

JBA Comments on the Platform for Sustainable Finance's draft report on minimum safeguards

Questions	Comments
<p>The Report proposes two sets of criteria for the establishment of non-compliance with MS: one related to adequate due diligence processes implemented in companies (i.e. relying on corporate reporting and disclosure) and the other related to the actual outcome of these processes or the company's performance (i.e. relying on external checks on companies).</p> <p>Question 1. Do you agree with this two-pronged approach?</p>	<ul style="list-style-type: none"> • Yes
<p>The UNGPs require that due diligence processes implemented in a company result in human rights abuses being effectively prevented and mitigated. To check whether processes implemented in a company fulfil this requirement, the report suggests applying external checks based on a company</p> <ol style="list-style-type: none"> a. having had a final conviction at court b. or not responding to complaints at OECD national contact points or allegations via Business and Human Rights Resource Centre. <p>Question 3. Do you agree with this approach?</p>	<ul style="list-style-type: none"> • No • Regarding the proposed Criterion 2, it is not appropriate to include “b” as a check requirement, because a company cannot provide sufficient information to external frameworks such as the OECD member country's National Contact Point or the Business and Human Rights Resource Centre in some circumstances, such as when the company is involved in a legal dispute or has entered a confidentiality agreement with customers/suppliers. • Also, the Business and Human Rights Resource Centre is an NGO, and we are concerned that it is an external organization that is not controlled by the EU regulators. If “b” is included, it should be verified whether the criteria of responding to human rights issues raised by the Business and Human Rights Resource Centre is appropriate.
<p>The OECD guidelines for multinational enterprises highlight the importance of</p>	<ul style="list-style-type: none"> • Yes

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<p>good corporate governance. The Report takes this up by developing criteria for bribery/corruption, taxation and fair competition.</p> <p>Question 6. Do you agree with this approach?</p>	
<p>Question 7. Do you have further suggestions or comments on the Report?</p>	<ul style="list-style-type: none"> In chapter 5.5, 2 b), the report suggests “the company has been found non-compliant with the OECD guidelines by an NCP” as a signal indicating that the company does not engage with stakeholders. However, the NCP is in the position of facilitating dialogue between the company and complainant, and is not in the position of judging compliance with the OECD Guidelines, so it is necessary to reconsider this proposal.

(End)