

The UK's National Wealth Fund: Lessons from Norway

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Abstract

This piece considers the UK's new National Wealth Fund and is published in the *Oxford Business Law Blog*. The purpose of the UK fund is to invest in infrastructure, renewable energy, and green technologies using public as well as private investment. It is argued that the fund's effectiveness would be strengthened if it was legally obliged to prioritise environmental, social, and governance (ESG) considerations in its investment calculus. As it stands, the ESG imperative of the fund is an ambition. However, if this ambition were made a legal requirement as it is in Norway where a similar fund exists, then it would arguably gain greater legitimacy in the eyes of investors. It is recommended that ESG assessments for the purposes of the fund should be delegated to an independent body of experts as Norway has done in respect of its fund. This would arguably reduce the risk of ESG decision-making in relation to the fund being influenced by shifting political priorities at a time when ESG has become a political football.

Introduction

One of the manifesto pledges of the UK's new government is to establish a [National Wealth Fund](#). Work on this initiative has already gotten underway across three government departments: the treasury, business, and energy departments. It is anticipated that the Fund will be worth [£7.3 billion by 2029](#) and will be used to fund, amongst other things, infrastructure projects and green technologies.

The new UK Government might be minded to use as a blueprint Norway's Sovereign Wealth Fund officially called the Norwegian Government Pension Fund Global.

Socially Responsible Fund

Norway's is the largest such fund in the world and one of the few that is legally obliged to prioritise environmental, social and governance considerations in the investment calculus. To this end, Norway's fund is governed by two legally binding regulations: the Ethical Guidelines and Management Mandate.

Despite being called 'Guidelines', the Ethical Guidelines are legally binding and prohibit investment in companies involved in the production or sale of certain products like tobacco or weapons. Mining companies and power producers are also excluded under the Guidelines as is any company with adverse human rights and environmental impacts. Under the Management Mandate Regulations, Norway's central bank which manages the Fund is obliged to ensure and encourage good corporate governance in the companies in which it invests.

In respect of the UK fund, it will have to be seen whether investment along environmental, social and governance (ESG) lines will be legally required as it is in Norway or whether it will be one of many factors that may be taken into account in pursuit of the highest possible financial return. In this context it is worth noting that the Norwegian Fund in 2018 was worth over [8 billion Norwegian Kroner](#) (approximately 672 million Euro) and today it is worth over [18 billion Norwegian Kroner](#) (approximately 1.5 billion Euro) demonstrating that long-term socially responsible investing does produce significant returns.

Administration of the Fund

Another thing to look out for is how the UK's fund will be administered. Although Norway's fund is managed by the Ministry of Finance and Norway's central bank, an independent body called the Council on Ethics is responsible for recommending new companies to invest in and existing companies to divest from.

The independence of the Council reduces the risk that the Fund which has existed in its current form since 2001 can be drastically altered or influenced by successive governments. It is, for instance, the Council that determines what does and does not constitute a human rights or environmental violation to trigger divestment. While some authors have pointed out that this gives rise to [transparency concerns](#), it at least brings a degree of consistency to ESG assessments which might otherwise change depending on political priorities and/or ideology. Therefore, to ensure the success and longevity of its fund, the new UK Government may be minded to follow the Norwegian example and take the ESG assessment out of the political sphere, that is if ESG will be a determining feature of its investment strategy which is as yet unclear. Certainly, the UK Government is mindful of safeguarding its fund in the event of a change of government in the future. Hence, the Government has committed to embedding the UK National Wealth Fund in legislation so as to make it ["a permanent institution at the heart of the country's long-term growth and prosperity"](#).

Moreover, the operation of Norway's Fund and the investment strategy applied is reviewed annually by the Norwegian Parliament which is another feature that the UK Government might replicate. In Norway, the Council on Ethics reports to the Ministry of Finance who in turn sends a report once a year to the Parliament with details regarding the fund's investment strategy and its overall operation. In the first instance such a feature bolsters the transparency of the process which will be important in the context of the UK's fund as it will be financed through public and private investments. In the second instance, the role of Parliament in overseeing the fund rightly creates a sense of shared ownership in it and in the infrastructure that it finances.

In Summary

As [decarbonisation and tackling climate change](#) are said to be core aims of the UK's National Wealth Fund, it would represent a strong statement of intent if the UK Government were to follow Norway's lead and make ESG a legally binding aspect of the fund's investment strategy. In practice this would mean that investment in companies with poor environmental, human rights, and governance records would be prohibited. To do so would allow the UK to stand out as [one of the few](#) sovereign wealth

funds in the world with explicit legal obligations to consider the social and environmental consequences of their investments.

In mandating that ESG be part of the investment calculus rather than being one of many considerations to be taken into account, the UK Government could also avoid the fraught halfway house that the [last Labour government](#) created when it enacted [Section 172 of the Companies Act 2006](#). This provision allows company directors to "have regard (amongst other matters) to" social and environmental issues when "promot[ing] the success of the company for the benefit of its members as a whole". The ambiguous wording of the provision generated and continues to generate much [debate](#) about whether directors can consider ESG issues in and of themselves or whether they can only do so where there is a reciprocal benefit for shareholders. In the context of the National Wealth Fund, such ambiguity can be avoided through clearly defined investment criteria ideally centred around ESG.

Should the UK follow Norway's example in making ESG a cornerstone of its fund's investment strategy, it would be advisable for the UK to delegate ESG decision-making for the purposes of the fund to an independent body of experts as Norway has done through its Council on Ethics. In practice this means that the independent body would have autonomy to make recommendations to the UK Treasury about investing or divesting from companies based on their ESG records. This also means that the independent body would have discretion in ["passing judgment on gross corruption, major human rights violations, severe environmental damage, and other severe violations of fundamental ethical norms"](#). In so doing, the independent body will have autonomy to set or at least strongly influence ESG standards underpinning the fund.

The benefit of outsourcing the ESG decision-making to an independent body is that it would protect the operation of the fund and its investment strategy from potential political interference especially at a time when ESG is increasingly becoming a political football and sowing division in politics. The wide discretion enjoyed by the independent body may nevertheless raise concerns about the need to monitor and hold accountable the independent body. In this regard the role of the Norwegian Parliament in keeping Norway's fund under review is instructive and could be easily replicated in the UK. Not only would this help minimise the oversight and accountability concerns but it would also create a sense of shared ownership in the fund and in the projects it supports.