Public Questions

Question 1 – Ms S Owen

The South Yorkshire Pension Authority Responsible Investment Policy states that 'all companies should abide by the UN Global Compact and the OECD Guidelines for Multinational Enterprises'.

Principal 2 of the UN Global Compact states that 'Businesses should ensure that their practices are not complicit in human rights abuses'

The OECD guidelines state that businesses must 'Avoid causing or contributing to human rights harms'.

Israel is now being investigated by the International Court of Justice for the crime of genocide. The International Criminal Court has issued an arrest warrant for the Israeli Prime Minister, Benjamin Netanyahu.

The International Court of Justice ruling of 19 July 2024 declared that Israel's occupation of the Gaza strip and the West Bank, including East Jerusalem, is unlawful, along with the associated settlement regime, annexation and use of natural resources. The Court also said that Israel is violating the international prohibition on apartheid.

The ICJ mandated Israel to end its occupation, dismantle its settlements, provide full reparations to Palestinian victims and facilitate the return of displaced people.

"States must immediately review all diplomatic, political, and economic ties with Israel, inclusive of business and finance, **pension funds**, academia and charities." https://www.ohchr.org/en/press-releases/2024/07/experts-hail-icj-declaration-illegality-israels-presence-occupied

The ICJ called for an arms embargo, **an end to all other commercial activities that may damage the Palestinians,** and sanctions against entities involved in illegal occupation, racial segregation and apartheid policies.

South Yorkshire Pension Authority has a number of investments in arms companies and other companies that have been identified by the United Nations as complicit in the crimes of apartheid and genocide. These investments cause financial risk and reputational damage to SYPA.

Can you identify what is the process for carrying out due diligence regarding human rights concerns prior to investing in these companies both for SYPA and your investments with Border to Coast? Have you identified which companies that SYPA invests in, are exporting military equipment or components for military equipment to Israel, and what is the value of the SYPA investments in these companies?

Response

SYPA does not directly own the shares and bonds of individual companies (or government entities). Rather, it invests through pooled funds managed by fund managers. In most cases the fund manager is the Border to Coast Pensions Partnership, one of 8 local government investment pools. Border to Coast is constituted as an FCA regulated company owned by 11 Local Government Pension Funds (known as the "Partner Funds") including SYPA.

Border to Coast have established due diligence processes for considering human rights issues and any reported human rights incidents relating to its holdings. It is worth noting that Border to Coast's funds are either managed directly ("internally") or by external fund managers who have been appointed by Border to Coast.

For Border to Coast's internally managed funds, new potential investments are assessed by the internal research team to identify financially-material ESG risk factors associated with a company. Material ESG risks would include human rights impacts. External data sources are used to investigate a company's human rights incidents. Human rights issues are considered alongside all material ESG factors in the investment team's decision-making process.

Border to Coast do not direct the individual investment decisions of its external fund managers. However, they regularly review and assess whether the external managers have adequate policies and processes to ensure that their investment decisions follow the principles of its responsible investment approach. Annual reviews question all of the external managers on how they specifically approach human rights risks and how they monitor and respond to arising controversial incidents, including incidents where companies infringe on human rights. For example, one of Border to Coast's data providers, MSCI, issues a Controversial Incident Red Flag where a company is reported to have potentially infringed on human rights. Border to Coast have an established monitoring process that identifies whether any of its holdings are flagged. The monitoring process triggers an investigation into the incident and its impact on the investment case for that company. Border to Coast also utilise human rights watchlist alerts in RepRisk to flag reported incidents of potential human rights infringements.

Border to Coast continues to develop its approach to assessing human rights related issues associated with the companies invested in. It is not feasible for Border to Coast to undertake due diligence on behalf of the companies invested in, and so the focus is to engage with those companies to set out expectations of the due diligence approach expected of them. Due to limitations in information availability and reliability, Border to Coast is unable to identify all holdings that may export military equipment or components for military equipment to Israel. Border to Coast therefore cannot quantify the value of investments in such companies either. However, Border to Coast does monitor its holdings, including those in the defence sector, for exposure to significant controversies using aforementioned sources such as MSCI and RepRisk. Exposure to the Israel/Gaza conflict has also been assessed specifically in order to understand the risks the holdings may be exposed to.

As fund manager, Border to Coast takes Environmental, Social & Governance (ESG) issues into account in line with a Responsible Investment Policy agreed between the 11 Partner Funds. The Responsible Investment Policy ensures the exclusion of financing to companies involved in the manufacture of controversial weapons considered to have an indiscriminate and disproportional impact on civilians during military conflicts. This includes not investing in companies contravening the Anti-Personnel Landmines Treaty (1997), Chemical Weapons Convention (1997), the Biological Weapons Convention (1975), and the Convention on Cluster Munitions (2008).

Other companies supplying arms will be doing so under the explicit terms of licences from the relevant government and it would be unreasonable (in terms of the legal principle known as Wednesbury reasonableness) to disinvest from a company acting with specific legal sanction.

Border to Coast's Responsible Investment Policy also considers ESG issues in the context of risks posed to the value of an investment. One aspect of this is the materiality of such risks. It is unlikely that a multi-national company supplying a global market, for example, will receive material income from activity in Israel or the Palestinian territories.

Question 2 – Mr S Ashton

In South Yorkshire Pensions Authority's (SYPA's) Responsible Investment Update, Quarter 2, 2024/25, LAPFF's scrutiny of the Drax power station is highlighted (page 14).

The findings of this scrutiny, as stated in the update, are not positive including the fact that Drax is the UK's largest carbon emitter, uses wood from rare old-growth forest in Canada (offsetting this with pine monoculture), relies heavily on government subsidy and has been fined £25 million for misreporting biomass data.

It goes on to say that *'challenges to Drax's BECCS model include wood pellet supply, ecological impacts, water use, and the need for toxic chemicals. High subsidy demands raise issues of nationalization, especially given questions about BECCS's actual emissions reduction capabilities. Meetings with Drax's CFO and other leaders are planned to address these concerns.'*

On top of this, using biofuels does not reduce CO_2 in the atmosphere immediately, with the payback time for the carbon debt for using wood as a fuel ranging from 44–104 years after clearcut, depending on forest type and assuming the land remains forest (reference supplied below). This timeframe is too long for any net zero targets.

((PDF) Does replacing coal with wood lower CO2 emissions? Dynamic lifecycle analysis of wood bioenergy)

In light of this and the authority's ambition to be net zero by 2030 we would hope that the authority doesn't have any investments in Drax. However, to clarify whether this is just an update on LAPFF activity in general or is pertinent to SYPA, can you please confirm if:

- SYPA has any investments in Drax power station and, if yes, what is the value of the investment?

- Whether the reason for inclusion in the updates is because you are considering investing in Drax?

Response

SYPA has no exposure to Drax Group PLC the update was to highlight the positive activity that LAPFF has undertaken on behalf of its members, of which SYPA is one.

Border to Coast's investment process is underpinned by a philosophy of investing in companies that generate high and sustainable returns and whose prospects are undervalued by the market. Responsible investment considerations are an important component of this consideration.

Though Border to Coast do not currently intend to invest in Drax, they are always looking at, and assessing, all investment opportunities to determine whether they represent an opportunity that is consistent with this approach. Over the twenty years since its listing, Drax has delivered poor returns and with significant volatility. This is consistent with a company that is highly reliant on regulation, subsidies, and volatile power prices.

Border to Coast are aware of the controversies surrounding Drax's closure of its coal powered plan in 2023 and its conversion to a biomass/pellet-based solution. The change in its energy mix to one that is dominated by biomass generation and hydro/pumped storage has meant that it is not captured by Border to Coast's policy restricting investments in thermal coal-based power production. Despite not having an explicit restriction, concerns over its procurement of biomass (wood pellets) combined with its reliance on subsidies are a concern to the sustainability of the returns that must be taken into consideration when investing for the long term.