on their investment activities and project implementation, and to seek adequate reporting on ESG-related matters from their investment partners.
Good faith	KLP's guideline does not specifically commit themselves to fair risk-sharing or equitable remediate solutions in debt-related issues.

Table 11: Storebrand's Sustainable Investment Policy (Storebrand Standards)

Principle(s)	Analysis
Purpose	Storebrand's guidelines for sustainability clearly states its intentions for integrating sustainability principles and guidelines in its investment activities.
Actors and Agency	The Storebrand Standards are based on multiple analysis criteria on international law and human rights, sovereign bonds, environmental damage, etc. The criteria outline responsibilities of Storebrand.
Design	Storebrand adheres to multiple well-regarded principles pertaining to responsible investment, including UN PRI, UN Human Rights Conventions and Transparency International's CPI. Additionally, Storebrand also follows internal sustainability principles that govern their activities in investment, product development and procurement.
Applicability	While the Storebrand Standard does not provide detailed information on which transactions it is concerned with, it has analysis criteria that govern investments in sovereign bonds.
Implementation and Endorsement	Storebrand exclude government bonds based on country risk ratings and key indicators such as control of corruption, political and civil rights, respect for human rights, sanctions by the UN, EU and Norway, amongst others.
Fair Burden Sharing	The Storebrand Standard does not specifically address fair risk-sharing mechanisms.
Compliance with International Law and Standards	The Storebrand Standard says that it complies with international laws and standards related to human rights, corruption, political and civil rights.
Sanctions	Storebrand Asset Management utilizes divestment based on normative and ethical exclusions, observation, positive screening of investment objects prior to incorporation into the index, approval of issuers of government bonds, risk-based divestment, active ownership dialogues as well as voting and shareholder proposals in their active ownership strategy.
Debt Sustainability	Storebrand does not define debt sustainability in the Storebrand Standard, nor is it included as an exclusion criterion for sovereign investments.
Due Diligence	While the Storebrand Standard ascertains due diligence requirements, it does not provide a detailed assessment of the due diligence process.
Due Authorization	The Storebrand Standard does imply the need for due authorization in its guideline but lacks an explicit statement on the matter.
Monitoring	Storebrand's sustainable investment policy includes monitoring and reviewing of its engagement with companies and other related parties. Storebrand states that they set investment objectives and milestones together with other stakeholders in a collaborative manner. They subsequently monitor the defined objectives, and revise objectives if needed.
Transparency and Documentation	Storebrand's sustainable investment policy says that transparency is a guiding principle in its operations; albeit the Storebrand Standard does not outline any specific information sharing requirements for its investment activities. Through UN's PRI, Storebrand has committed themselves to report on their investment activities and project implementation, and to seek adequate reporting on ESG-related matters from their investment partners.
Good faith	Storebrand's sustainable investment policy does not disclose any information regarding their approach to debt negotiations or restructurings. However, the Storebrand Standard does endorse collaboration among stakeholders.

Table 12: Norfund's Responsible Investment Policy (Norfund RIP)

Principle(s)	Analysis
Purpose	Norfund clearly states its objective of promoting investments to support sustainable development. They also focus on upholding high ESG standards in their investment projects.
Actors and Agency	Norfund's responsible investment policy covers all its financial and advisory activities in, among others, equity investments, fund investments and loans. They also provide business advisory services to partner companies regarding ESG issues. According to Norfund, they commit their investment objectives to uphold responsible business practices as well.
Design	While Norfund RIP is designed internally, it is partly derived from broader well-regarded guidelines, such as the Environmental and Social Performance Standards of the World Bank's International Finance Corporation (IFC Performance Standards) and UN Global Compact.
Applicability	The Norfund RIP is applicable to their entire portfolio and all financial transactions.
Implementation and Endorsement	The Norfund RIP is approved by Norfund's board of directors, latest in July 2020. The policy is subject to regular reviews and modifications, according to Norfund.
Fair Burden Sharing	Although Norfund RIP does not directly address fair burden and equitable risk-sharing mechanisms, their policy emphasises the need for accountability amongst all stakeholders in their transactions. Yet, an improvement of their policy would be to introduce concrete risk-sharing mechanisms.
Compliance with International Law and Standards	Norfund promotes compliance with multiple international best practices related to ESG issues and corporate governance. Additionally, Norfund's exclusion list of sectors and activities that they do not invest in is based on the European Development Finance Institution's (EDFI) exclusion list.

Principle(s)	Analysis
Sanctions	Norfund practices active ownership of investments, enabling them to influence investee behaviour and performance. They also "typically require the right to nominate at least one seat on the Board of Directors of the portfolio company".[55] If there is evidence of mismanagement or inadequate reporting, Norfund states that it reserves the right to withdraw from an investment or reject an investment proposal.
Debt Sustainability	The Norfund RIP does not outline its debt sustainability definition parameters.
Due Diligence	A major strength of Norfund's policy is that it discloses detailed information regarding its multiple due diligence processes, such as ESG research, assessment of economic and financial circumstances and project quality.
Due Authorization	Norfund RIP does not address due authorization in concrete terms. Instead, Norfund states that it conducts business integrity analysis of the investment objects' ownership structure. This, however, falls short in ensuring that investments have necessary authorizations in place and that it serves the public's interest.
Monitoring	Norfund sets a positive example by disclosing extensive details on its post-investment monitoring procedures. For instance, Norfund conducts project impact and ESG compliance monitoring.[56]
Transparency and Documentation	According to Norfund, they are "transparent in its operations and disclosure of portfolio data" to the Norwegian government. Norfund is also committed to upholding reporting standards pertaining to ESG-related issues. However, Norfund's transparency and documentation standards are limited, and more advances in public reporting procedures should be introduced.
Good faith	Norfund's policy states that they are committed to acting in good faith when exiting an investment. Further, Norfund cooperates and communicates non-compliance issues with the relevant stakeholder prior to taking severe measures. Yet, Norfund does not clearly outline information regarding their approach to fair risk-sharing.

Table 13: Institute of International Finance's (IIF) *Voluntary Principles for Debt Transparency*

Principle(s)	Analysis
Purpose	The Institute of International Finance's (IIF) *Voluntary Principles for Debt Transparency* clearly states that its purpose is to promote consistent and timely disclosure in financial transactions entered by a sovereign, sub-sovereign or guaranteed by aforementioned entities.
Actors	The principles are aimed at commercial investors.
Design	The principles are designed to complement G20 and other public sector initiatives aimed at improving transparency in public sector borrowing, in addition to the World Bank Group and International Monetary Fund (IMF) efforts to address emerging debt vulnerabilities.
Applicability	The principles are meant to apply to any lending agreement where the borrower is a sovereign, sub-sovereign or an entity guaranteed by a sovereign.
Implementation and Endorsement	The principles are voluntary, and clearly states that they "do not create any rights in, or liability to, any person, public or private".
Fair Burden Sharing	–
Compliance with International Law and Standards	–
Sanctions	The principles do not mention any sanction mechanism, as they do not aim to create any legal duties or binding commitments.
Debt Sustainability	–
Due Diligence	–
Due Authorization	–
Monitoring	–
Transparency and Documentation	The principles clearly state transparency standards, but could be improved by proposing a shorter timeframe for disclosure and encouraging binding solutions.
Good faith	–

* The IIF's Voluntary Principles has a narrow focus on debt transparency, and does not mention broader issues such as debt sustainability, good faith or fair burden sharing. In the table, we have used a dash to indicate that the principles do not address the relevant theme.

Endnotes

1 Wyplosz, 'Debt Sustainability Assessment: The IMF Approach and Alternatives'.

2 *https://www.undp.org/publications/unprecedented-opportunity-boost-finance-development#modal-publication-download*

3 Kharas, 'What to Do about the Coming Debt Crisis in Developing Countries'.

4 *https://sustainabledevelopment.un.org/content/documents/2051AAAA_Outcome.pdf*

5 *https://undocs.org/en/A/C.2/76/L.25*

6 The fiscal ability to meet long-term debts and financial obligations.

7 'IMF Debt Sustainability Review Lacking in Ambition and Transparency'.

8 'Voluntary Principles For Debt Transparency'.

9 *https://jubileedebt.org.uk/wp/wp-content/uploads/2019/04/Transparency-of-loans-to-governments_04.19.pdf*

10 Environmental, social and governance risks.

11 'Disclosure Statement: Operating Principles for Impact Management'.

12 See Bohoslavsky (2016)

13 The focus of this report is how lenders can put commitments to responsible lending into practice, already having chosen to do so. We therefore do not go into detail on the challenges of engaging with human rights. For a discussion on possible barriers and related solutions, see for example Nuzzo & Cox (2022) .

14 See UN Working Group on Human Rights and Business (2021)

15 See Pielichata (2018, 18.12

16 See Lumina (2011, p. 15)

17 For more information on FPIC, see for example Hawkes (2019)

18 See Afrodad (2018), in particular the first and second principle of the African Borrowing Charter.

19 Similarly, the principle of enabling or providing access to remedy is at the core of responsible business conduct but does not automatically translate to the context of sovereign bonds. Due to time constraints it has been outside the scope of this paper to examine it, but it is clear that for it to be meaningful, it should go beyond statements to encompass, for example, debt cancellation.

20 See Lumina (2011, p. 19)

21 See Hawkes (2019, p. 27, added emphasis)

22 See Debt Justice UK (2020)

23 See Gratcheva, Emery & Wang (2020)

24 See Impact Cubed (2023)

25 See Human Rights Measurement Initiative (2023)

26 For more details on this suggestion, see Gratcheva et al. (2023)

27 See Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social and cultural rights (2018, p. 16, added emphasis).

28 See Götzman et al. (2016)

29 See Bradlow (2020) for notable exceptions.

30 It is important to consider the impact of disinvestment and timing to minimise negative effects. Investors should establish routines and thresholds that enable them to sell off bonds without contributing to speeding up a default.

31 See Martin & Waddock (2022, p. 58)

32 See Institute of International Finance (2019)

33 See Institute of International Finance (2019, p. 5, footnote 7)

34 See Debt Justice UK (2023)

35 See Norges Bank Investment Management (2023)

36 For example, see Goldmann (2014)

37 The Common Framework for Debt Treatments was established in late 2020 as a system to guide debt restructurings in the wake of the pandemic. Participation for non-G20 creditors is voluntary, and relies on the principle of comparability of treatment. This has failed, something which has been widely acknowledged. See for example Rivetti (2022) and Rehbein & Stutz (2022).

38 For more, see Ho & Fontana (2021). They provide an overview and history of natural disaster clauses, paying particular attention to bonds issued by Grenada and Barbados.

39 See Iversen (2023, p. 1892-202)

40 See Iversen (2023, p. 194)

41 While the case of regulatory measures is strong as numerous attempts to strengthen transparency or ensure participation in renegotiations schemes have failed due to their voluntary nature, the focus of this report is how we can leverage existing systems to improve investment practices. In general, Debt Justice Norway advocates the need for legislation that would improve the functioning of sovereign lending markets, such as a mandatory disclosure (see for example suggestion in *Debt Justice (2023)* latest briefings) and binding participation in renegotations (see for example this *UK Parliamentary Briefing* from March 2023, and a *similar proposal* being advanced in the New York Assembly, also 2023).

42 Lack of binding solutions contributes to making it more difficult for the individual investor that wants to go ahead with new investment strategies because it leaves it politicised, controversial and/or costly.

43 See Gratcheva, Emery & Wang (2021))

44 "Signatory Directory'.

45 'What Are the Principles for Responsible Investment?'

46 'International Monetary Fund, 'Applying the Debt Sustainability Framework for Low-Income Countries Post Debt Relief'.

47 A framework, developed by the World Bank, to diagnose a borrowing country's policy and institutional framework for poverty reduction, sustainable growth, and effective use of development assistance.

48 'Principles on Promoting Responsible Sovereign Lending and Borrowing', n.d.

49 'Principles on Promoting Responsible Sovereign Lending and Borrowing', n.d.

50 'African Borrowing Charter'.

51 'African Borrowing Charter'.

52 Collective action clauses

53 Government Pension Fund of Norway

54 *https://www.nbim.no/no/organiseringen/styringsmodellen/styrende-dokumenter-fastsatt-av-hovedstyret/rutiner-for-godkjenning-av-finansielle-instrumenter-markeder-og-utstedere-av-statsobligasjoner/*

55 'Investment Process'.

56 'Disclosure Statement: Operating Principles for Impact Management'.

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