

INVESTING IN HUMAN RIGHTS: ASN BANK'S APPROACH TO SOCIALLY RESPONSIBLE BANKING

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Human rights issues addressed

- Child labour
- Corruption and bribery
- Diversity and/or non-discrimination in employment
- Freedom of information
- Forced labour
- Human rights and environment
- Right to health
- Social investment and community development
- Sphere of influence
- Standard of living
- Torture
- War crimes
- Weapons

Human rights management practices addressed

- Strategy
- Policy
- Processes and procedures
- Communications

Human rights standards, tools and initiatives mentioned (beyond the Global Compact)

- European Convention for Human Rights
- UN Norms on the Responsibilities of Transnational Corporations and Other Business Companies with Regards to Human Rights
- Universal Declaration of Human Rights

Abstract

This case study examines ASN Bank, a Dutch bank committed to investing only in ways that promote human rights and the environment. Founded in 1960, it was established on the principle that a bank could be both socially responsible and financially successful. In the 49 years since, ASN Bank has continually strengthened its commitments to human rights and environmental issues while both becoming more profitable and increasing its client base. This case study aims to describe the methods that ASN Bank has used to produce financially attractive, socially responsible options to Dutch private investors, as well as illustrating other methods the bank has used to achieve its mission, such as independently donating to charities.

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1. Company Profile

ASN Bank is a subsidiary of SNS REAAL Group, a Dutch financial services conglomerate offering insurance and banking services within the Netherlands. However, ASN Bank has its own banking license and board, and therefore takes an independent approach to choosing investments. The bank mainly invests its clients' savings in fixed-interest instruments issued by governments, companies, and institutions. In addition, a quarter of the money it manages is held in eight different types of ASN investments funds, with higher risks than the savings investments but higher potential returns through variable interest rates. Depending on the type of fund, the money is invested in a mix of shares and bonds or loans.

While 2008 was a difficult year for banks across the globe, ASN Bank's performance was on par with previous years. Asset funds were down 21.7% to €93 million, but bank assets rose 37% to €4.966 billion, and the number of clients rose 16% to a total of 420,000 clients. Overall, ASN Bank recorded profits of €16.9 million in 2008, compared to €17.1 million in 2007.

Moreover, in both 2007 and 2008, a Dutch services comparison website (Independer.nl) gave ASN Bank its highest rating in a survey of customer appreciation. In 2008, the FD Morningstar Award was given to ASN Bank's Groenprojectenfonds investment option. ASN Milieu & Waterfonds were also awarded, for the second time, the Gouden Stier ('Golden Bull') award, an initiative of Belegger.nl, in the "Best Sustainable Product" category.

The success of ASN Bank shows not only that socially responsible investment can be highly profitable, but that the public enthusiastically supports such choices.

2. ASN Bank's Commitment to Human Rights and Sustainability

ASN Bank has always emphasized lending to companies that have good working conditions and countries that respect human rights. Historically, ASN Bank has relied on the 1948 Universal Declaration of Human Rights ("UDHR"), and related international standards, in determining its human right standards. In the 1970s and 1980s, the bank expanded its policies to also include promoting nature and the environment, as well as taking a clear stance against nuclear weapons. In 1993, ASN Bank developed its first set of special investment criteria, based directly on the UNDR. Since then, ASN Bank has revised and expanded its special investment criteria twice, once in 2005 and once in 2007. These updates were partly prompted by the increased availability of human rights information, such as a country's labour rights or a company's human rights policies, and allowed ASN Bank to develop and refine better human rights criteria.

Currently, the bank's two key concerns are human rights and climate change. The bank signed the UN Global Compact in 2007 to "express its long-standing involvement with the 10 goals of this international UN initiative," as the bank's managing director, Ewoud Goudswaard, put it.¹ ASN Bank fulfills its commitment to human rights and sustainability in several ways: by requiring all investments to meet its special investment criteria for human rights and sustainability, by offering clients savings and investment options that directly contribute the client's accrued interest in the social or environmental cause of the client's choice, by independently donating to worthy charities, and by ensuring that internal bank operations are conducted in socially responsible ways.

While ASN Bank's conduct is aimed at promoting a healthy society, it is aware that its investments and actions must make a profit in the long run to ensure continued existence. ASN Bank follows the Triple P

concept of sustainable business management, and requires its investments to perform in three areas: People, Planet, and Profit.

To ensure that all of these requirements are met, the bank has developed a set of special investment criteria that allow it to choose the best options from a human rights and environmental perspective from a range of potential investments. Overall, the bank uses three tools to make sustainable investments: (1) special investment criteria used when selecting appropriate investments, (2) dialogue with the companies or institutions in which it invests and (3) when applicable, the exercise of voting rights associated with equity investments. The selection process is the most rigorous of the three and is discussed further below.

The bank offers fifteen savings options, including the ASN Jeugdsparen, which saves for the investor's children or grandchildren and supports homeless children projects, and the ASN Vrouwen spaardeposito, which donates the accrued interest to women's microcredit loans. Four other savings products offer the opportunity for clients to donate part or all of their interest to a maximum of three charities out of a possible ten, including Amnesty International and Astma Fonds (a Dutch group that subsidizes research for asthma and other pulmonary diseases). Over the past three years, almost 3,000 clients each year have chosen to do so.

Like the savings programs, the bank's funds also offer opportunities to directly contribute to promoting sustainability and human rights. For example, the ASN Waterfond is invested in water technology companies, and the ASN Novib Fund is directed towards microcredit in developing countries.

ASN Bank also works to promote its human rights and environmental goals not only through its investments, but also through the internal workings of the bank. It purchases 100% green electricity and recycled paper, purchases offsets for 100% of its CO₂ emissions and has steadily worked to reduce paper consumption per client. It also continually works to improve employee satisfaction, serves fair trade coffee and buys office gifts from a local fair trade shop.

3. Development of ASN Bank's Special Investment Criteria

Since its inception in 1960, the bank has focused on lending money to businesses that have good working conditions and countries that respect human rights. Over time, the standards of such loans have become both more exacting and more formalized. A general set of sustainability criteria was assembled in 1973 and has become increasingly specific over the years.

In 2005 and 2007, ASN Bank redrafted its investment criteria for improved clarity and consistency. Unlike most other banks, ASN Bank does not work solely with a "best in class" philosophy. Instead, it divides the criteria into "exclusion" and "acceptance" categories to determine whether a proposed investment would be in or out of the potential investment universe. The exclusion criteria are absolute conditions, which all investments must satisfy. The acceptance criteria are more relative, and only those investments which are among the best in their category or industry are included based on the acceptance category. After the universe of potential investments is determined, the second step is to determine the best financial investment. Overall, about 70% of companies are excluded because of human rights or environmental issues. ASN Bank currently has about 300 companies and 11 countries within its investment universe of the funds.

Human rights issues are the cornerstone of the exclusion criteria. While ASN Bank identifies itself as a sustainability-driven bank, "human rights play a huge role in the assessment of sustainability."² ASN Bank believes sustainability is not specifically about the environment and that sustainability is also "about

the way welfare is distributed fairly among generations and over the world. That is a human rights issue.”³ The current foundation is the 2003 UN document, Norms on the Responsibilities of Transnational Corporations and Other Business Companies with Regards to Human Rights (based on the Universal Declaration of Human Rights). After this, ASN Bank also looks to various regional and global standards as set out in resolutions and conventions, such as UN resolutions and treaties, ILO declarations, recommendations and conventions and the European Treaty for Human Rights. If there is a conflict between standards, ASN Bank applies the standard that gives the most protection to the individual. ASN Bank applies these standards to both actions and products, such as weapons, pornography, tobacco, and gambling.

A company will be excluded from the investment universe if it does not respect human rights in all of the countries in which it is active, including with companies in its supply chain, and wherever it is capable of exerting any significant influence or management control. The level of possible influence is obviously variable, but ASN Bank believes that certain industries can have high levels of influence. For example, clothing companies often deal closely with their production facilities and can exert substantial control over issues such as the use of child labour. Consequently, some companies that neglectfully or indirectly contribute to human rights abuses may be excluded. The human rights exclusion criteria specifically exclude companies that:

- Do not guarantee equal opportunity and non-discrimination⁴ to their own employees and others within the activities and spheres of influence of the company;
- Engage in or benefit from war crimes, including the manufacture or sale of weapons, even if primarily for civil application;
- Have corporate security practices that do not respect human rights;
- Do not offer safeguards against the exploitation of children, including prohibiting child labour;
- Violate employee rights, through such methods as:
 - Using forced labour;
 - Not paying fair wages;
 - Not respecting freedom for trade unions, including impeding freedom of association for employees;
 - Not providing safe, healthy working conditions, including companies that are involved in sexual exploitation and/or the commercial exploitation of pornography;
- Do not respect national sovereignty and human rights because they:
 - Fail to comply with legislation
 - Are involved in corruption, including financial, environmental, or social scandals, such as the payment of bribes.
 - Have a deleterious effect on health or living conditions, or increase poverty, usually relating to the immediate surroundings;
 - Violate social, cultural, or economic rights, including activities that lead to social disruption, harm to cultural heritage, or violate civil or political rights;
- Violate consumer rights, by supplying products that are unsafe, of inferior quality, or inherently harmful, such as tobacco and gambling;
- Violate national and international environmental guidelines.⁵

However, the bank recognizes that in practice, no company will be able to fully guarantee that a violation of the ASN criteria will never happen. Consequently, the bank’s screening process focuses on systematic violations, although a gross single violation can be sufficient to exclude a company.

ASN Bank makes a distinction between criteria for selecting companies and criteria for selecting government bonds. Many countries are excluded for investment in their government bonds as they have a high risk for participating in torture, genocide, crimes against humanity, and war crimes under any

circumstance, including a war situation or other emergency.⁶ However companies active in these countries could be approved but only if they do apply to the human rights criteria of ASN Bank for companies. So ASN Bank recognizes that a company can theoretically conduct acceptable business practices in such a country.

ASN Bank also recognizes that local habits or local laws may make it impossible for a company to comply with international human rights standards for legal, cultural, or social reasons when operating in a specific country. In such a situation, the ASN Selection Committee will not approve an investment in that company; a presence in such a country will result in exclusion of the company because the country does not permit the company to adhere to the necessary human rights standards, and the company still has chosen to be active there.

Even a potential investment that passes the exclusion criteria still must be appraised by the acceptance criteria, which evaluate potential investments relative to others in the industry or category. In order to score well on the human rights based acceptance criteria, a company must:

- Make an active contribution towards protecting and promoting human rights as defined by the UDHR
- Implement standards that ensure protection of human rights in internal policies, codes of conduct, and contracts
- Arrange for internal and external monitoring and verification of compliance with standards
- Have a policy and mechanism to compensate victims whose human rights may have been violated

While the acceptance criteria generally apply in full to the majority of the bank's investments, they may not apply to every investment, such as commercial loans, due to the nature of the transaction. Namely, ASN Bank's commercial loans are given to Dutch corporations, which have already have passed rigorous governmental standards compatible with ASN Bank's acceptance criteria. (However, the exclusion criteria, such as the ban on investments in weapons production, do still apply.)

Overall, the bank does not believe it is possible to have a comprehensive list of the ethical and sustainable criteria that an investment must meet. In addition to the specific criteria that allow for quantitative analyses, the bank also uses qualitative judgments regarding ethical aspects and sustainable development. Nonetheless, ASN Bank continually updates and refines the metrics it uses to evaluate potential investments. In 2007 for example, ASN Bank consulted with its partner Amnesty International, among others, to tighten the human rights section of ASN Bank's special investment criteria. As a result, the bank now applies even stricter definitions for such terms as child labour, workers' rights, and weapons.

To determine if a proposed investment meets the bank's requirements, a team of analysts first investigates the investment. The full-time analysts rely on information provided by several CSR rating agencies, information from the company itself as well as information from the media and non-governmental sources such as Amnesty International, trade unions, and rating agencies. Once the analysts have formulated an advisory opinion, their findings about approvals and disapprovals are submitted to the ASN Selection Committee, which has full power to approve or reject an investment. The Committee includes members of ASN Bank's Management Board, and met seven times in 2008.

The investments and countries (for state bonds) that are included in the investment universe are re-reviewed by the Selection Committee every three years unless new information surfaces that reveals that an investment should be reviewed sooner.

4. Expulsions from the Investment Universe

ASN Bank recognizes that, in light of new information, an investment may no longer meet the Special Investment Criteria. If there are indications that portfolio investments no longer comply with ASN Bank's requirements, the bank reexamines these investments. Usually the reassessment process involves a dialogue process, where specific questions are formulated and sent to the company.⁷ Based on the answers, the bank may choose to contact the company again. If the answers or arrangements for subsequent conduct are unsatisfactory, the investment will be removed. The most important reasons for expulsion relate to weapons or sluggish performance.

Expulsions may be for both direct and indirect violations of the special investment criteria. For example, in 2007, the bank expelled the American company Cisco Systems from its investment universe because of Cisco's indifference in supplying routers to the Chinese government, routers which are then used to censor the internet. After revising its human rights criteria earlier that year, reading reports from various sources including Amnesty International and contacting Cisco Systems, the Selection Committee concluded that Cisco no longer met the bank's special investment criteria.

ASN Bank also excluded the French transportation company Veolia in 2006, after discovering that Veolia was developing a light rail system to connect settlements in the occupied territory in East Jerusalem in Israel. As these settlements are in conflict with several UN resolutions, ASN Bank decided it could no longer invest in Veolia. Similarly, in 2008, ASN Bank excluded the Irish building materials producer CRH because of its involvement in the construction of the wall on the West Bank of the Jordan River, a barrier that has been condemned by the United Nations. In addition to ensuring that ASN Bank offers its customers only investments that meet environmental and human rights standards, the press coverage of exclusion can help spur companies into acting more responsibly.

5. Other Challenges

The bank acknowledges that all criteria cannot be the same for all investment categories. In particular, ASN Bank has found that it is much more difficult to evaluate countries against the same strict criteria as companies. Consequently, ASN bank uses different sets of criteria for these categories. If a company does not satisfy the special investment criteria, the bank can enter into dialogue with it and attempt to agree on steps forward, but this is not feasible for dealing with countries. This has been a particular problem in regards to nuclear energy and defense spending. While ASN Bank opposes investing directly in the nuclear and defense industries, regulatory authorities require ASN Bank to invest part of its funds in risk-free government bonds. However, there are no countries that do not have some interest in nuclear energy as either a producer or a consumer, nor are there any states that do not invest in military and defense spending. While ASN Bank remains engaged in promoting and investing in more environmentally sustainable energy sources and avoiding weapons productions, it is unable to avoid either when selecting government bonds.

The bank has also found that sometimes excluding an otherwise compliant company because it is active in a country with gross human rights violations can sometimes create conflicts with human rights. For example, excluding medical companies active in delivering medicines to countries with human rights abuses would be in conflict with human rights issues on the right to medical care. Similarly, smaller and high tech solar companies often do not have human rights policies despite operating in risk countries. Given such risks, after choosing potential companies based on internal research and outside consultants, ASN Bank engages these companies in a dialogue aimed at strengthening their commitments to human rights; for example, by signing the Global Compact. So far this has shown some success but if the

ultimate progress is too little, ASN Bank will communicate to these companies that they can be removed from the investment universe.

ASN Bank believes that engagement is a powerful tool for promoting human rights and sustainability within companies, but it also recognizes there comes a point where exclusion may be necessary. ASN Bank also looks for ways to encourage companies to adhere to the Bank's human rights criteria. For example, on 10 December 2008, ASN bank informed about 200 companies on the 60th anniversary of the UDHR and congratulated them for adhering to ASN Banks human rights criteria.

The bank recognizes that it eliminates many financially profitable investments because of its dedication to human rights and sustainability. For example, weapons companies are often very profitable, but ASN Bank has declined to invest in because of the obvious human rights implications. The bank has also refrained from investing in mining and the oil and gas sector, since such industries often involve high risks of violating human rights. Likewise, it refuses to invest in other financial institutions because only very few institutions are fully transparent on their own investments in sensitive human rights categories. Yet the bank remains convinced that its commitment to human rights and the environment is not a financial detriment, a sentiment supported by the bank's steady growth and returns on its savings and investment products.

6. Projects

ASN Bank also donates about €300,000 – 400,000 (about 2% of total profits) each year to projects and organisations that help to further the bank's mission. Established in 2004, the ASN Foundation formalizes the bank's donation policy and contributes funding to a wide spectrum of projects allied with the bank's overall mission. For example, the foundation donates to the "Paint a Future," a project where disadvantaged children paint their dreams, and these paintings are incorporated into professional paintings and sold. The profits from the paintings go directly back to the child.

The bank also participates in Triple Jump, a joint enterprise between ASN Bank, Oxfam Novib, NOTS Foundation and Stitching Doen. The enterprise aims to invest available capital from developed countries into fighting poverty in developing countries, primarily through microfinancing.

In addition, ASN Bank also uses its investment schemes to directly initiate socially responsible developments by its clients. For example, those who choose to invest in ASN Jeugdsparen donate the interest earned to homeless children in other countries. The interest goes to projects such as La Chaîne des Foyers St- Nicodeme, a chain of centers in Cameroon that accommodates, supports, educates, and trains homeless children (roughly 90%) and very poor children (roughly 10%) with recreation and education, including professional handicrafts.

7. The Road Ahead

Despite its success so far, ASN Bank is determined to continue to look for ways in which it can positively contribute. The bank is implementing a sustainable (including human rights issues) voting policy for all the investments of the various funds, enlarging its opportunities for client engagement, and improving the already-high staff satisfaction levels. It will continue to evaluate and periodically re-evaluate its investments, expelling investments if necessary. And it is also working on a pilot study for measuring the 'human rights performance' of its investment funds in order to guarantee ASN Bank's clients its commitments lead to real investments in better human rights.

¹ ASN Bank Annual Report for 2007, pg 9.

² Piet Sprengers, Head of Sustainability of ASN Bank, available at <http://www.aimforhumanrights.org/about-us/partners-in-view/piet-sprengers-of-asn-bank/>.

³ Piet Sprengers, personal communication, May 2009.

⁴ ASN Bank uses this to mean any discrimination based on gender, race, religion, political beliefs, age, handicap and sexual orientation.

⁵ ASN Bank recognizes that environmental protection is also a human right, although it generally evaluates environmental and human rights criteria separately.

⁶ There is no formal list of countries that leads ASN Bank to exclude companies active in these countries, as ASN Bank's evaluation of a company's involvement in a high-risk country ultimately depends on the company's own actions. Countries considered particularly risky include, but are not limited to: Afghanistan, Burma, Sudan and Syria. However, ASN Bank does explicitly limit its government bond investments to countries that both apply to its human rights criteria and issue Euro-bonds. These countries are: Austria, Belgium, Denmark, Germany, Finland, France, Ireland, Italy, the Netherlands, Portugal and Spain. Nonetheless, if ASN Bank did not take currency into account, it estimates it would still exclude almost 50% of countries due to the use of the death penalty and roughly another 30% due to other human rights issues.

⁷ Dialogue has been shown to be an effective way for ASN Bank to share potential human rights issues, and to implement change on a corporate level. Consequently, ASN Bank will not always exclude a company immediately, as exclusion may not be necessary. For instance, in October 2007, ASN Bank learned that the American clothing company The Gap had a facility in its supply chain that used child labour. ASN Bank contacted The Gap, and strength of The Gap's reaction clearly indicated that the company wanted to prevent similar issues from happening again.