

Anti-corruption

This document describes the standards DNB Asset Management (DAM) expects companies to meet regarding their anti-corruption work (last updated November 2018).

Objective

The DNB Group's Standard for Responsible Investments¹ shall ensure that DNB does not contribute to human or labour rights violations, corruption, serious environmental harm and other actions which may be perceived to be unethical and/or unsustainable. At DNB Asset Management (DAM) we exercise our ownership rights in line with international norms and standards, including the UN Global Compact, UN Guiding Principles on Business and Human Rights, the G20/OECD Principles of Corporate Governance, and the OECD Guidelines for Multinational Enterprises (see more details in the appendix). We practice active ownership using tools such as screening, dialogue, engagement and voting. Risk management, standard setting, and Environmental, Social and Governance (ESG) integration are also important aspects of our responsible investment approach.

The purpose of this document is to define our criteria and expectations towards companies in terms of their obligation to be proactive in their anti-corruption work. The document is a description of our interpretation of the Group Standard for Responsible Investments, defines our expectations towards companies we invest in or plan to invest in, and describes how DAM assesses companies once an incident has occurred. Following screening and possible engagement by DAM, companies may be excluded from DNB's investment universe if there is an unacceptable risk that a company contributes to or is responsible for **serious corruption**.

Definition of serious corruption (of a company)

A broad definition of corruption used by the DNB Group is: Corruption is the misuse of power for one's own/the company's benefit. Many types of wrongdoings, including money laundering², are typically included in the wider definitions of corruption.

In a more narrow sense, a standard definition of serious (or gross) corruption typically encompasses two key elements:

- 1) Gives or offers an advantage so as to unduly influence (or attempts to do so) a public servant in the execution of public duties – or a person in the private sector who takes decisions or has influence on decisions which may bring the company an undue advantage. Alternatively demands or receives bribes.
- 2) The corrupt acts are carried out in a systematic or comprehensive manner.

Introduction to corruption and anti-corruption work

Corruption is widespread, and it is costly for society as a whole, for individual companies and for shareholders. The high costs for society includes negative impacts on freedom, money, and health, and in the worst cases, it costs lives. There is also a strong link between corruption and inequality, as well as corruption being an obstacle to fighting dangerous changes to the climate system^{3 4 5}. Ultimately, fighting corruption is an important enabler in reaching many of UNs 17 Sustainable Development Goals (SDGs), and corruption is directly addressed in goal 16 (target 16.5): "Substantially reduce corruption and bribery in all their forms"^{6 7 8}.

Corruption can be very costly for companies. For example, fines and legal costs incurred by companies affected by the US Foreign Corrupt Practices Act (FCPA) can run into billions of Norwegian kroner. Often these direct costs of corruption are small compared to the potential long-term damage, as companies may also be exposed to many other costs, including loss of market access and reputational damage.

From a shareholder/investor point of view, corruption is a material ESG factor to consider across all global industries. There is also emerging empirical evidence that anti-corruption work as part of a broader governance focus can enhance portfolio return.

¹ https://www.dnb.no/portalfont/nedlast/en/about-us/corporate-responsibility/2018/Group_standard_for_responsible_investments.pdf

² [http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/?hf=10&b=0&s=desc\(fatf_releasedate\)](http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/?hf=10&b=0&s=desc(fatf_releasedate))

³ <http://www.worldbank.org/en/topic/governance/brief/anti-corruption>

⁴ https://www.transparency.org/news/feature/corruption_and_inequality_how_populists_mislead_people

⁵ https://www.transparency.org/topic/detail/climate_change

⁶ <https://www.un.org/sustainabledevelopment/sustainable-development-goals/>

⁷ https://www.transparency.org/news/feature/no_sustainable_development_without_tackling_corruption_SDG_16

⁸ https://www.nbim.no/contentassets/092e192d14d34d8eaf6110b75a27977c/nbim_amp_1_18_the-sdgs-and-the-gpfg.pdf

In many cases, corruption scandals serve as a catalyst for major reforms to a company's anti-corruption programs. However, some companies are repeat offenders; this is most common in cases where the initial fine is small and fails to serve as a strong deterrent. In the worst cases, where our analysis shows that the risk of (further) serious corruption is significant, companies may be excluded from the investment universe of DNB.

DAM's expectation towards companies

In regards to anti-corruption work, we expect companies to:

1. To be **proactive** in their anti-corruption work including respecting international laws, norms and standards as well as applicable national laws. **A key Board-level responsibility** is to establish the appropriate anti-corruption policies and procedures – in line with best practice^{9 10 11}.
2. To establish **clear anti-corruption policies and procedures that are well aligned with the level of corruption risk the entity faces**. Anti-corruption policies should be guided by a comprehensive risk assessment relating to the potential for corruption in all aspects of business operations. Important elements in this risk assessment are company-specific industry and geographical risks, as well as the use of channels (intermediaries) and joint ventures.
3. To ensure that their **anti-corruption work is well integrated into all business operations**. Important elements are: A strong tone from the top, an effective compliance function (with direct reporting to the Board); clear communication of the policies internally and to business partners; appropriate anti-corruption training for all employees (and where appropriate, business partners and suppliers); secure whistleblower mechanisms; and a process for continuous review and improvement of the anti-corruption work.
4. **To be transparent in their anti-corruption work** including: Publicly disclosing anticorruption policies and processes; report on incidents (and the company's response); and have periodic independent high quality assurance of the anti-corruption program (at minimum, the main conclusions should be made public). Finally, irregularities identified and actions taken shall be disclosed to relevant authorities.
5. **To be transparent in additional relevant aspects** including: Country-by-country reporting on taxes and government payments are highly encouraged; and public disclosure regarding a company's ultimate beneficial owner or owners including full name, date of birth, nationality, jurisdiction of residence, number and categories of shares, and, if applicable, the proportion of shareholding or control.

Assessment criteria

In screening, assessing, and engaging with companies concerning possible serious corruption, the following questions may be important:

- *Are the past incidents of corruption (or the corruption likely to take place) systematic and/or comprehensive in nature?*
- *How has the company responded to past incidents or allegations of corruption? Has the members of the management and/or the Board involved in past corruption incidents been removed from their positions?*
- *Is the company's standard of corporate governance well aligned with the corruption risk the entity faces? Including the necessary oversight and independence of the Board?*
- *Does the company have a zero tolerance policy for corruption (made public)?*
- *Has the company implemented effective anti-corruption procedures – that are organized in a way that enables it to effectively prevent, detect and respond to corruption problems (in line with best practice)? Is there strong commitment from the top management (and have they established clear lines of authority)? Is the anti-corruption work well aligned with the level of corruption risk the entity faces?*

⁹ Best practice by Transparency International 2013:

https://www.transparency.org/whatwedo/publication/business_principles_for_countersing_bribery

¹⁰ See also the PwC report on corruption presented to the Norwegian Ministry

of Trade, industry and Fisheries in 2016 (from page 43):

<https://www.regjeringen.no/contentassets/1e258223629a4b69999cab9b82ccd35f/rapport-narings--og-fiskeridepartementet-01.09.2016.pdf>

¹¹ Finally, NBIM's expectation document 2018: <https://www.nbim.no/en/responsibility/risk-management/anti-corruption/>

RESPONSIBLE INVESTMENTS

- *Has the company implemented a management system which results in immediate actions if suspicions arise that employees or suppliers are involved in corruption? Does the company integrate criteria on corruption into its procurement and operational policies (including compliance with criteria on corruption in their contracts with subcontractors and suppliers)? Is there a secure whistle blowing mechanism (without reprisal)? Are there comprehensive training schemes including tailored training provided to all directors?*
- *Where appropriate, are the anti-money laundering policies and practices in line with best practice?*
- *If the company has been unable to ensure that a joint venture or consortium has a program consistent with its own, does it have a plan for taking appropriate action if corruption occurs or is reasonably thought to have occurred?*
- *Is the company transparent in its anti-corruption work, including having periodic, independent, high-quality assurance of the anti-corruption program (with, at minimum, the main conclusions made public)? Does the company publicly report on its lobbying practices?*
- *In summary, does there appear to be a significant risk of serious corruption taking place in the next few years?*

Summary

DAM will screen and engage with companies where appropriate to help prevent future incidents of serious corruption. In the worst cases, companies may be excluded from DNB's investment universe, in line with DNB's Group Standard for Responsible Investments.

(See also appendix: National and international laws, norms and standards concerning corruption that DAM expects companies to consider).

Appendix: National and international laws, norms and standards concerning corruption that DAM expects companies to consider

Laws/norms/standards	Comments
UN Global Compact - 10th principle (2004) ¹²	"Businesses should work against corruption in all its forms, including extortion and bribery."
United Nations Convention against Corruption (2005) ¹³	This convention requires states to implement anti-corruption measures (the only legally binding <u>universal</u> anti-corruption instrument). The Convention covers five main areas: Preventive measures, criminalization and law enforcement, international cooperation, asset recovery, and technical assistance and information exchange. It covers many different forms of corruption, such as bribery, trading in influence, abuse of functions, and various acts of corruption in the private sector.
OECD Anti-bribery Convention (1997) ¹⁴	This convention establishes legally binding standards to criminalize bribery of foreign public officials in international business transactions and provides for a host of related measures that make this effective. It is the only international anti-corruption instrument focused on the 'supply side' of the bribery transaction. See also the 2009 Recommendation of the Council for Further Combating Bribery, the 2009 Recommendation on the Tax Deductibility of Bribes to Foreign Public Officials and other related instruments.
The OECD Guidelines for Multinational Enterprises (2000) ¹⁵	The most recent update was completed in 2011 - chapter VII deals with combating bribery, bribe solicitation and extortion.
EU: Convention on fighting corruption involving officials of the EU or officials of Member states (1997), Framework Decision on combating corruption in the private sector (2003) ¹⁶	These are the two most important conventions from the EU concerning corruption. The EU has a general right to act in the field of anti-corruption policies, within the limits established by the Treaty on the Functioning of the European Union. See also the EU Anti-Corruption Report, published in 2014.
ISO 37001: 2016 Anti-bribery management systems ¹⁷	This ISO-standard specifies requirements and provides guidance for establishing, implementing, maintaining, reviewing and improving an anti-bribery management system. The system can be stand-alone or can be integrated into an overall management system.
The Foreign Corrupt Practices Act – FCPA (1997) ¹⁸	Breaching this US law may have large financial consequences. Since 1977, the anti-bribery provisions of the FCPA have applied to all U.S. persons and certain foreign issuers of securities. With the enactment of certain amendments in 1998, the anti-bribery provisions of the FCPA now also apply broader - to foreign firms and persons who cause, directly or through agents, an act in furtherance of such a corrupt payment to take place within the territory of the United States. The FCPA also requires companies whose securities are listed in the United States to meet its accounting provisions.
UK Bribery Act (2010) ^{19 20}	This UK law was introduced to update and enhance UK law on bribery including foreign bribery in order to address better the requirements of the 1997 OECD anti-bribery Convention. It is now among the strictest legislation internationally on bribery, and goes significantly further than the provisions of FCPA - in particular covering all bribery.
The Norwegian Criminal Code: § 387-§ 389 ^{21, 22 23}	Norway has a strict definition of corruption: To give, offer, demand, receive or accept an offer of improper advantage in connection with a job, office or commission. Norwegian companies with international activities should be aware that both the US FCPA and the UK's Bribery Act have broad scopes and under certain circumstances may apply to Norwegian companies. In addition Norwegian corruption rules may also apply to acts committed abroad.

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¹² <https://www.unglobalcompact.org/what-is-gc/mission/principles>

¹³ <https://www.unodc.org/unodc/en/treaties/CAC/>

¹⁴ <http://www.oecd.org/corruption/oecdantibriberyconvention.htm>

¹⁵ <http://www.oecd.org/corporate/mne/2000oecdguidelinesformultinationalenterprises.htm>

¹⁶ https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption_en

¹⁷ <https://www.iso.org/standard/65034.html>

¹⁸ <https://www.justice.gov/criminal-fraud/foreign-corrupt-practices-act>

¹⁹ <https://www.legislation.gov.uk/ukpga/2010/23/contents>

²⁰ <https://www.ey.com/uk/en/services/assurance/fraud-investigation---dispute-services/uk-bribery-act>

²¹ <https://www.pwc.no/en/tjenester/gransking/antikorrupsjon.html>

²² https://lovdata.no/dokument/NL/lov/2005-05-20-28/KAPITTEL_2-15#§372

²³ <https://www.lexology.com/library/detail.aspx?q=01a3a689-285c-45db-abef-c241c00ec81d>