

## The First, Second, Third and Fourth AP Funds' common guidelines on which assets funds should not be invested in

### 1 Background

The AP Funds' operations are regulated by the National Pension Insurance Funds Act (2000:192), the AP Funds Act. On 1 January 2019, a number of changes to the AP Funds Act come into effect (Act on changes to the AP Funds Act (2000:192)) which mean, for example, that the First, Second, Third and Fourth AP Funds (the AP Funds) must manage their funds in an exemplary way through responsible investments and responsible conduct. When managing funds, special emphasis must be given to how sustainable development can be promoted without compromising on the overall objective (Chpt. 4 §1) regarding return and risk. The AP Funds shall work together to achieve the objective of exemplary management (Chpt. 4 §1a). As a minimum, the collaboration shall involve the AP Funds developing:

1. common core values for managing funds
2. common guidelines for reporting on how the objective has been achieved, and
3. common guidelines on which assets funds should not be invested in

Government bill 2017/18:271 *Ändrade regler för Första – Fjärde AP-fonderna (Changed rules for the First – Fourth AP Funds)*, notes that “The common guidelines should express the grounds on which investments in assets ought not to be made, for example to comply with international conventions signed by Sweden, to meet Swedish environmental objectives or to otherwise promote sustainable development. This applies both to investment in and the sale of assets. The First – Fourth AP Funds may also continue as owners of a company, even if the company does not meet a stated requirement, with the goal of attempting to influence the company in the direction that the Funds deem to be positive.” (page 28). “The common guidelines do not prevent any of the First –Fourth AP Funds from developing their own guidelines on which assets funds should not be invested in.” (Page 29).

### 2 On the basis of a convention

In the common core values formulated by the AP Funds, it is noted that the principle of legality means that the AP Funds must observe the international conventions ratified by Sweden and the international agreements backed by Sweden. These therefore form the basis for assessing which assets funds should not be invested in. In most cases, international conventions are designed to regulate how states should act and are not intended to regulate companies' operations directly. This means there is scope for interpretation regarding company violations of conventions. As a result, an AP Fund has to judge whether or not a company has been involved in violating a particular convention. An AP Fund's decision not to allow investments in particular assets on the basis of a convention is termed exclusion. Exclusion means that an AP Fund chooses not to allow an investment for a reason other than a financial one.

Since the AP Funds' exclusions are linked to international conventions and the AP Funds work with other stakeholders and owners with a common purpose, this makes the AP Funds

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part of an international collaboration which helps the international finance market to actively work against violations of conventions. The conventions thus assume increased importance.

The AP Funds' position is that all of the conventions that have been ratified by Sweden are of equal importance and must therefore be adhered to. This position is also supported by the UN Declaration of Human Rights, which points out that human rights are universal, indivisible, interdependent and interrelated, and are not to be ranked in any particular order of importance.

The AP Funds' view is that the companies are responsible for compliance with international conventions, regardless of whether these are directed at national governments, individuals, or companies and organisations. Moreover, this responsibility applies regardless of whether the countries in which these companies operate have ratified the conventions or have less strict legislation.

### **3 Recommendations for excluding companies that have been involved in violations of conventions**

In instances where the AP Funds deem it possible to have a positive influence on a company, through dialogue, the AP Funds may continue to own the company, even though it has been involved in a violation of a convention. For example, the AP Funds' Council on Ethics (Council on Ethics) has been formed with the aim of collaborating on dialogue that aims to influence such companies. The dialogue is conducted by the Council on Ethics on behalf of the AP Funds and, where appropriate, in partnership with other investors.

The Council on Ethics can recommend that the AP Funds exclude companies that are knowingly involved in violating an international convention ratified by Sweden. This may happen if the Council on Ethics judges that continued dialogue with the company will not lead to positive changes or if the dialogue has been ongoing for four years without significant progress. The Council on Ethics must consider whether a company is guilty of deliberate, systematic violations of the convention. This is deemed to be more serious than isolated violations. The Council on Ethics can also recommend the exclusion of companies – with no prior dialogue – in cases where the Council judges that dialogue with the company is unlikely to lead to improvement.

The Council on Ethics shall follow up all of the companies it has recommended for exclusion at least once a year. During the follow-up, the Council on Ethics can change its former recommendation should the circumstances warrant.

Each of the AP Funds considers the Council on Ethics' recommendations and decides on exclusions. This does not prevent the AP Funds, either individually or together with others, from excluding companies other than those recommended for exclusion by the Council on Ethics.

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#### **4 Analysis of conventions that aim to phase out certain products or businesses**

International conventions may aim to restrict the use, scope or distribution of certain products or businesses because they are considered dangerous to health or they have a serious influence on fundamental human rights, for example. At the same time, the laws and regulations of countries that have ratified the convention may allow the manufacture of these products and the running of these businesses.

The AP Funds can ask the Council on Ethics for assistance with fact-based analytical support for these conventions. The aim here is to make it easier for the respective AP Fund to assess the purpose and character of the convention, an assessment that could lead to refraining from investing in companies in certain sectors. It is up to each AP Fund individually to make a final decision.

#### **5 Transparent reporting of holdings**

Every six months, each of the AP Funds must publish a list of the holdings the fund has on its website. The list should be published in connection with publication of the annual reports and six-month interim reports respectively.

The Council on Ethics' recommendations on exclusions shall be published on the Council's website, including the reasons for exclusion. Each of the AP Funds shall publish which assets have been excluded on their respective websites.