

Insurance companies' responses to human rights abuses in the extractive industry

A case study for the Fair Insurance Guide Netherlands

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About the Eerlijke Verzekeringswijzer - Fair Insurance Guide Netherlands

The Eerlijke Verzekeringswijzer (Dutch Fair Insurance Guide, FIG) was launched in September 2013. It is a coalition of civil society organisations, including Amnesty International, Milieudefensie, Oxfam Novib, PAX and World Animal Protection. The goal of the coalition is to make the investments of the biggest insurance groups that are active in the Netherlands more just and sustainable, with the help of Dutch consumers. Besides the biennial rating of the principles laid down in the investment and finance policies, FIG also publishes case studies to test the actual investments and finance practices of the insurance companies on specific themes and sectors.

About this report

This research is commissioned by the Fair Insurance Guide (FIG) and aims to assess how the insurance companies deal with human rights' risks in relation to their investment relationships with extractives companies. This document presents the findings of this research project.

Authorship

This report was researched and written by Juliette Laplane, Stefanie Geurts, Lennart van Loenen and contributions of Eline Achterberg and Jan Willem van Gelder (all Profundo). Profundo developed the scoring system for the methodology, with contributions of Titus Bolten (Amnesty International Netherlands) and Cor Oudes (PAX for Peace).

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Summary

The extractives sector is a risk sector for involvement in human rights abuses. Extractives industries projects and activities can have several adverse impacts such as: resettlement of communities without adequate consultation and compensation, negative impacts on the livelihoods of local communities and their access to water, labour rights violations and major safety accidents. Companies in this sector should have ongoing due diligence processes in place to prevent, mitigate, and remediate human rights abuses. International standards such as the United Nations Guiding Principles on Business and Human Rights state that all business enterprises regardless of their size, sector, location, ownership and structure¹, have the responsibility to respect human rights.

In the context of institutional investments, this means that investors' responsibility to respect human rights encompasses not only their own operations (with their employees, suppliers, clients) but also the actual or potential impacts they are connected to through their investments. Investors should seek to prevent and mitigate human rights abuses of their investee companies and also encourage them to provide remedy where they have caused or contributed to the abuses. These responsibilities in practice take shape in processes of engagement with the investees.

This research is commissioned by the Fair Insurance Guide (FIG) and aims to evaluate the response of the nine largest insurance companies active in the Netherlands to a selection of eleven cases of severe human rights abuses in which extractive companies are involved. The study is a follow-up research to an earlier [case study](#) published in June 2018 which focused on ten controversial cases, entitled "Assessing the response of insurance companies to severe human rights abuses in the extractives sector".²

The selected insurance companies are Achmea, Aegon, Allianz, ASR, Athora NL, CZ, Menzis, NN Group and VGZ. For Aegon, this study assesses Aegon N.V., therefore the results of the financial research on the whole group form the basis of the assessment. However, the researchers only received the responses to the questionnaire from Aegon NL and not Aegon N.V. Therefore, Aegon NL is mentioned when evidence applies to this entity. Regarding Athora, this study assesses Athora NL as the successor of Vivat since December 2020. As of mid-2022, allowing for a transition year, the FIG will assess Athora at group level.

This research shows that all the nine largest insurance companies active in the Netherlands have financial ties with at least two of the eleven selected companies involved in structural human rights violations; all of the insurers were found to hold investments in Total (a total amount of € 896.5 million), followed by Shell (seven insurers, total amount of € 804.3 million), Freeport-McMoRan (three insurers, € 542.0 million) and Newmont Corporation (eight insurers, total amount of € 520.2 million). The four largest investors are Allianz (€ 2,749.2 million), Aegon (€ 792.6 million), Achmea (€ 208.6 million) and NN Group (€ 190.1 million), together representing more than 95% of the total amount invested (€ 4,132.2 million).

Assessing the response of the insurance companies to the selected cases of severe human rights abuses, this study finds that most insurance companies are not able to show that they take sufficient action against the human rights violations in which the extractive companies are involved. Best performing insurance companies are Athora NL (7.9 out of 10) and CZ (6.9), while Achmea and NN Group received a score of 5.2 and 5.0, respectively. Aegon (4.4), Menzis (3.6) and ASR (3.0) follow the ranking. The worst performing insurers are Allianz (1.0) and VGZ (1.9).

Methodology

This research focuses on the engagement conducted by the insurance companies with a selection of eleven extractive companies involved in cases of human rights abuses. The selected companies and cases are reported in Table 1. The cases and related companies were selected based on the following criteria:

- There is evidence available that shows that in this case the company has caused or contributed to human rights' violations;
- The case is known to the insurance company, either through the work of the FIG, or through one of its coalition members, or via considerable media coverage; and
- The case must be ongoing: to date it is not resolved nor remediated.

Table 1 Selected cases of human rights violations

Company	Country	Human rights issues
China National Petroleum Corporation (CNPC)	(South) Sudan	Conflict insensitive operations / public health / pollution
Coal India	India	Land grabbing / forced evictions / indigenous land rights
Freeport-McMoRan	Indonesia	Surface water pollution / violence / indigenous land rights
Glencore	Colombia	Human rights violations / land rights / violence
Lundin Energy (former Lundin Petroleum)	(South) Sudan	Involvement in war crimes
Newmont (former Goldcorp)	Guatemala	Indigenous land rights / pollution / violence
Rio Tinto	Myanmar	Forced evictions / environmental damage / violence
Royal Dutch Shell	Nigeria	Human Rights violations / environmental damage
Total	Uganda, Tanzania ⁱ	Human rights violation / land rights / pollution
Vale	Brazil	Life losses / environmental and social damage / health and safety
Vedanta Resources	India	Pollution of drinking water / livelihoods

Nine out of the eleven cases were already selected in the previous study in 2018, while two new cases related to the oil company Total and the mining company Vale were added to the list. Both companies have been subject to legal proceedings for their involvement in cases of severe human rights abuses, which received a lot of media attention.

It is recognised that prioritisation of actions, as mentioned in the OECD Guidelines on Responsible Business Conduct for institutional investors, is essential for investors. Investors can not engage with all companies in their portfolio to prevent human rights' abuses. With this in mind, the Dutch Fair Insurance Guide selected these eleven cases, as they are clear and relevant cases of human rights abuses in conflict affected/high risk areas and therefore deserve prioritisation by investors.

ⁱ Recently Total is under scrutiny for its involvement in Myanmar. While the involvement of Total in Myanmar as such is not recent, the more acute human rights concerns surrounding its financial transactions to the military regime are more recent. The events in Myanmar could not be incorporated in this study.

To assess the processes investors have in place to engage with companies that have been or are involved in human rights violations, Amnesty International Netherlands, PAX and Profundo updated the methodology used in the 2018 report to bring it closer to the terminology and criteria included in the *UN Guiding Principles on Business and Human Rights (UNGPs)*, the *OECD Due Diligence Guidance for Responsible Business Conduct* and the OECD-document *Responsible business conduct for institutional investors*.³ In this update, specific attention was brought to the qualification of the insurance company's relationship to the human rights impacts using the terminology of the UNGPs: "cause", "contribute to" or "directly linked to" human rights adverse impacts. Depending on the categorization, the insurance company would have different responsibilities with respect to providing remediation.

The methodology is divided in four main sections, closely related to the structure of the OECD due diligence framework:

- Section A: Identification, qualification and prioritization of human rights issues and risk;
- Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts;
- Section C: Tracking progress and outcome and communicating about the results;
- Section D: Providing for or cooperating in remediation.

This study started with financial research to identify the financial links of the insurance companies with the selected extractive companies. Subsequently, the insurance companies were contacted with the request to answer a questionnaire assessing their human rights due diligence process and the way they have been responding to the selected cases of severe human rights' abuses. More particularly, the insurance companies were asked to provide evidence of screening and investigation, engagement, and monitoring of engagement for all the selected cases they have financial links with.

It is important to note that the study focuses on the engagement processes of insurance companies and that it is outside of the scope of this study to examine whether the engagement was successful in terms of impact on the ground and improvement in the lives of negatively affected individuals and communities.

Main findings

Each of the nine insurance companies were linked with two or more of the selected extractive companies through their investments in shares and bonds of these companies between June 2019 and February 2021. The top 4 largest investors are Allianz (€ 2,749.2 million), Aegon (€ 792.6 million), Achmea (€ 208.6 million) and NN Group (€ 190.1 million). Table 2 shows the investment relationships identified between the insurance companies and the eleven selected companies for this case study.

Table 2 Investments of insurance companies in the eleven selected companies

Company	Country	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ	Total holding value (in € mln)
PetroChina (CNPC)	China		0.7	75.0					1.6	0.3	77.6
Coal India	India							0.02			0.0
Freeport-McMoRan	United States		77.4	463.4	1.2						542.0
Glencore	Switzerland	37.1	25.4	224.5	5.4					1.6	294.0
Lundin Energy	Sweden		0.5	1.4	3				6.7		11.6
Newmont Corporation	United States	1.9	60.2	445.4	2.7	5.5	0.7	0.4	3.4		520.2
Rio Tinto	United Kingdom	8.5	221	244.7	10.6			1.1	9.5	3.8	499.2
Shell	Netherlands	42.7	244.5	452.8		12.6		0.7	42.5	8.5	804.3
Total	France	118.4	126.3	394.5	16.3	100.6	2.2	1.7	125.6	10.9	896.5
Vale	Brazil		36.6	438.5					0.8	1.9	477.8
Vedanta Resources	India			9.0							9.0
Total		208.6	792.6	2,749.2	39.2	118.7	2.9	3.9	190.1	27.0	4,132.2

Source: Thomson Reuters Eikon, 'Share ownership, multiple securities', viewed in February 2021; Thomson Reuters Eikon, 'Bondholdings, EMAXX', viewed in February 2021; Achmea's response to Profundo's questionnaire, 25 March 2021; Athora NL's response to Profundo's questionnaire, 23 March 2021; CZ's response to Profundo's questionnaire, 25 March 2021; Menzis' response to Profundo's questionnaire, 25 March 2021; VGZ's response to Profundo's questionnaire, 24 March 2021.

Based on the results of the financial research, all nine insurance companies were contacted with the request to answer a questionnaire. The insurance companies responded in different ways:

- All insurance companies, except Allianz, commented on the existence of investment links identified with the selected companies during the financial research conducted by Profundo;
- Achmea, Athora NL, CZ, Menzis and VGZ confirmed or made adjustments to the amounts of the investments found during the financial research, which have been integrated in this report;
- Aegon commented on the existence of financial links with the selected companies, but did not confirm or adjust the amounts found during the financial research;
- ASR stated that the investment data found were not correct, but did not provide further information on the investment links with the selected companies, while NN Group confirmed that the investment links identified were correct but did not confirm the amounts of the investments; and
- All insurance companies provided feedback to the questionnaire, except Allianz.

All insurance companies, except Allianz, showed willingness to provide feedback on the questionnaire. However, ASR and VGZ, provided limited disclosure on their internal due diligence processes to respond to the human rights abuses. More specifically, only two insurance companies, CZ and Athora NL, provided evidence for all selected cases they are financially linked with. Such limited disclosure, or evidence of action, has impacted the extent to which actions of the insurers could be evaluated, which is reflected in the scores, where appropriate.

The main findings can be summarized as follows:

- The largest amounts of investments were found for the selected companies Total (all nine insurers, total amount of € 896.5 million), Shell (seven insurers, total amount of € 804.3 million), Freeport-McMoRan (three insurers, € 542.0 million) and Newmont Corporation (eight insurers, total amount of € 520.2 million). Closely followed by Rio Tinto and Vale (€ 499.2 million and € 477.8 million, respectively).
- The four largest investors are Allianz (€ 2,749.2 million), Aegon (€ 792.6 million), Achmea (€ 208.6 million) and NN Group (€ 190.1 million), together representing more than 95% of the total amount invested (€ 4,132.2 million).
- Allianz, which was found to be the insurance company with the largest total amount invested in nine of the selected companies (€ 2,749 million), is the only insurance company assessed in this study which refused to share any evidence about its engagement on the selected cases of human rights abuses. This non-collaborative approach is not in line with the rationale and the spirit of the *OECD Due Diligence Guidance for Responsible Business Conduct* and the *Principles for Responsible Investment*. By not participating in the survey, Allianz did not score any points at all, but still gets the score 1 since that is the lowest score that the FIG can assign.
- All the other insurance companies assessed have processes in place to screen their investment portfolios on human rights controversies, typically applying relevant human rights standards including the UNGPs, the UN Global Compact principles and the OECD Guidelines for Multinational Enterprises.
- All insurance companies assessed use external service providers to screen their investment portfolios and identify controversies. Some insurance companies (CZ, VGZ, Menzis and Achmea) rely exclusively on a single external research provider to carry out the screening and investigations of controversies. Other insurance companies choose to use multiple research providers, own internal analysts, and/or input by stakeholders and CSOs (NN, Athora NL, ASR, Aegon NL). Reliance on a single source carries the risks that controversies are overlooked if the ESG data provider misses the case, or if the methodology used to determine the severity of a case does not consider stakeholder concerns sufficiently. For instance, regarding the case of Total in Uganda and Tanzania, none of the external research providers adequately flagged the case as a severe human rights controversy, despite a high number of NGO reports raising concerns on serious human rights abuses and high media coverage. Only Athora NL, after being notified through stakeholder input, challenged its external research provider on the case and started an internal investigation.
- None of the insurance companies assessed their own relationship to the human rights impacts for any of the cases. Some insurance companies, like Achmea or NN Group, report that their general approach is to consider that, as an insurance company, they are “directly linked” to (potential or actual) negative impacts through their investments in companies. As is highlighted by the OECD Guidelines for investors and the Principles for Responsible Investment, this is not automatically correct in all cases: an investor may actually be “contributing” to impacts of investee companies. Consequently, the fact that insurance companies do not make a qualification of their own relationship to the human rights impacts as part of their investigations on specific cases can be seen as a shortcoming in their due diligence.
- All eight of the insurance companies that responded to the survey provided information regarding specific engagement activities targeting the companies they have investment links with. However, only Athora NL provided evidence for all of the relevant selected cases, while CZ demonstrated engagements with all relevant companies on human rights issues (although not always related directly to the cases concerned).

- In the cases that an insurance company decided not to engage with one or more companies on the selected cases, or on human rights issues more generally, this was often based on prioritization of the companies with the highest risk rating or controversy score. For instance, Aegon NL and NN Group decided not to engage with Lundin Energy on the selected case in South Sudan and with Total on the selected case in Uganda and Tanzania. Even though the controversies were identified and analysed, they were not flagged by the research provider as a breach of international human rights standards, and the case did not result in an adjustment of the company's ESG rating. Consequently, the insurance companies did not take the decision to engage. It is therefore important that research providers are being challenged by insurance companies to take controversies more seriously. Aegon NL, as well as Athora NL, indicated that they are increasingly doing so.
- Although some insurance companies report in detail about the features of their engagement activities and results, information related to clear goals, timelines and intermediate steps remains limited or even lacking. Even though this may allow for flexibility during the engagement process, it brings about the risk that the engagement process becomes unguided, unrealistic, not measurable and unbound in time.
- ASR and VGZ provided very limited evidence on engagement activities. While VGZ indicated that there is no more evidence because it is currently redesigning its engagement process, ASR reported it did engage with the companies but did not provide further details on this. This level of transparency is lower than reported for the 2018 study.
- Regarding the threshold for success of an engagement, the information provided raises the question whether the indicator(s) chosen for "engagement success" are sufficiently ambitious. In this way, an engagement process might be closed because it is considered as "successful" while the company has not taken sufficient steps to mitigate and remediate the human rights abuse(s). This concern was also raised in the 2018 report of the Dutch Fair Insurance Guide on the same topic.⁴
- The insurance companies report to a varying extent that they require the respective companies to follow a multi-stakeholder approach, four of the insurers (Achmea, Aegon NL, ASR and Menzis) show evidence they have required this for less than half of the relevant cases, VGZ for none, while CZ, NN Group and Athora NL did this for at least half.
- Four insurance companies (Achmea, Aegon NL, Athora NL and CZ) showed evidence that they have taken additional steps to increase their leverage, when the engagement goals are not met or when companies are not showing any willingness to improve their practices. The insurers take such steps through increased intensity of engagement actions with a selected company (such as Achmea), through divesting from a relevant company (for example Aegon NL and Athora NL), or through voting against management and collaborating with other investors (CZ). Furthermore, seven of the insurance companies excluded one or more of the selected companies based on sustainability issues before the period of the financial research conducted for this study (prior to 2019).
- Most insurance companies provided evidence of monitoring the engagements for about half or more of the relevant selected human rights cases. Only Athora NL provided evidence of extensive monitoring for all relevant human rights violations.
- All insurance companies publicly disclosed more in-depth information about a small number of engagement cases, for instance regarding formal decisions to continue or discontinue the engagement, or about the results of the engagement. However, this information is limited to 'interesting' or 'example' cases rather than a comprehensive overview. None of the insurance companies provides such in-depth information on engagement for all the relevant selected human rights violations.
- Only Athora NL requires all the selected companies they engage with to be transparent on the circumstances of the human rights abuses with relevant stakeholders, and on the concrete steps taken to address the human rights abuses, while CZ, Menzis and NN Group provided limited information on this.

- None of the insurance companies were successful in addressing the topic of remediation as part of their engagement on the selected cases of human rights abuses. While six of the insurance companies provided evidence that they have tried to use their influence on investee companies to encourage them to provide remediation for part of the cases, none of the insurance companies showed evidence that it has participated directly in dialogues with affected stakeholders or in mediation processes. However, NN Group and Aegon demonstrated that a dialogue with affected communities in Brazil was conducted on their behalf, as part of their collaborative engagement with Vale following the Brumadinho dam collapse.
- Overall, while in some cases Profundo was able to qualify the relationship of the insurance companies to the human rights abuses as “directly linked”, in other cases the insurance companies did not provide (enough) evidence on which any conclusion could be drawn. There are four different reasons for these conclusions, and different reasons can apply to the same insurance company depending on the case under review:
 1. The conclusion was drawn that the insurance company is “*directly linked*” to the adverse impacts: when the insurance company provided evidence that it has deployed significant efforts to engage with the selected companies and take mitigating steps as part of its human rights due diligence.
 2. *No conclusion* could be drawn: when insurance companies stated that they had engaged on the selected cases, but provided too limited information or no information at all on their engagement, or engaged on human rights issues more generally, Profundo was unable to qualify whether the insurance company's relationship to these abuses is one of “contributing to” or if it is merely “directly linked”.
 3. *No conclusion* could be drawn: when the insurance company did not participate in this research, evidencing a clear lack of transparency on its engagement activities. This is the case for Allianz.
 4. Some insurance companies run the risk to be in fact “*facilitating*” the lack of steps taken by the relevant companies to remedy the human rights abuses they are causing: when the insurance companies decided to not engage following the outcomes of the screening process and despite the concerns raised by stakeholders.

Scores

Table 3 provides an overview of the scores granted for each specific section, including the total scores per insurance company. Main findings per insurance company are provided below.

Table 3 Scores per insurance group

	Weight (%)	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ
A: Identification, qualification and prioritisation of human rights issue(s) and risk(s)	20	8.3	7.2	-	6.7	8.3	6.7	5.0	8.3	4.4
B: Using leverage to influence investee companies	40	5.6	3.9	-	2.2	10.6	9.4	3.3	4.4	0.6
C: Tracking progress and outcome by the insurance company	20	5.0	3.9	-	3.9	6.7	5.6	4.4	4.4	3.9
D: Providing for or cooperating in remediation	20	1.7	3.3	-	0.0	3.3	3.3	1.7	3.3	0.0
Total	100	5.2	4.4	1.0	3.0	7.9	6.9	3.6	5.0	1.9

Legend: 1 = very poor; 2 = poor; 3 = very insufficient; 4 = insufficient; 5 = doubtful; 6 = sufficient; 7 = ample; 8 = good; 9 = very good; 10 = excellent

Achmea

- Overall, Achmea achieved a score of 5.2 out of 10, and is ranked as third among the insurance companies assessed in this study.
- Achmea reports investments in five of the selected companies, while the financial research conducted in 2018 did not establish financial relationships with these companies, but only with one other company (Freeport-McMoRan). However, since evidence was provided of engagements with Glencore, Rio Tinto and Shell prior to 2018, this indicates financial interests in the companies prior to the period of research, and/or a different level of responsiveness from the insurer to comment on the findings of the financial research in the past report. In addition, Achmea is excluding three selected companies Coal India, Vale and Vedanta Resources from investments because of structural violation human rights, leading to bonus points in section B.
- Achmea discloses strong processes to identify and investigate the human rights impacts of its investment portfolio (section A) and is among the three insurers who received the highest score in this regard (8.3 out of 10).
- Regarding engagements, evidence was provided by Achmea for two of the relevant companies (Rio Tinto and Glencore) regarding human rights issues. For the other cases, evidence for engagement is missing or very limited. This significantly affects the score obtained by Achmea for section B, C and D and consequently the overall score.
- Overall, significant differences in scores between this research and the 2018 report can be explained by the fact that more financial relationships with the selected companies were identified in this research, while evidence was provided only on a limited number of cases. This contrasts with the 2018 report, where Achmea was linked to one selected case for which significant evidence of engagement was provided, leading to a high score.

- In the 2018 report of the Dutch Fair Insurance Guide on the same topic, the question was raised whether the threshold for success is sufficiently ambitious. The evidence on engagements provided for the current study raise the same question, because it shows that engagement can be concluded as successful while not all of the engagement goals set are achieved.

Aegon

- Overall, Aegon achieved a score of 4.4 out of 10, and is ranked as fifth among the insurance companies assessed in this study.
- Aegon NL discloses strong processes to identify and investigate the human rights impacts of its investment portfolio (section A). However, the fact that Aegon only provided evidence of screening and investigation for Aegon NL on the relevant cases, and not on the scope of the whole group negatively impacts their score for this section. It is advised to improve transparency and accountability on Aegon's human rights due diligence processes at group level.
- Compared to the 2018 report, Aegon NL has improved its due diligence process by not using the research of one service provider but combining those of two providers, as well as using different engagement strategies. Furthermore, it was advised to publish the screening criteria and due diligence process regarding human rights. Aegon NL is currently publishing both.
- Aegon Group has investments in nine of the selected companies, among which there are seven continued financial relationships since the 2018 report. However, three companies are excluded by Aegon NL, for sustainability reasons, which are PetroChina (CNPC), Freeport-McMoRan and Coal India (the latter is also excluded by Aegon at group level), which is rewarded in section B.
- Aegon NL conducted engagement regarding human rights issues generally or on the specific cases, with seven of the selected companies. However, for none of the engagements, sufficient details on goals, a timeline and intermediate steps was provided, which negatively affected the score in section B. Aegon NL did not engage with Lundin Energy, because it was determined that the company is not a priority for engagement.
- In 2018, solely evidence was provided of collaborative engagement with three of the nine selected companies by Aegon. Based on the evidence provided for the current study, it can therefore be noted that Aegon has made some improvements in its engagement process, by engaging through different strategies and with more than half of the selected companies (seven out of nine), and using its escalation process.
- Notwithstanding these improvements, in the 2018 report, the question was raised whether the threshold for success of an engagement is sufficiently ambitious. The evidence provided for the current study raises the same question, especially for collaborative engagements.

Allianz

- Allianz, which was found to be the insurance company with the largest total amount invested in ten of the selected companies (€ 2,749 million), is the only insurance company assessed in this study which refused to share any evidence about its engagement on the selected cases of human rights abuses. By not participating in the survey, Allianz did not score any points at all, but still gets the score of 1 out of 10 since that is the lowest score that the FIG can assign.

ASR

- Overall, ASR achieved a score of 3.0 out of 10, and is among the three lowest scoring insurance companies assessed in this study.
- ASR received a score considerably lower than in the previous assessment of 2018. This is due to the fact that fewer information was provided on the different steps followed in the engagement processes with the various companies.

- For identifying and investigating the human rights impacts, ASR only provided evidence for part of the selected cases, which negatively affects their score for section A.
- ASR has investments in six of the selected companies, among which there are three continued financial relationships since the 2018 report. Two companies, Shell and Vale, had been excluded from investment over the human rights violations discussed in the present study, which is rewarded in section B.
- Little evidence was provided about the way ASR used its leverage to influence the investee companies to mitigate and prevent human rights violations in the selected cases. ASR indicates its engagements include a dedicated strategy, objectives, timelines and intermediate targets, but no supporting evidence for the relevant cases was provided. This negatively affects ASR's score on section B.
- No evidence was found or provided showing that engaged companies were encouraged to provide remediation or to participate in dialogue or remediation processes, which results in a zero score for section D.

Athora NL

- Overall, Athora NL achieved the highest score with a total score of 7.9 out of 10.
- Athora NL has investments in three out of the eleven selected companies, Newmont, Shell and Total. In addition, as of April 2021, six companies out of the eleven companies covered by the scope of this study are on the exclusion list of Athora NL for violation of human rights and labour rights, which justified for bonus points in section B. These companies are PetroChina, Coal India, Freeport, Rio Tinto (for which financial links were identified in the previous report released in 2018), Vale and Vedanta.
- Athora NL discloses strong processes to identify and investigate the human rights impacts of its investment portfolio and is among the three insurers who received the highest score in this regard (8.3 out of 10 in section A).
- Athora NL was the only insurance company assessed which, after being notified through stakeholder input, challenged its external research provider on the controversy screening made on Total's case in Uganda and Tanzania, and eventually took the decision to start engaging with the company.
- Athora NL provided evidence of engagement with all the three companies it is financially linked with, including information related to goals to be achieved, timeline, and concrete intermediary steps (milestones) which is why it achieved the highest total score in this study.
- As regard remediation, Athora NL explained that it is currently revising its policy to integrate the topic of remediation in a structural manner. On the specific cases, Athora NL provided evidence that the topics of remediation and grievance mechanisms were discussed with Newmont Corporation (former Goldcorp) and Shell. Athora NL could go one step further by participating in dialogue or mediation processes with affected stakeholders, or human rights defenders in order to ensure that adequate remediation is provided by its investee companies.

CZ

- Overall, CZ achieved the second highest score with a total score of 6.9 out of 10.
- CZ has financial links with two out of the eleven selected companies for this case study, namely Total and Newmont Corporation. In addition, five companies out of the eleven companies covered by the scope of this study are on the exclusion list of CZ for sustainability reasons, which justified for bonus points in section B. These companies are: Coal India, Glencore, Rio Tinto, Shale and Vale. In addition, CZ reported that PetroChina (CNPC) is on its watchlist due to the situation in South Sudan.
- CZ discloses robust processes to identify and investigate the human rights impacts of its investment portfolio, however the controversy related to Total in Uganda and Tanzania was not flagged by its research provider.

- CZ provided evidence of engagement with Newmont on the selected case, including information related to goals to be achieved, timeline, and concrete intermediary steps. As regards Total, CZ reports evidence of engagement related to human rights issues but not on the selected case in Uganda and Tanzania, because it was not flagged by its ESG research provider.
- CZ provided evidence that the establishment of operational-level grievance mechanisms was discussed as part of general engagement with Newmont about its human rights risk management system. Evidence shared by CZ related to engagement with Total, does not enable to report that remedy was discussed.
- CZ's processes to support remediation such as dialogue or mediation processes with affected stakeholders, or Human Rights Defenders was not reported for the selected cases.

Menzis

- Menzis achieved of total score of 3.6 out of 10, and is ranked as sixth among the insurance companies assessed in this study.
- Menzis has investments in five of the eleven selected companies, namely Coal India, Newmont Corporation, Rio Tinto, Shell and Total. Two companies covered by the scope of this study, PetroChina and Vale, are excluded for sustainability reasons, which is rewarded in section B.
- For identifying and investigating the human rights impacts, Menzis provided evidence for all of the selected cases, but no evidence was found that these investigations took into account the severity of the cases and the level of involvement of the investee companies, which negatively affects the score for section A.
- Menzis shows that the insurance company engaged with three of the five selected companies; either on the selected case (with Shell), other human rights issues or the companies' general human rights approach (with Rio Tinto and Total). However, for none of the engagements, sufficient details on a timeline and intermediate steps were provided, which negatively affects the score in section B.
- Evidence related to goals set up as part of the engagement process are limited.
- For engagements with Shell and Rio Tinto, Menzis provided evidence showing that the company was required to enable remediation for the affected communities. For the other companies and cases no evidence was provided. This negatively affects the score in section D.

NN Group

- NN Group achieved of total score of 5.0 out of 10, and is ranked as fourth among the insurance companies assessed in this study.
- NN Group has investments in eight out of the eleven selected companies namely PetroChina, Freeport-McMoRan, Lundin Energy, Newmont Corporation, Rio Tinto, Shell, Total and Vale. Coal India is on the exclusion list of NN Group for its involvement in thermal coal mining, while in the 2018 report, financial links were found with the company. Another difference is that, whereas in the 2018 report investments of €16 million in Glencore and €3 million in Vedanta were found, no financial links were found with the two companies in the present research - even though the companies are not on NN Group's exclusion list.
- NN Group discloses strong processes to identify and investigate the human rights impacts of its investment portfolio and is among the three insurers who received the highest score in this regard (8.3 out of 10 in section A).
- NN Group provided evidence of a formal decision taken to engage with five out of the eight companies it is financially linked with. These companies are PetroChina, Freeport-McMoRan, Rio Tinto, Shell and Vale. This is an improvement compared to the 2018 research, where NN provided evidence for engagement only for two companies, Freeport McMoRan and Shell, while financial linked were also identified with PetroChina, Rio Tinto at that time.

- For the other three companies to which it is financially linked, Lundin Energy, Newmont Corporation and Total, NN Group explained it decided to not engage because the outcome of the controversy screening did not show a violation of its norms-based criteria.
- Evidence related to intermediary steps set up as part of the engagement process are limited.
- NN Group provided evidence that it has tried to use its leverage to influence companies to enable remediation for three selected cases, Freeport, Shell and Vale. In addition, NN Group provided evidence that collective engagement coordinated by the PRI with Vale, included hearings with community representatives affected by the tailing dam failures in Brazil.
- The decrease in scores compared to the 2018 report can be explained by the fact that in 2018, NN Group provided evidence of engagement on six other cases of human rights abuses that were not selected for the case study, but that were proactively proposed by the insurance company and integrated into the scoring. In this research, the insurance companies were given the opportunity to propose up to two other cases of human rights abuses in the extractive industry, before the start of the research project. NN Group did not submit additional cases, neither did it provide sufficient evidence for all the selected cases, which negatively impacted the total score.

VGZ

- VGZ achieved of total score of 1.9 out of 10, which is the second lowest performance (after Allianz) among the insurance companies covered in this study.
- VGZ has investments in six of the eleven selected companies, namely PetroChina (CNPC), Glencore, Rio Tinto, Shell, Total and Vale. None of the companies covered by the scope of this study are excluded by VGZ.
- For identifying and investigating the human rights impacts, VGZ only provided evidence for a small part of the selected cases, which negatively affects the score for section A.
- VGZ provided limited evidence for engagements with two of the relevant companies selected for this study, namely PetroChina and Vale, focusing on the companies' implications in human rights violations. For all of the engagements, very limited details on goals, timeline and intermediate steps were provided, which negatively affects the score in section B.
- VGZ indicated that no further steps have been taken yet in the engagement process, because it is currently redesigning the engagement process. Because of prioritization, VGZ decided to not engage with the other selected companies they have financial links with.
- Since no written goals were formulated for the respective engagements, this raises questions on how it is assessed whether engagement has been successful and further steps are needed, and whether the monitoring process is sufficiently assessing progress and results.
- No evidence was found or provided showing that engaged companies were encouraged to provide remediation or to participate in dialogue or remediation processes, which results in a zero score for section D.

Recommendations Fair Insurance Guide to insurance companies

Insurance companies with investments in the extractive sector are given the following recommendations, to better manage and address the human rights' risks linked to these investments.

1. **Commit to implementing the UNGPs and the OECD Guidelines and carry out human rights due diligence**

All insurance companies should commit to implementing the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises throughout their entire investment portfolio, as well as with regard to their own operations.

According to these standards, companies, including insurance companies, have the responsibility to cease, prevent and mitigate human rights abuse by conducting human rights due diligence.

Regarding business activities in conflict zones, insurers should carry out 'heightened due diligence', in accordance with the recommendations of the UN Working Group on this issue.ⁱⁱ

2. **Adopt "SMART" goals to pressure companies to halt human rights abuses**

It is crucial that insurance companies set up "SMART" (interim) goals to be achieved by investee companies involved in human rights abuses and consider divestment where these goals are not achieved on time. An objective is SMART if it is specific, measurable, achievable, relevant and time-bound. Overall, the insurance companies shared only limited evidence related to clear goals, timelines and intermediate steps on the selected cases. By not defining such variables in its engagement with investee companies, an insurance company runs the risk that the engagement becomes unguided, unrealistic, not measurable and unbound in time. Goals, timelines and intermediate steps are essential parameters which need to be monitored to ensure the credibility and success of an engagement process. The outcomes of this monitoring will determine if an insurance company should consider to try additional options to increase its leverage on the investee company, if objectives need to be adjusted or renewed or if exclusion or divestment need to be considered.

3. **Increase feedback and dialogue with ESG service providers**

The research shows that insurance companies strongly rely on external ESG research providers to conduct portfolio screening and research on controversies. As the outcome of this screening is, most often, the main variable that will trigger the decision of insurance companies to start engaging or not on a specific controversy, it is essential that insurance companies show ability to be critical on the research of their ESG service providers where relevant. This means that insurance companies should be proactive in raising questions and asking explanations to their ESG service providers when they notice strong stakeholders concerns or high media coverage on a controversy which was not flagged by them.

4. **Enhance the integration of stakeholder concerns in the decisions whether or not to engage and to consider engagement as successful**

Insurance companies use a risk-based approach to prioritise cases for engagement. This research shows that their prioritization processes insufficiently consider stakeholder concerns and are therefore not meeting required quality standards. The OECD Guidelines for Institutional Investors highlight the importance to consult several sources to identify severe adverse impacts including: reports from national authorities, credible international organisations, NGOs, media coverage, industry literature, statements from National Contact Points.⁵ Missing out on some of these sources, clearly hampers the quality of the prioritization process.

ⁱⁱ <https://undocs.org/en/A/75/212>

The fact that only one of the insurance companies (Athora NL) has decided to engage with Total on the ongoing controversy related to Total's activities in Uganda and Tanzania, although many concerns were raised by stakeholders and there was high media coverage on this case, is evidence that there is still room for insurance companies to better integrate stakeholders' views in their decisions whether or not to engage. Organising regular stakeholder consultations with civil society organisations demonstrating expertise on the risks associated with the extractive sector, or setting up a grievance mechanism to enable stakeholders to raise their concerns represent interesting options in this regard. Insurance companies should also consider stakeholders' opinions on the progress achieved by investee companies in dealing with the case, before considering to close an engagement.

5. **Ensure the integration of remediation in a more structural manner into the engagement approach**

Adequate remedy is critical for human rights engagements with extractive companies. The low scores achieved by insurance companies on this topic show that there is significant room to better integrate remediation in their engagement approaches. The first step to achieve this could be to ensure that the topic of remediation is tackled in the general engagement policy and strategy of insurance companies. Then, it is fundamental that insurance company ensure an adequate implementation of their engagement strategy by assessing the topic of remediation in a case-specific context.

This assessment requires a prior qualification of the insurance company's own relationship to the human rights' impacts. Indeed, this research shows that insurance companies do not make this qualification or just assume that they are always *directly linked to* human rights abuses while that is also dependent on their own engagement efforts.

In addition, the report shows that insurance companies' participation in dialogue or mediation processes regarding specific cases of human rights abuses remains a very little shared practice which deserves further attention.

6. **Raise engagement success threshold**

The analysis of selected cases shows that sometimes engagement is considered successful and then closed while not all the recommendations have been implemented by the company and stakeholders keep raising concerns about inadequate remediation to affected communities. By closing an engagement process based on a success threshold that is too low, investors risk moving from being *directly linked to* towards *contributing to* the abuses, by facilitating an environment for the negative impact to continue. It is recommended that insurance companies raise the engagement success threshold and systematically consult affected stakeholders on the status and adequacy of remediation measures implemented by the companies responsible of the human rights abuses.

7. **Enhance transparency**

Transparency increases accountability of both insurance companies and investee companies towards their stakeholders and society. Therefore, it is important that the insurers and the investee companies are transparent about salient issues c.q. human rights cases they are linked to and their responses to them. The insurers could improve transparency by publishing the details of each engagement with the companies, like the (interim) goals formulated, and the (interim) goals achieved. Transparency about prioritization is also important. If an insurer decides to take no action on the basis of a prioritization, it should indicate how it prioritized, what other controversies outweighed this one, and what it will do with the non-prioritised case. Insurance companies should also commit to always cooperate with legitimate research projects assessing their engagement efforts.

Insurance companies can further promote transparency by the investee companies by requiring the companies to publish a human rights policy and to report on how the policy is implemented, the state of affairs at the sites, actions taken by the company, and progress made on remediation, in case of reported human rights' breaches. Encouraging investee companies to use the UN Guiding Principles Reporting Framework can significantly contribute to increase transparency and accountability on how they respect human rights.

Recommendations Fair Insurance Guide to the Dutch government

Governments need to show strong leadership to contribute to a better integration of human rights issues in the due diligence processes of investors. The following recommendations can be done in this regard to the Dutch government:

1. **Adopt national human rights due diligence legislation for companies**, including financial institutions, that will set binding requirements for companies to respect human rights in compliance with the UNGPs and OECD Guidelines.
A new law should cover all companies and its subsidiaries in all sectors, requiring due diligence over the entire value chain including its business relationships. It should require the involvement of stakeholder consultation, civil liability, and ensure access to justice and remedy for the victims of adverse impact of business operations, and it should include transparency requirements.
2. Support the adoption of similar, ambitious **human rights due diligence legislation** for companies in the European Union, providing the possibility of (i) civil liability and (ii) to imposing sanctions/financial penalties in the event of non-compliance.

Recommendation Fair Insurance Guide to the Parties of the Dutch IRBC agreement on international responsible investment in the insurance sector

1. **Set up a grievance mechanism at sector level as part of the IRBC agreement on international responsible investment in the insurance sector.** The topic of "Access to Remedy" was discussed in 2020⁶ as part of the IRBC agreement, and all Parties recognised that there is still room for progress to understand how investors can play in this regard. It is essential that stakeholders can access channel to raise concerns, and the creation of a common grievance mechanisms to insurance companies as part of the IRBC would be a good practice to further understand the adverse impacts caused, and understand what is expected from affected stakeholders as remedial actions. In addition, it would enable insurance companies to further develop collectively their knowledge and expertise on this topic.

Recommendation Fair Insurance Guide to the Principles for Responsible Investment (PRI)

Last year, the PRI announced that it was setting out a multi-year agenda for its work towards respect for human rights being implemented in the financial system⁷. The following recommendation can be done in this regard to the PRI.

1. **Strongly encourage institutional investors to cooperate with legitimate research projects** assessing their engagement efforts to implement the UNGPs.

Samenvatting

De winningsindustrie is een grote risicosector voor mensenrechtenschendingen. Projecten in de sector kunnen grote negatieve impacts hebben op mensenrechten, waaronder het verplaatsen van hele gemeenschappen zonder adequate raadpleging en compensatie, negatieve impacts op de bestaansmiddelen van lokale gemeenschappen en hun toegang tot schoon water, arbeidsrechtenschendingen en grote ongelukken. Van bedrijven in deze sector mag daarom worden verwacht dat zij sterke en permanente due diligence processen hebben om mensenrechtenschendingen te voorkomen, te beperken, en te corrigeren. Internationale standaarden zoals de VN Guiding Principles on Business and Human Rights stellen dat alle bedrijven ongeacht hun grootte, sector, locatie, eigendoms- en organisatiestructuur de verantwoordelijkheid hebben om mensenrechten te respecteren.

In de context van investeringen door institutionele beleggers betekent dit dat hun verantwoordelijkheid om mensenrechten te respecteren niet alleen geldt voor de eigen bedrijfsvoering (ten aanzien van hun medewerkers, klanten, en toeleveranciers), maar ook voor de feitelijke of potentiële mensenrechtenimpacts waarmee ze via hun investeringen verbonden zijn. Van investeerders mag worden verwacht dat zij zich inspannen om mensenrechtenschendingen door de bedrijven waarin zij beleggen voorkomen, beperken, en bedrijven aanmoedigen om genoegdoening aan te bieden wanneer zij hebben bijgedragen aan mensenrechtenschendingen. In de praktijk wordt deze verantwoordelijkheid door institutionele beleggers ingevuld door het voeren van engagement met de betrokken bedrijven.

Dit onderzoek is uitgevoerd in opdracht van de Eerlijke Verzekeringswijzer (EV) en beoordeelt hoe de negen grootste in Nederland actieve verzekeringsmaatschappijen zijn omgegaan met een selectie van elf grove mensenrechtenschendingen waarbij bedrijven uit de winningsindustrie bij betrokken waren. Het onderzoek volgt op een eerder praktijkonderzoek van de Eerlijke Verzekeringswijzer in 2018, getiteld "Assessing the response of insurance companies to severe human rights abuses in the extractives sector".

De onderzochte verzekeringsmaatschappijen zijn Achmea, Aegon, Allianz, Athora NL, CZ, Menzis, NN Groep en VGZ. Voor Aegon richt dit onderzoek zich op Aegon NV. De resultaten van het financiële onderzoek naar de hele groep gelden daarom als basis voor de beoordeling. Op de verstuurde vragenlijst is echter alleen geantwoord namens Aegon NL en niet Aegon NV. Wanneer het bewijs van toepassing is op Aegon NL wordt daarom verwezen naar Aegon NL. Athora NL wordt in dit onderzoek beschouwd als de opvolger van Vivat. Vanaf medio 2022 zal Athora door de Eerlijke Verzekeringswijzer ook op groepsniveau worden beoordeeld.

Dit onderzoek laat zien dat alle negen grootste in Nederland actieve verzekeringsmaatschappijen financiële banden hebben met minstens twee van de elf bedrijven betrokken bij de mensenrechtenschendingen die ter discussie staan in dit onderzoek. Alle verzekeraars hebben belegd in Total (in totaal € 896,5 miljoen). Zeven verzekeraars belegden in Shell (€ 804,4 miljoen), drie verzekeraars belegden in Freeport-McMoran (€ 542,0 miljoen), en acht verzekeraars belegden in Newmont Corporation (€ 520,2 miljoen). De vier grootste beleggers zijn Allianz (€ 2.749,2 miljoen), Aegon (€ 792,6 miljoen), Achmea (€ 208,6 miljoen), en NN Groep (€ 190,1 miljoen). Samen zijn zij verantwoordelijk voor meer dan 95% van het totale belegde vermogen (€ 4.132,2 miljoen).

Door het beoordelen van de respons van de verzekeraars op de relevante mensenrechtenschendingen (op een schaal van 1 tot 10), wijst dit onderzoek ook uit dat de meeste verzekeraars niet in staat zijn te laten zien dat ze voldoende actie hebben ondernomen tegen de mensenrechtenschendingen waarin de bedrijven betrokken zijn. De beste respons komt van Athora NL (score 7,9) en CZ (score 6,9), gevolgd door Achmea (score 5,2) en NN Groep (score 5,0). Aegon (score 4,4), Menzis (score 3,6) en ASR (score 3,0) scoren allen ruim onvoldoende. De laagste scores zijn voor VGZ (score 1,9) en Allianz (1,0).

Methodologie

Dit onderzoek richt op het engagement dat is uitgevoerd door de verzekeraars met een selectie van elf bedrijven in de winningsindustrie die betrokken zijn bij grove mensenrechtenschendingen. De geselecteerde bedrijven en casussen zijn beschreven in Table 4. De casussen en betrokken bedrijven zijn geselecteerd op basis van de volgende criteria:

- Er is bewijs dat het bedrijf de mensenrechtenschending heeft veroorzaakt, or daaraan heeft bijgedragen;
- De casus is bekend bij de verzekeringsmaatschappij – ofwel via het werk van de Eerlijke Verzekeringswijzer of één van haar coalitieleden, of via aanzienlijke media-aandacht; en
- De casus loopt nog steeds: tot op heden is de mensenrechtenschending nog niet volledig opgelost.

Table 4 Geselecteerde casussen van mensenrechtenschendingen

Bedrijf	Land	Impacts op mensenrechten
China National Petroleum Corporation (CNPC)	(Zuid) Sudan	Opereren in conflictgebieden / volksgezondheid / vervuiling
Coal India	India	Landroof / gedwongen uitzetting / landrechten van inheemse bevolkingen
Freeport-McMoRan	Indonesië	Vervuiling van oppervlaktewater / geweld / landrechten van inheemse bevolkingen
Glencore	Colombia	Mensenrechtenschendingen / landrechten / geweld
Lundin Energy (former Lundin Petroleum)	(Zuid) Sudan	Betrokkenheid bij oorlogsmisdaden
Newmont (former Goldcorp)	Guatemala	Landrechten van inheemse bevolkingen / vervuiling / geweld
Rio Tinto	Myanmar	Gedwongen uitzetting / milieuvervuiling / geweld
Royal Dutch Shell	Nigeria	Mensenrechtenschendingen / milieuvervuiling
Total	Uganda, Tanzania ⁱⁱⁱ	Mensenrechtenschendingen / landrechten / vervuiling
Vale	Brazilië	Dodelijke slachtoffers / sociale en milieuschade / veiligheid en gezondheid
Vedanta Resources	India	Drinkwatervervuiling / schade aan bestaansmiddelen

Negen van de elf geselecteerde casussen werden ook behandeld in het onderzoek van 2018. Nieuwe casussen rondom oliebedrijf Total en mijnbouwbedrijf Vale zijn voor deze studie toegevoegd. Tegen beide ondernemingen zijn gerechtelijke procedures ingeleid wegens hun betrokkenheid bij ernstige mensenrechtenschendingen, die ook veel media-aandacht hebben gekregen.

ⁱⁱⁱ Recently Total is under scrutiny for its involvement in Myanmar. While the involvement of Total in Myanmar as such is not recent, the more acute human rights concerns surrounding its financial transactions to the military regime are more recent. The events in Myanmar could not be incorporated in this study.

Het wordt algemeen erkend, onder meer in de OESO-richtlijnen inzake verantwoord ondernemen voor institutionele beleggers dat het voor institutionele beleggers essentieel is om bepaalde acties en zaken te prioriteren. Beleggers kunnen niet alle bedrijven in hun portefeuille tegelijk engageren om mensenrechtenschendingen te voorkomen. Daarom heeft de Eerlijke Verzekeringswijzer specifiek voor deze elf casussen gekozen: het zijn allen casussen in conflictgebieden of gebieden met hoge risico's, waarin duidelijke mensenrechtenschendingen hebben plaatsgevonden. Als zodanig zouden beleggers deze casussen moeten prioriteren.

Om de processen te beoordelen die institutionele beleggers hanteren om bedrijven aan te spreken die betrokken zijn bij mensenrechtenschendingen, hebben Amnesty International, PAX en Profundo de in de 2018 gehanteerde methodologie geactualiseerd. De methodologie is verder in lijn gebracht met de terminologie en criteria die zijn opgenomen in de *UN Guiding Principles on Business and Human Rights* (UNGP's), de OESO-richtlijn voor due diligence voor verantwoord ondernemen, en de OESO-richtlijn voor verantwoord ondernemen voor institutionele beleggers.⁸ Bijzondere aandacht is besteed aan de wijze waarop de verzekeraars hun relatie tot de mensenrechtenschendingen kwalificeren. Hierbij is gebruik gemaakt van de terminologie van de UNGP's, die een onderscheid maken tussen "veroorzaken", "bijdragen tot", of "rechtstreeks betrokken zijn met" negatieve impacts op mensenrechten. Afhankelijk van de categorie zou de verzekeringsmaatschappij verschillende verantwoordelijkheden hebben met betrekking tot het bieden van genoegdoening.

De methodologie is opgedeeld in vier delen, die weer overeenkomen met de structuur van het OESO-raamwerk voor due diligence:

- Deel A: identificatie, kwalificatie en prioritering van mensenrechtenkwesties en risico's;
- Deel B: beïnvloeden van bedrijven om mensenrechtenschendingen te voorkomen en te beperken;
- Deel C: monitoren van voortgang en communicatie over de resultaten;
- Deel D: voorzien in – of medewerking aan – herstel of genoegdoening.

Allereerst is in deze studie financieel onderzoek uitgevoerd om de financiële banden van de verzekeraars met de geselecteerde bedrijven in kaart te brengen. Vervolgens zijn de verzekeraars gevraagd om een vragenlijst in te vullen over hun due diligence processen op het gebied van mensenrechten en de manier waarop zij om zijn gegaan met de geselecteerde casussen. De verzekeraars werden in het bijzonder gevraagd om bewijs aan te leveren van hun screeningsprocessen, hun onderzoek naar de casussen, hun engagement met de bedrijven, en hun monitoring van de voortgang voor alle casussen waarmee zij via hun beleggingen verbonden waren.

Het is belangrijk om op te merken dat het onderzoek zich in hoofdzaak richt op de engagementprocessen van de verzekeraars. Het ligt buiten de reikwijdte van dit onderzoek om ook in te gaan op de vraag of het engagement van de verzekeraars ook daadwerkelijk heeft bijgedragen aan het verbeteren van de situatie van de getroffen gemeenschappen.

Bevindingen

Alle onderzochte verzekeringsmaatschappij hadden tussen Juni 2019 en Januari 2021 financiële banden met minstens twee van de geselecteerde bedrijven via hun beleggingen in aandelen en bedrijfsobligaties. De vier grootste beleggers zijn Allianz (€ 2.749,2 miljoen), Aegon (€ 792,6 miljoen), Achmea (€ 208,6 miljoen), en NN Groep (€ 190,1 miljoen). Samen zijn zij verantwoordelijk voor meer dan 95% van het totale belegde vermogen (€ 4.132,2 miljoen). Table 5 laat de beleggingen zien van de negen verzekeringsmaatschappijen in de elf geselecteerde bedrijven.

Table 5 Beleggingen van de verzekeraars in elf geselecteerde bedrijven

Bedrijf	Land	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ	Totaal (€ mln)
PetroChina (CNPC)	China	-	0,7	75,0	-	-	-	-	1,6	0,3	77,6
Coal India	India	-	-	-	-	-	-	0,02	-	-	0,0
Freeport-McMoRan	Verenigde Staten	-	77,4	463,4	1,2	-	-	-	-	-	542,0
Glencore	Zwitserland	37,1	25,4	224,5	5,4	-	-	-	-	1,6	294,0
Lundin Energy	Zweden	-	0,5	1,4	3	-	-	-	6,7	-	11,6
Newmont Corporation	Verenigde Staten	1,9	60,2	445,4	2,7	5,5	0,7	0,4	3,4	-	520,2
Rio Tinto	Verenigd Koninkrijk	8,5	221	244,7	10,6	-	-	1,1	9,5	3,8	499,2
Shell	Nederland	42,7	244,5	452,8	-	12,6	-	0,7	42,5	8,5	804,3
Total	Frankrijk	118,4	126,3	394,5	16,3	100,6	2,2	1,7	125,6	10,9	896,5
Vale	Brazilië	-	36,6	438,5	-	-	-	-	0,8	1,9	477,8
Vedanta Resources	India	-	-	9,0	-	-	-	-	-	-	9,0
Totaal		208,6	792,6	2.749,2	39,2	118,7	2,9	3,9	190,1	27,0	4.132,2

Bron: Thomson Reuters Eikon, 'Share ownership, multiple securities', gezien in februari 2021; Thomson Reuters Eikon, 'Bondholdings, EMAXX', gezien in februari 2021; Achmea's antwoord op Profundo's vragenlijst, 25 maart 2021; Athora NL's antwoord op Profundo's vragenlijst, 23 maart 2021; CZ's antwoord op Profundo's vragenlijst, 25 maart 2021; Menzis' antwoord op Profundo's vragenlijst, 25 maart 2021; VGZ's antwoord op Profundo's vragenlijst, 24 maart 2021.

Op basis van de resultaten van het financiële onderzoek zijn alle verzekeringsmaatschappijen verzocht een vragenlijst in te vullen. De verzekeraars hebben op dit verzoek op verschillende manieren op gereageerd:

- Met uitzondering van Allianz hebben alle verzekeringsmaatschappijen een reactie gegeven op het bestaan van de geïdentificeerde financiële banden met de geselecteerde bedrijven;
- Achmea, Athora NL, CZ, Menzis en VGZ hebben de bevindingen van het financiële onderzoek ofwel bevestigd ofwel aanpassingen voorgesteld, die zijn opgenomen in dit rapport;
- Aegon heeft gereageerd op het bestaan van financiële banden met de geselecteerde bedrijven, maar heeft de gevonden hoeveelheden noch bevestigd, noch gecorrigeerd;
- ASR stelde dat de gevonden financiële data incorrect was, maar gaf verder geen informatie over de banden met de geselecteerde bedrijven;
- NN Groep stelde dat de gevonden financiële banden met de geselecteerde bedrijven correct was, maar bevestigde niet of de hoeveelheden klopten; en
- Alle verzekeraars, behalve Allianz, hebben gereageerd op de vragenlijst.

Met uitzondering van Allianz hebben alle verzekeraars hun bereidheid getoond om mee te werken met het onderzoek door de vragenlijst in te vullen. ASR en VGZ hebben echter slechts beperkte informatie verstrekt over hun interne due diligence-procedures rondom mensenrechten. Slechts twee verzekeringsmaatschappijen, Athora NL en CZ, verstrekten informatie over alle casussen waarmee zij financieel verbonden zijn. Deze beperkte transparantie – en dus het beperkte bewijs van concrete acties die de verzekeraars hebben ondernomen – heeft gevolgen voor de mate waarin de handelingen en processen van de verzekeraars kan worden beoordeeld. Waar gepast is dit ook weerspiegeld in de scores van de verzekeraars.

De belangrijkste bevindingen kunnen als volgt worden samengevat:

- De grootste beleggingen werden gevonden voor Total (negen verzekeraars, totale beleggingen € 896,5 miljoen), Shell (zeven verzekeraars, totale beleggingen € 804,3 miljoen), Freeport-McMoRan (drie verzekeraars, totale beleggingen € 542,0 miljoen) en Newmont Corporation (acht verzekeraars, totale beleggingen € 520,2 miljoen). Kort daarop volgen Rio Tinto (€ 499,2 miljoen) en Vale (€ 477,8 miljoen).
- De vier grootste beleggers zijn Allianz (€ 2.749,2 miljoen), Aegon (€ 792,6 miljoen), Achmea (€ 208,6 miljoen), en NN Groep (€ 190,1 miljoen). Samen zijn zij verantwoordelijk voor meer dan 95% van het totale belegde vermogen (€ 4.132,2 miljoen).
- Allianz, de verzekeraar met de grootste beleggingen in de negen geselecteerde bedrijven (€ 2,749 miljoen), is de enige verzekeraar die heeft geweigerd om mee te werken met het onderzoek. Deze non-coöperatieve houding is niet in overeenstemming met de principes en geest van de *Due Diligence Guidance for Responsible Business Conduct and the Principles for Responsible Investment* van de OESO. Door niet mee te werken aan het onderzoek behaalt Allianz de laagst mogelijke score van 1.
- Alle andere onderzochte verzekeringsmaatschappijen hebben procedures om hun beleggingsportefeuilles te screenen op mensenrechtencontroverses. Hierbij worden doorgaans leidende mensenrechtenstandaarden gehanteerd, zoals de UNGP's, de tien principes van het VN *Global Compact* en de OESO-richtlijnen voor multinationale ondernemingen.
- Alle onderzochte verzekeringsmaatschappijen maken gebruik van externe dienstverleners voor het screenen van hun beleggingsportefeuilles en het identificeren van controverses. Sommige verzekeraars (CZ, VGZ, Menzis en Achmea) doen voor de screening en het onderzoek van controverses uitsluitend een beroep op één enkele externe onderzoeker. Andere verzekeraars maken gebruik van meerdere dienstverleners, eigen onderzoek, en/of input van andere belanghebbenden en maatschappelijke organisaties (NN, Athora NL, ASR, Aegon NL). Afhankelijkheid van een enkele externe dienstverlener vergroot het risico dat controverses over het hoofd worden gezien wanneer de dienstverlener er niet van op de hoogte is, of wanneer hun methodologie om de ernst van een zaak te bepalen niet voldoende rekening houdt met de zorgen van alle belanghebbenden. Zo heeft geen van de externe onderzoeksbureaus de casus van Total in Uganda en Tanzania adequaat aangemerkt als een serieus mensenrechtenconflict, ondanks een groot aantal NGO-rapporten waarin ernstige mensenrechtenschendingen aan de kaak werden gesteld en ondanks ruime media-aandacht. Alleen Athora NL heeft, na via de inbreng van belanghebbenden op de hoogte te zijn gebracht, het externe onderzoeksbureau over de zaak aangesproken en een eigen onderzoek ingesteld.

- Geen van de verzekeringsmaatschappijen maken een duidelijke kwalificatie van de mate van hun eigen betrokkenheid bij de mensenrechtenschendingen. Sommige verzekeringsmaatschappijen, zoals Achmea of NN Groep, melden dat zij er in het algemeen van uitgaan dat zij als verzekeringsmaatschappij "rechtstreeks betrokken zijn" bij (potentiële of feitelijke) negatieve effecten via hun investeringen in bedrijven. Zoals wordt benadrukt in de OESO-richtlijnen voor beleggers en de *Principles for Responsible Investment* (PRI), is dit niet automatisch in alle gevallen juist: een belegger kan ook daadwerkelijk "bijdragen" aan de negatieve effecten van ondernemingen waarin wordt geïnvesteerd. Het feit dat verzekeringsmaatschappijen in het kader van hun onderzoek naar specifieke gevallen geen kwalificatie maken van hun eigen relatie tot de impact op de mensenrechten, kan dan ook worden gezien als een tekortkoming in hun due diligence.
- Alle acht verzekeringsmaatschappijen die op de vragenlijst hebben gereageerd hebben informatie aangeleverd met betrekking tot hun engagementactiviteiten met de bedrijven waarin ze hebben belegd. Echter, alleen Athora NL verstreekte bewijs voor alle relevante geselecteerde casussen. CZ verstreekte informatie over engagement met alle relevante bedrijven rondom mensenrechtenkwesties, maar niet altijd direct gerelateerd aan de geselecteerde casussen.
- In de gevallen dat een verzekeringsmaatschappij besloot om geen engagement te voeren met één of meer van de bedrijven over de geselecteerde casussen, of over mensenrechtenkwesties meer in het algemeen, was dit vaak gebaseerd op een prioritering van de bedrijven met de hoogste risicoclassificatie of controversescore (zoals bepaald door externe onderzoeksbureaus). Zo besloten Aegon NL en NN Groep om geen engagement te voeren met Lundin Energy over de casus in Zuid-Soedan, of met Total over de casus in Uganda en Tanzania. Hoewel de casussen werden geïdentificeerd en geanalyseerd, werden ze door de externe dienstverlener niet aangemerkt als schendingen van internationale mensenrechtenstandaarden, en resulteerden de casussen niet in een aanpassing van de controversescore van de bedrijven. Het is daarom belangrijk dat externe onderzoeksbureaus door verzekeraars worden aangesproken en aangemoedigd om zulke controverses serieuzer te nemen. Zowel Aegon NL als Athora NL gaven aan dit steeds vaker te doen.
- Hoewel sommige verzekeringsmaatschappijen in detail verslag leggen van hun engagementactiviteiten en de resultaten, is informatie over de precieze doelen, de gehanteerde tijdlijn en de tussentijdse stappen vaak beperkt of zelfs afwezig. Dit geeft de verzekeraars wellicht meer flexibiliteit gedurende het engagementproces, maar draagt ook het risico dat het engagement daardoor ongericht, onrealistisch, onmeetbaar en niet tijdsgebonden wordt.
- ASR en VGZ verstrekten zeer weinig bewijs van hun engagementactiviteiten. VGZ gaf aan dat er weinig bewijs was omdat de verzekeringsmaatschappij op dit moment de engagementprocedures aan het herzien is. ASR gaf aan engagement te hebben gevoerd met alle relevante bedrijven, maar verstreekte geen verdere details. Het niveau van transparantie van ASR is lager dan in de studie van 2018.
- De informatie verstrekt door de verzekeringsmaatschappijen doet de vraag rijzen of de criteria om een engagement "succesvol" te verklaren ambitieus genoeg zijn. Een engagementcasus kan door de verzekeringsmaatschappijen als opgelost worden verklaard terwijl het betreffende bedrijf feitelijk nog niet voldoende heeft gedaan om de mensenrechtenschending te beperken en te corrigeren. Deze zorg werd ook al in de studie van 2018 geuit.⁹
- De onderzochte verzekeringsmaatschappijen melden in wisselende mate dat zij van de ondernemingen verlangen dat zij een multi-stakeholderbenadering volgen. Athora NL en NN Groep toonden bewijs dat zij dit voor meer dan de helft van de relevante casussen hadden geëist. Vier van de verzekeraars (Achmea, Aegon NL, ASR en Menzis) eisten dit voor minder dan de helft van de casussen, VGZ voor geen van de casussen.

- Vier verzekeringsmaatschappijen (Achmea, Aegon NL, Athora NL, en CZ) toonden aan dat ze extra stappen hebben genomen om hun invloed te vergroten wanneer de engagementdoelen niet werden gehaald of wanneer bedrijven geen bereidheid toonden om hun gedrag te veranderen. De verzekeraars hebben bijvoorbeeld de intensiteit van de dialoog opgevoerd (Achmea), het bedrijf uitgesloten van investering (Aegon NL en Athora NL), of gestemd tegen het bestuur op de aandeelhoudersvergadering en samengewerkt met andere investeerders (CZ). Verder hadden zeven van de negen verzekeringsmaatschappijen één of meer van de geselecteerde bedrijven al vóór 2019 uitgesloten van investering vanwege duurzaamheidsredenen.
- De meeste verzekeringsmaatschappijen verstrekten bewijs van monitoring van het engagement voor meer dan de helft van de relevante casussen. Alleen Athora NL verstreekte bewijs van uitgebreide monitoring voor alle relevante casussen.
- Alle verzekeringsmaatschappijen hebben meer gedetailleerde informatie over een klein aantal casussen openbaar gemaakt, bijvoorbeeld over formele besluiten om het engagement voort te zetten of te beëindigen, of over de resultaten van het engagement. Deze informatie is echter beperkt tot “interessante” casussen of “voorbeeldgevallen” in plaats van een volledig overzicht. Geen van de verzekeraars verstrekt dergelijke diepgaande informatie voor alle relevante casussen.
- Athora NL is de enige verzekeringsmaatschappij die van alle geselecteerde bedrijven verwacht dat ze transparant zijn naar de relevante belanghebbenden over de omstandigheden van de mensenrechtenschendingen, en over de concrete stappen die gezet zijn om de mensenrechtenschending aan te pakken. CZ, Menzis, en NN Groep verstrekten hierover slechts beperkte informatie.
- Geen van de verzekeringsmaatschappijen slaagde erin om herstelmaatregelen aan de orde te stellen als deel van hun engagement met de bedrijven. Hoewel zes van de verzekeraars aantoonde dat ze hebben geprobeerd om bedrijven aan te moedigen voor herstel te zorgen, is er geen bewijs dat zij direct hebben meegedaan in dialogen met getroffen belanghebbenden of aan bemiddelingsprocedures. NN Groep en Aegon toonden wel aan dat namens hen een dialoog is gevoerd met getroffen gemeenschappen in Brazilië, als onderdeel van hun engagement met Vale na de instorting van de Brumadinho-dam.
- Over het geheel genomen kon Profundo in sommige gevallen de relatie van de verzekeringsmaatschappijen tot de mensenrechtenschendingen als “rechtstreeks betrokken” kwalificeren, maar in andere gevallen leverden de verzekeringsmaatschappijen geen (voldoende) bewijs waaruit een duidelijke conclusie kon worden getrokken. Er zijn vier redenen voor deze conclusies, en verschillende redenen kunnen van toepassing zijn op de zelfde verzekeringsmaatschappij, afhankelijk van de onderzochte zaak:
 1. Er kon worden geconcludeerd dat de verzekeringsmaatschappij “rechtstreeks betrokken” is bij de mensenrechtenschending, wanneer de verzekeringsmaatschappij heeft aangetoond dat zij zich aanzienlijke inspanningen heeft getroost om met de onderneming in contact te treden, en maatregelen te nemen als onderdeel van haar due-diligence procedure voor mensenrechten.
 2. Er kon geen conclusie getrokken worden wanneer de verzekeringsmaatschappij stelde dat het engagement had gevoerd met de geselecteerde casussen, maar te weinig of geen informatie verstreekte over het engagement, of alleen over mensenrechtenengagement in het algemeen. In die gevallen was Profundo niet in staat om te beoordelen of de relatie van de verzekeringsmaatschappij tot de mensenrechtenschending er één was van “bijdragen aan” of slechts “rechtstreekse betrokkenheid”.
 3. Er kon geen conclusie worden getrokken wanneer de verzekeringsmaatschappij niet meewerkte in dit onderzoek en dus niet transparant was over haar engagementactiviteiten. Dit is het geval voor Allianz.

4. Sommige verzekeringsmaatschappijen lopen het risico dat ze het gebrek aan inzet van de bedrijven om herstel of genoegdoening aan te bieden “faciliteren”, wanneer zij besluiten om geen engagement te voeren naar aanleiding van het screeningproces en ondanks de geuite zorgen van belanghebbenden.

Scores

Table 6 geeft een overzicht van de scores voor ieder onderdeel van de beoordeling, alsmede de totale score per verzekeringsmaatschappij. De belangrijkste bevindingen per verzekeraar zijn hieronder samengevat.

Table 6 Scores per verzekeringsgroep

	Weging (%)	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ
A: Identificatie, kwalificatie en prioritering van mensenrechtenkwesties en risico's	20	8,3	7,2	-	6,7	8,3	6,7	5,0	8,3	4,4
B: Beïnvloeden van bedrijven om mensenrechtenschendingen te voorkomen en te beperken	40	5,6	3,9	-	2,2	10,6	9,4	3,3	4,4	0,6
C: Monitoren van voortgang en communicatie over de resultaten	20	5,0	3,9	-	3,9	6,7	5,6	4,4	4,4	3,9
D: Voorzien in – of medewerking aan – herstel of genoegdoening	20	1,7	3,3	-	0,0	3,3	3,3	1,7	3,3	0,0
Totaal	100	5,2	4,4	1,0	3,0	7,9	6,9	3,6	5,0	1,9

Achmea

- Achmea behaalde een eindscore van 5,2 (op een schaal van 10), en komt hiermee op de derde plaats.
- Achmea meldt investeringen in vijf van de geselecteerde bedrijven. Dit is in tegenstelling tot de studie van 2018, toen geen financiële banden met deze vijf bedrijven werden gevonden, maar wel met één ander bedrijf (Freeport-McMoRan). Echter, aangezien er bewijs is geleverd van engagement met Glencore, Rio Tinto en Shell van vóór 2018, duidt dit op financieel belang in die ondernemingen vóór de onderzoeksperiode, en/of een andere mate van bereidheid van de verzekeraar om commentaar te geven op het financiële onderzoek in het vorige rapport. Daarnaast sluit Achmea drie bedrijven (Coal India, Vale, en Vedanta Resources) uit van beleggingen wegens structurele schendingen van mensenrechten. Dit leidt tot bonuspunten in onderdeel B.
- Achmea heeft sterke processen om de mensenrechteneffecten van de beleggingsportefeuille in kaart te brengen en te onderzoeken (onderdeel A), en behoort tot de drie verzekeraars die op dit punt de hoogste score hebben behaald (8,3 van 10).
- Achmea heeft voor twee van de geselecteerde bedrijven (Rio Tinto en Glencore) bewijs geleverd van engagement rondom mensenrechtenkwesties. Voor de andere relevante casussen is het geleverde bewijs zeer beperkt of afwezig. Dit heeft aanzienlijke gevolgen voor de door Achmea behaalde score voor de onderdelen B, C, en D, en daarmee ook voor de totaalscore.

- De significante verschillen tussen de scores van Achmea in dit onderzoek en in het onderzoek van 2018 kunnen worden verklaard door het feit dat in het huidige onderzoek meer financiële relaties met de geselecteerde ondernemingen zijn geïdentificeerd, terwijl slechts voor een beperkt aantal casussen bewijs van engagement werd geleverd. Dit staat in contrast met het rapport van 2018, waarin Achmea slechts in verband werd gebracht met één geselecteerde casus, waarvoor significant bewijs van betrokkenheid werd geleverd. Dit leidde in het onderzoek van 2018 tot een hoge score.
- In het rapport van 2018 werd al de vraag geopperd of de door Achmea gehanteerde drempel voor succes wel ambitieus genoeg is. Het bewijsmateriaal dat voor dit onderzoek is aangeleverd roept dezelfde vraag op, omdat het laat zien dat sommige engagementtrajecten met bedrijven als "succesvol" zijn geconcludeerd, ondanks dat niet alle gestelde engagementdoelen zijn bereikt.

Aegon

- Aegon behaalde een score van 4,4 uit 10, en staat daarmee op de vijfde plek.
- Aegon NL heeft sterke processen om de mensenrechteneffecten van de beleggingsportefeuille in kaart te brengen en te onderzoeken (onderdeel A). Het feit dat Aegon alleen bewijs heeft geleverd van screening en onderzoek naar de relevante casussen voor Aegon NL en niet voor de hele groep heeft echter een negatieve invloed op de score voor dit onderdeel. Geadviseerd wordt om de transparantie en verantwoording over de due diligence-processen van Aegon op het gebied van mensenrechten op groepsniveau te verbeteren.
- In vergelijking met het rapport van 2018 heeft Aegon de due diligenceprocessen verbeterd door niet meer het onderzoek van slechts één externe dienstverlener te gebruiken, maar dat van twee dienstverleners te combineren en door verschillende engagementstrategieën toe te passen. Verder wordt geadviseerd om de screeningscriteria en het due diligence-proces met betrekking tot mensenrechten openbaar te maken. Aegon NL is momenteel bezig beide te publiceren.
- Op groepsniveau heeft Aegon beleggingen in negen van de geselecteerde bedrijven, waarvan zeven ook in het onderzoek van 2018 geïdentificeerd waren. Drie bedrijven zijn echter uitgesloten door Aegon NL vanwege duurzaamheidsredenen, waaronder PetroChina (CNPC), Freeport-McMoRan en Coal India. De laatste is ook op groepsniveau door Aegon uitgesloten van investering. Dit levert Aegon bonuspunten op in onderdeel B.
- Aegon NL heeft met zeven van de ondernemingen engagement gevoerd over mensenrechtenkwesties in het algemeen, of over de geselecteerde mensenrechtenschendingen in het bijzonder. Voor geen van de gevallen werd echter voldoende informatie ontdekt over de engagementdoelen, de tijdlijn en de tussentijdse stappen. Dit heeft een negatief effect op de score in onderdeel B. Aegon NL heeft geen engagement gevoerd met Lundin Energy omdat bepaald was dat dit geen prioriteit had.
- In 2018 werd door Aegon bewijs geleverd voor gezamenlijk engagement met slechts drie van de negen bedrijven. In de huidige studie leverde Aegon bewijs voor engagement met meer dan de helft van de relevant casussen (zeven van de negen). Op basis van het bewijsmateriaal van de huidige studie kan daarom worden vastgesteld dat Aegon enige verbeteringen heeft aangebracht in het engagementproces.
- In het rapport van 2018 werd al de vraag geopperd of de door Aegon gehanteerde drempel voor succes wel ambitieus genoeg is. Het bewijsmateriaal dat voor dit onderzoek is aangeleverd roept, ondanks de verbeteringen, dezelfde vraag op.

Allianz

- Uit het financiële onderzoek komt Allianz naar voren als de verzekeraar met de grootste beleggingen in tien van de geselecteerde bedrijven (€ 2.749 miljoen). Allianz is de enige verzekeraar in dit onderzoek die geweigerd heeft mee te werken met dit onderzoek en enig bewijs te delen over engagement omtrent de geselecteerde casussen. Door niet mee te werken aan het onderzoek behaalt Allianz de laagst mogelijke score van 1.

ASR

- ASR behaalde een score van 3,0 en is daarmee een van de drie laagst scorende verzekeraars in deze studie.
- De score van ASR is aanzienlijk lager dan in het onderzoek in 2018. Dit komt omdat ASR minder informatie over het engagement met de verschillende bedrijven heeft gedeeld.
- Met betrekking tot het identificeren en onderzoeken van negatieve mensenrechtenimpacts, leverde ASR alleen bewijs voor een deel van de relevante geselecteerde casussen. Dit heeft negatieve gevolgen voor de score in onderdeel A.
- ASR heeft beleggingen in zes van de geselecteerde bedrijven. Met drie van de zes bedrijven werden in het onderzoek in 2018 ook al financiële banden gevonden. Twee bedrijven, Shell en Vale, zijn uitgesloten van investering vanwege de mensenrechtenschendingen die zijn besproken in deze studie. Dit levert bonuspunten op in onderdeel B.
- ASR heeft weinig informatie geleverd over de wijze waarop het bedrijven probeert te beïnvloeden om negatieve effecten op mensenrechten te voorkomen en te beperken. ASR stelt dat engagement met bedrijven een concrete strategie, doelen, tijdlijn en tussentijdse stappen hebben, maar geeft hiervoor geen ondersteunend bewijs. Dit heeft negatieve gevolgen voor de score in onderdeel B.

Athora NL

- Athora NL behaalde met een 7,9 de hoogste score van de onderzochte verzekeraars.
- Athora NL heeft beleggingen in drie van de elf geselecteerde bedrijven: Newmont, Shell, en Total. Sinds april 2021 staan zes van de elf geselecteerde bedrijven op de uitsluitingenlijst van Athora NL vanwege schendingen van mensenrechten en arbeidsrechten: PetroChina, Coal India, Freeport, Rio Tinto (waarmee in het onderzoek in 2018 wel financiële banden werden gevonden), Vale, en Vedanta. Dit levert bonuspunten op in onderdeel B.
- Athora NL heeft sterke processen om de mensenrechteneffecten van de beleggingsportefeuille in kaart te brengen en te onderzoeken (onderdeel A). Athora NL scoort voor onderdeel A een 8,3, één van de drie hoogste scores van de onderzochte verzekeraars.
- Athora NL is de enige verzekeraar in de deze studie die, na door belanghebbenden op de hoogte te zijn gebracht over de casus van Total en Oeganda en Tanzania, de externe onderzoeksprovider heeft aangesproken over de zaak en een eigen engagement met het bedrijf is begonnen.
- Athora NL heeft bewijs aangeleverd van gevoerd engagement met alle bedrijven waar het financiële banden mee heeft, inclusief informatie met betrekking tot de doelen, de tijdlijn, en de concrete tussenstappen. Om deze reden behaalt Athora NL de hoogste score in dit onderzoek.
- Met betrekking tot herstel en genoegdoening legt Athora NL uit dat het op dit moment het beleid aan het herzien is, en dat herstel en genoegdoening hierin structureel geïntegreerd zullen worden. Athora NL leverde bewijs dat het het onderwerp van genoegdoening wel heeft aangekaart in het engagement met Newmont Corporation (voorheen Goldcorp) en Shell. Athora NL kan nog een stap verder gaan door zelf mee te doen in dialoog of bemiddelingsprocessen met belanghebbenden.

CZ

- CZ behaalde met een score van 6,9 de op één na hoogste score van de onderzochte verzekeraars.

- CZ heeft beleggingen in twee van de elf geselecteerde bedrijven (Total en Newmont Corporation). Daarnaast staan vijf van de elf bedrijven op de uitsluitingslijst van CZ wegens mensenrechtenschendingen: Coal India, Glencore, Rio Tinto, Shell en Vale. Dit levert bonuspunten op in onderdeel B. CZ gaf ook aan dat PetroChina (CNPC) op de *watchlist* staat wegens de situatie in Zuid-Soedan.
- CZ heeft sterke processen om de mensenrechteneffecten van de beleggingsportefeuille in kaart te brengen en te onderzoeken (onderdeel A). De casus van Total in Oeganda en Tanzania is echter niet gesignaleerd door de externe onderzoeksprovider.
- CZ heeft bewijs geleverd van engagement met Newmont Corporation over de geselecteerde casus, inclusief de concrete doelen, tijdlijn, en tussenstappen. Met betrekking tot Total heeft CZ wel engagement gevoerd op het gebied van mensenrechten in het algemeen, maar niet over de geselecteerde casus in Oeganda en Tanzania, omdat deze niet als serieuze mensenrechtenschending was geïdentificeerd door de externe onderzoeksprovider.
- CZ heeft ook bewijs geleverd dat het opzetten van een klachtenmechanisme op operationeel niveau onderdeel was van de discussie met Newmont Corporation. Het geleverde bewijs over engagement met Total laat niet zien dat herstel of genoegdoeningsmaatregelen zijn besproken.
- CZ heeft geen informatie geleverd waaruit blijkt dat het mee heeft gedaan aan dialoog of bemiddelingsprocessen met de getroffen belanghebbenden.

Menzis

- Menzis behaalde een totale score van 3,6 en staat daarmee op de zesde plaats tussen de verzekeraar in deze studie.
- Menzis heeft beleggingen in vijf van de elf geselecteerde bedrijven: Coal India, Newmont Corporation, Rio Tinto, Shell en Total. Twee bedrijven, PetroChina en Vale, zijn uitgesloten van investering. Dit levert bonuspunten op in onderdeel B.
- Menzis heeft bewijs geleverd dat het alle relevante casussen heeft onderzocht. Echter, er is geen bewijs dat Menzis ook de ernst van de mensenrechtenschendingen en de mate van betrokkenheid van de geselecteerde bedrijven in overweging heeft genomen. Dit heeft negatieve gevolgen voor de score voor onderdeel B.
- Menzis heeft bewijs geleverd dat het engagement heeft gevoerd met drie van de vijf geselecteerde bedrijven. Het gevoerde engagement had bij Shell betrekking op de geselecteerde casus. Bij de andere twee bedrijven, Rio Tinto en Total, had het gevoerde engagement betrekking op hun mensenrechtenbeleid in het algemeen, maar niet op de specifieke casussen. Menzis heeft geen details verstrekt over de gehanteerde tijdlijnen van het gevoerde engagement, of over de tussenstappen. Dit heeft negatieve gevolgen voor de score voor onderdeel B.
- Er zijn weinig gegevens over de doelstellingen die als onderdeel van het engagementproces zijn opgesteld.
- Voor het engagement met Shell en Rio Tinto informatie verstrekt waaruit blijkt dat de bedrijven werden verwacht zorg te dragen voor herstel en genoegdoening voor de getroffen gemeenschappen. Voor de andere bedrijven is hiervan geen bewijs gevonden. Dit heeft een negatieve invloed op de score voor onderdeel B.

NN Groep

- NN Groep behaalde een score van 5,0 en staat daarmee op de vierde plaats van de onderzochte verzekeraars.

- NN Groep heeft beleggingen in acht van de elf geselecteerde bedrijven: PetroChina, Freeport-McMoRan, Lundin Energy, Newmont Corporation, Rio Tinto, Shell, Total, en Vale. Coal India staat op de uitsluitingenlijst van NN Groep vanwege betrokkenheid bij steenkolenmijnbouw. In het onderzoek in 2018 werden nog wel financiële banden gevonden tussen NN Groep en dat bedrijf. In het onderzoek in 2018 werden ook nog beleggingen van €16 miljoen in Glencore en €3 miljoen in Vedanta gevonden. In het huidige onderzoek zijn geen financiële banden gevonden tussen NN Groep en die twee bedrijven, ondanks dat zij niet op de uitsluitingenlijst van NN Groep staan.
- NN Groep heeft sterke processen om de mensenrechteneffecten van de beleggingsportefeuille in kaart te brengen en te onderzoeken (onderdeel A). NN Groep scoort voor onderdeel A een 8,3, één van de drie hoogste scores van de onderzochte verzekeraars.
- Het door NN Groep aangeleverde bewijsmateriaal laat zien dat voor vijf van de acht relevante bedrijven een beslissing is gemaakt om de dialoog aan te gaan: PetroChina, Freeport-McMoRan, Rio Tinto, Shell, en Vale. Dit is een verbetering ten opzichte van het onderzoek in 2018, toen NN Groep alleen bewijs leverde voor engagement met twee bedrijven (Freeport-McMoRan en Shell), terwijl er toen ook beleggingen in PetroChina en Rio Tinto gevonden waren.
- Voor de andere drie bedrijven waarmee NN Groep financiële banden heeft (Lundin Energy, Newmont Corporation, en Total), verklaarde NN Groep dat zij besloten had geen engagement te voeren omdat de bij screening van controverses de geselecteerde casussen niet als schendingen van haar normen waren gesignaleerd.
- Er zijn weinig gegevens over de tussenstappen die als deel van het engagement van de bedrijven worden verwacht.
- NN Groep heeft aangetoond dat het haar invloed voor drie casussen (Freeport, Shell, en Vale) heeft aangewend om de bedrijven aan te moedigen om voor herstel te zorgen. Daarnaast heeft NN Groep bewijs aangeleverd dat het heeft meegedaan aan een collectief engagement van de *Principles for Responsible Investment* (PRI) met Vale, waarbij ook gesprekken zijn gevoerd met woordvoerders van de door de instorting van de Brumadinho-dam getroffen gemeenschappen.
- De lagere score ten opzichte van het onderzoek in 2018 kan worden verklaard door het feit dat NN Groep in 2018 bewijs leverde van engagement met zes andere, niet in de studie opgenomen casussen van mensenrechtenschendingen. Die casussen zijn toen opgenomen in de score van NN Groep. In het huidige onderzoek hebben de verzekeraars de mogelijkheid gekregen om voorafgaand aan de vragenlijst maximaal twee extra casussen aan te dragen van engagement over mensenrechten met bedrijven uit de winningsindustrie. NN Groep heeft dit keer geen extra casussen aangeleverd. Het geleverde bewijs zelf was ook niet voldoende voor alle casussen. Dit heeft een negatieve invloed op de totale score.

VGZ

- VGZ behaalde een score van 1,9, de op één na laagste score van de onderzochte verzekeraars.
- VGZ heeft beleggingen in zes van de elf geselecteerde bedrijven: PetroChina (CNPC), Glencore, Rio Tinto, Shell, Total, en Vale. VGZ heeft geen van de elf geselecteerde bedrijven uitgesloten van investering.
- VGZ leverde maar voor een klein deel van de geselecteerde casussen bewijs dat het de negatieve gevolgen voor mensenrechten had geïdentificeerd en onderzocht. Dit heeft negatieve gevolgen voor de score voor onderdeel A.
- VGZ leverde beperkt bewijs van haar engagementprocessen met twee van de geselecteerde bedrijven (PetroChina en Vale). Voor beide gevallen werden zeer beperkte details verstrekt over de doelen, de tijdlijn en de verwachte tussenstappen die tijdens het engagement werden gehanteerd. Dit heeft negatieve gevolgen voor de score voor onderdeel B.

- VGZ verklaarde dat geen verdere stappen gezet zijn in het engagementproces, omdat VGZ op dit moment het engagementproces aan het herzien is. Vanwege deze prioritering heeft VGZ gekozen om geen verder engagement te voeren met de andere bedrijven waarmee het financiële banden heeft.
- Aangezien VGZ geen concrete doelen voor de engagementprocessen met PetroChina en Vale heeft geformuleerd is het de vraag hoe VGZ bepaalt wanneer het engagement succesvol is geweest, of wanneer extra stappen genomen moeten worden. Dit roept ook de vraag op of de monitoring van de voortgang en de resultaten van het engagementproces afdoende is.
- Er is geen bewijs dat de bedrijven verwacht of aangemoedigd werden om zorg te dragen voor herstel en genoegdoening, of om deel te nemen aan dialogen of bemiddelingsprocessen met belanghebbenden. Dit resulteert in een score van 0 voor onderdeel D.

Aanbevelingen van de Eerlijke Verzekeringswijzer aan verzekeraars

De volgende aanbevelingen gelden voor verzekeringsmaatschappijen die beleggingen hebben in de winningsindustrie en die de mensenrechtenrisico's in hun portefeuille beter willen beheersen:

1. **Implementeer de UNGP's en de OESO-richtlijnen en voer due diligence uit om mensenrechtenschendingen te voorkomen**

Alle verzekeringsmaatschappijen moeten zich committeren om de *UN Guiding Principles on Business and Human Rights* en de OESO-richtlijnen voor multinationale ondernemingen te implementeren in zowel hun gehele beleggingsportefeuille als hun eigen bedrijfsvoering.

Volgens die breed gedragen internationale standaarden hebben alle bedrijven, waaronder ook verzekeraars, de verantwoordelijkheid om mensenrechtenschendingen te voorkomen, te beperken, en te stoppen door het uitvoeren van due diligence.

Voor activiteiten in conflictgebieden zouden verzekeraars extra due diligence moeten uitvoeren in overeenstemming met de aanbevelingen van de VN-werkgroep op dit onderwerp.^{iv}

2. **Stel "SMART" doelen om druk uit te oefenen op bedrijven om mensenrechtenschendingen te stoppen**

Het is van cruciaal belang dat verzekeraars "SMART" (tussentijdse) doelen stellen die bedrijven die betrokken zijn bij mensenrechtenschendingen moeten halen. Wanneer bedrijven zulke doelen niet halen, moet uitsluiting van investering overwogen worden. Een doel is SMART wanneer het specifiek, meetbaar, haalbaar, relevant, en tijdsgebonden is. Over het algemeen verstrekten de onderzochte verzekeraars slechts weinig bewijs van de concrete doelen, tijdlijn en tussenstappen die als onderdeel van het engagement werden verwacht. Hierdoor lopen de verzekeraars het risico dat hun engagement daardoor ongericht, onrealistisch, onmeetbaar en niet tijdsgebonden wordt. Concrete doelen, deadlines, en tussenstappen zijn essentiële onderdelen van een goed engagementproces en moeten continu gemonitord worden om de geloofwaardigheid en het succes van het engagement te waarborgen. De uitkomst van zulke monitoring moet bepalen of de verzekeraar andere opties moet overwegen om de druk op de onderneming te verhogen, of doelen moeten bijgesteld of vernieuwd, of dat uitsluiting van investering moet worden overwogen.

^{iv} <https://undocs.org/en/A/75/212>

3. **Ga de dialoog aan met ESG-dienstverleners en onderzoeksproviders**

Dit onderzoek laat zien dat verzekeraars sterk afhankelijk zijn van onderzoek door externe ESG-dienstverleners om hun portefeuille te screenen, en voor onderzoek naar (mensenrechten)controverses. Aangezien de uitkomst van deze screening doorgaans de doorslaande factor is in de keuze om wel of geen engagement te voeren, is het van cruciaal belang dat verzekeraars waar mogelijk kritisch zijn op het onderzoek dat door hun ESG-dienstverleners wordt uitgevoerd. Van verzekeraars mag worden verwacht dat ze proactief zijn in aangaan van de dialoog met ESG-dienstverleners, bijvoorbeeld wanneer door belanghebbenden of de media aandacht wordt gevraagd voor een casus die door de externe onderzoeksprovider niet als serieuze controversie was gesignaleerd.

4. **Vergroot de rol van belanghebbenden in het bepalen van de keuze om engagement te starten, en om een engagement als succesvol te bestempelen**

Verzekeringsmaatschappijen gebruiken een risicogebaseerde aanpak om prioriteit te geven aan zaken die in aanmerking komen voor engagement. Dit onderzoek laat zien dat de processen om bepaalde zaken te prioriteren de zorgen van alle belanghebbenden vaak onvoldoende in acht nemen, en daardoor niet voldoen aan breed gedragen kwaliteitsstandaarden. De OESO-richtlijnen voor institutionele beleggers benadrukken het belang van het raadplegen van meerdere bronnen om grote nadelige effecten op mensenrechten te identificeren, inclusief rapporten van nationale overheden, geloofwaardige internationale organisaties, NGO's, media-aandacht, vakliteratuur, en verklaringen van nationale OESO-contactpunten.¹⁰ Het over het hoofd zien van sommige van deze bronnen doet duidelijk afbreuk aan de kwaliteit van het prioriteringsproces.

De casus van Total in Oeganda en Tanzania, waarbij slechts één verzekeraar (Athora NL) besloot om engagement aan te gaan ondanks de herhaaldelijk geuite zorgen van belanghebbenden en brede aandacht in de media, laat zien dat verzekeraars nog veel kunnen verbeteren in de manier waarop de standpunten van belanghebbenden worden meegewogen in de beslissing om al dan niet een engagementproces te starten. Interessante opties om op dit vlak te verbeteren zijn bijvoorbeeld het organiseren van regelmatig overleg met stakeholders, waarbij maatschappelijke organisaties met deskundigheid inzake de risico's van de winningsindustrie worden betrokken, of het opzetten van een klachtenmechanisme om belanghebbenden in staat te stellen hun zorgen te uiten. Verzekeraars zouden ook rekening moeten houden met de mening van de belanghebbenden over de voortgang die door het bedrijf is geboekt, alvorens een engagement als "succesvol" af te sluiten.

5. **Integreer herstel en genoegdoening structureel in het engagementproces**

Adequate herstel- en genoegdoeningsmaatregelen zijn van cruciaal belang voor mensenrechtenengagement met bedrijven in de winningsindustrie. De lage scores van de verzekeraars op dit vlak laten zien dat er nog veel ruimte is om herstelmaatregelen beter te integreren in hun engagementaanpak. De eerste stap hierbij zou hierbij kunnen zijn om het onderwerp van herstel en genoegdoening wordt behandeld in het algemene engagementbeleid van de verzekeringmaatschappij. Vervolgens is het van fundamenteel belang dat de verzekeraars hun engagementstrategie adequaat implementeren door herstel- en genoegdoeningsmaatregelen op individueel casusniveau te beoordelen.

Deze beoordeling vereist bovenal dat verzekeraars voorafgaand hun eigen relatie tot de mensenrechtenschending kwalificeren. Uit dit onderzoek blijkt dat de verzekeraars zo'n kwalificatie niet maken of veronderstellen dat ze per definitie slechts "direct betrokken" zijn bij de mensenrechtenschending, terwijl de mate van verantwoordelijkheid feitelijk ook afhangt van hun eigen engagementinspanningen.

Voorts blijkt uit dit onderzoek dat deelname van de verzekeraars zelf aan dialogen of bemiddelingsprocessen met getroffen gemeenschappen over specifieke casussen van mensenrechtenschendingen een slechts weinig voorkomende praktijk is, die verdere aandacht verdient.

6. **Verhoog de drempel voor succes bij engagement met bedrijven**

Dit onderzoek laat zien dat engagement met bedrijven soms als succesvol wordt gezien, en het engagementproces wordt afgesloten, terwijl het bewuste bedrijf nog niet alle aanbevelingen heeft overgenomen of terwijl belanghebbenden nog steeds vragen hebben bij de adequate herstelmaatregelen voor getroffen gemeenschappen. Door een engagement op basis van een te lage drempel voor succes als "succesvol" af te sluiten lopen beleggers het risico om niet slechts "direct betrokken" te zijn bij een mensenrechtenschending, maar ook om eraan "bij te dragen" door het faciliteren van een situatie waarin de negatieve effecten voor getroffen gemeenschappen blijven voortduren. Verzekeringsmaatschappijen worden aanbevolen om de drempel voor succes te verhogen en de belanghebbenden systematisch te raadplegen over de status en de toereikende van herstelmaatregelen die door de verantwoordelijke bedrijven zijn getroffen.

7. **Verbeter transparantie**

Transparantie vergroot de toerekenbaarheid van zowel verzekeringsmaatschappijen als bedrijven naar belanghebbenden en de samenleving. Het is daarom van belang dat verzekeraars en de bedrijven waarin zij beleggen transparant zijn over belangrijke mensenrechtenkwesties waarbij ze betrokken zijn, en over hun reactie daarop. De verzekeraars kunnen hun transparantie verbeteren door relevante details van hun engagement met bedrijven te publiceren, zoals de (tussentijdse) doelen die zijn gesteld en de (tussentijdse) doelen die zijn behaald. Transparantie over de manier waarop bepaalde zaken worden geprioriteerd is ook belangrijk. Wanneer een verzekeraar ervoor kiest in een bepaalde casus geen actie te nemen vanwege een prioritering, zou de verzekeraar aan moeten geven hoe geprioriteerd is, welke andere controverses zwaarder wogen, en wat gedaan zal worden met de niet geprioriteerde casus. Verzekeringsmaatschappijen zouden zich ook moeten toeleggen op het samenwerken met legitieme onderzoeksprojecten die hun engagementinspanningen beoordelen.

Verder kunnen de verzekeraars transparantie van de bedrijven bevorderen door van hen te verwachten dat ze een mensenrechtenbeleid publiceren en verslag uitbrengen over de manier waarop het beleid wordt uitgevoerd, de actuele situatie op locatie, de door het bedrijf ondernomen acties en de geboekte voortgang in het zorgen voor herstel en genoegdoening. Het aanmoedigen van bedrijven om verslag te leggen in overeenstemming met het *UN Guiding Principles Reporting Framework* kan een grote bijdrage leveren aan het verbeteren van de transparantie en verantwoording rondom het respecteren van mensenrechten.

Aanbevelingen van de Eerlijke Verzekeringswijzer voor de Nederlandse overheid

Overheden moeten sterk leiderschap tonen om bij te dragen aan het verwerken van mensenrechtenkwesties in de due diligenceprocessen van institutionele beleggers. De volgende aanbevelingen kunnen gedaan worden ten aanzien van de Nederlandse overheid:

1. **Stel nationale mensenrechten-due diligence wetgeving op voor bedrijven**, met inbegrip van financiële instellingen, waarin bindende eisen worden gesteld aan bedrijven om mensenrechten te respecteren overeenkomstig de UNGP's en de OESO-richtlijnen. Zulke wetgeving moet betrekking hebben op alle bedrijven en hun dochterondernemingen in alle sectoren, waarbij due diligence over de gehele waardeketen, inclusief de zakelijke relaties, verplicht wordt gesteld. De wet moet eisen dat belanghebbenden worden geraadpleegd, dat er sprake is van wettelijke aansprakelijkheid, dat slachtoffers van bedrijfsactiviteiten toegang hebben tot de rechtspraak en tot remedie, en moet transparantievoorschriften bevatten.

2. Ondersteun de invoering van soortgelijke, ambitieuze **mensenrechten-due diligence wetgeving** voor bedrijven in de Europese Unie, die voorziet in de mogelijkheid van (i) burgerlijke aansprakelijkheid en (ii) het opleggen van (financiële) sancties wanneer de wetgeving niet wordt nageleefd.

Aanbevelingen van de Eerlijke Verzekeringswijzer voor de partijen in het Nederlandse IMVO-convenant internationaal verantwoord beleggen in de verzekeringssector

1. **Stel een klachtenmechanisme in op sectorniveau als onderdeel van het IMVO-convenant internationaal verantwoord beleggen in de verzekeringssector.**

Het onderwerp "Toegang tot herstel" is in 2020 besproken als onderdeel van het IMVO-convenant, en alle partijen erkenden dat er nog ruimte is voor vooruitgang in het begrijpen hoe investeerders in dit verband een rol kunnen spelen.¹¹ Het is van essentieel belang dat alle belanghebbenden toegang hebben tot een kanaal om hun zorgen te uiten. Het opzetten van een gemeenschappelijk klachtenmechanisme als onderdeel van het IMVO-convenant zou een goede manier zijn om meer inzicht te krijgen in de veroorzaakte negatieve gevolgen en beter te begrijpen wat van verschillende belanghebbenden aan herstelmaatregelen verwacht mag worden. Bovendien zou dit verzekeraars in staat stellen hun kennis en expertise op dit onderwerp gezamenlijk verder te ontwikkelen.

Aanbevelingen van de Eerlijke Verzekeringswijzer voor de *Principles for Responsible Investment (PRI)*

In 2020 kondigde de PRI aan dat zij een meerjarenagenda op zal stellen met het oog op de implementatie van respect voor mensenrechten in het financiële systeem.¹² De volgende aanbeveling kan in dit verband aan de PRI worden gedaan:

1. **Moedig institutionele beleggers sterk aan om mee te werken aan legitieme onderzoeksprojecten** die hun engagementinspanningen beoordelen.

Introduction

This research is commissioned by the Fair Insurance Guide (FIG) and aims to evaluate the response of the nine largest insurance companies active in the Netherlands to cases of severe human rights abuses by companies in the extractives sector. The study assesses whether the insurance companies have effective human rights due diligence instruments in place, and whether they have used these instruments to adequately address the selected cases of severe human rights violations, in which investee companies were involved.

The study is a follow-up research to an earlier assessment of insurance companies' responses to major human rights violations in which investee companies were involved, which was published in June 2018.¹³ In total, the present study assesses Dutch insurance companies' responses to eleven cases of severe human rights abuses. Nine out of the ten companies analysed in the 2018 report are also assessed in this study. The remaining case, related to Trafigura was removed from the selection because some form of remedy was provided in this case and no (other) significant new developments have occurred since the 2018 study. While two new cases, related to the oil company Total and the mining company Vale were added to the list for the associated high priority in term of human rights identified. All of the cases have taken place in conflict-affected and high-risk areas, which would require enhanced human rights due diligence to address the adverse human rights impacts.¹⁴

The extractives sector is a risk sector for involvement in human rights abuses. Extractives industries projects and activities can have several adverse impacts such as: resettlement of communities without adequate consultation and compensation, negative impacts on the livelihoods of local communities and their access to water, labour rights violations and major safety accidents. Companies in this sector should have ongoing due diligence processes in place to prevent, mitigate, and remediate human rights abuses. International standards such as the United Nations Guiding Principles state that all business enterprises regardless of their size, sector, location, ownership and structure, have the responsibility to respect human rights.¹⁵ In the context of institutional investments, this means that investors' responsibility to respect human rights encompasses not only their own operations (with their employees, suppliers, clients) but also the actual or potential impacts they are connected to through their investments.

Investors should seek to prevent and mitigate human rights abuses of their investee companies and also encourage them to provide remedy where they have caused or contributed to the abuses. These responsibilities in practice take shape in processes of engagement with the investees.

Therefore, this study aims to clarify how insurance companies exert their leverage in the context of extractive companies and human rights abuses. The study also aims to assess whether the instruments that the insurance companies use to exercise their leverage are adequate to address severe human rights' abuses. The assessment aims to provide practical recommendations regarding what insurance companies can do to (more) effectively respond to severe human rights abuses to which they are directly linked via their investee companies.

For this study, FIG and Profundo have updated the methodology used in the 2018 Report¹⁶ to better meet the due diligence recommendations included in the UN Guiding Principles on Business and Human Rights, the OECD Due Diligence Guidance for Responsible Business Conduct and the OECD-document Responsible business conduct for institutional investors, as well as lessons learnt from past research projects.

The report is structured as follows. Chapter 1 elaborates on the methodology, including the background of this study, the research design, the indicators used for the assessment and scoring. Chapter 2 provides a description of the eleven selected cases of human rights abuses. Subsequently, Chapter 3 discusses the details of the assessment per insurance company. Finally, the main findings and conclusion are provided in Chapter 4, while Chapter 5 concludes the report with Fair Insurance Guide's recommendations for the insurance companies, the Dutch government and other relevant organisations. A summary of the findings of this report can be found on the first pages of this report.

1

Methodology

This chapter describes the methodology for this case study. It first describes the background of the research (section 1.1). The following section (1.2) provides information about the design of the research including the selected insurance companies analysed, the selected cases of human rights abuses, and the types of methodologies used. The two last sections describe the indicators and assessment guidance (section 1.3), and the scoring model used to assess the insurance companies (section 1.4).

1.1 Background of the research

There is a clear international consensus that companies should, at a minimum, respect all human rights across all of their operations and in their supply chains. Their responsibility is laid out in the UN Guiding Principles on Business and Human Rights (UNGPs), which have also been integrated in the OECD Guidelines for Multinational Enterprises (OECD Guidelines). Over the past years, the OECD has been working to “clarify expectations of responsible business conduct in the context of enterprises operating in the financial sector”. As part of this work, the OECD released a sector guidance for institutional investors in 2017 entitled “Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises”.¹⁷

In order to meet their responsibility to respect human rights, business enterprises should have policies and processes in place appropriate to their size and circumstances, including:

- A policy statement to meet their responsibility to respect human rights;
- A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights; and
- Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.¹⁸

The OECD guidelines identify the following components of an effective due diligence process:

- Embed responsible business conduct into policies and management systems,
- Identify and assess actual and potential adverse impacts associated with the enterprise’s operations, products or services;
- Cease, prevent and mitigate adverse impacts;
- Track implementation and results;
- Communicate how impacts are addressed; and
- Provide for or cooperate in remediation when appropriate.

As highlighted in the work of the OECD on Responsible Business Conduct in the financial sector, financial institutions, including investors, have the responsibility to conduct due diligence to seek to prevent or mitigate an adverse impact.¹⁹ However, it is recognised that financial institutions, like many large multinationals, may have hundreds to thousands of clients, and that it may not always be practical to conduct extensive due diligence on each of them. The OECD Guidelines instead expect enterprises, including financial institutions, to identify general areas where the risk of adverse impacts is most significant and to prioritise due diligence on their clients/investee relationships accordingly, through screening and monitoring when the risk is high, and/or when a risk is brought to the attention of the enterprise (e.g., by an external stakeholder). In other words, the OECD Guidelines expect financial institutions to put in place due diligence *systems*, in addition to carrying out due diligence in response to particular cases.²⁰ This case study focuses specifically on the response of insurance companies to eleven particular cases. The eleven selected cases have been evaluated by the Dutch Fair Insurance Guide as relevant cases of human rights abuses in conflict affected/high risk areas, and therefore deserve prioritisation.

For all the cases selected in the 2018 report, the insurance companies were qualified as “directly linked” by their business relationships to the human rights abuses as investors in these companies. This means, according to the UNGPs and OECD guidelines, that they are expected to take action to encourage their investee companies to provide remedy as a component of their responsibility to prevent and mitigate the negative impact.²¹ This new research evaluates, in line with international standards, whether for some of the cases the prolonged investment of an insurance company in the company concerned, despite knowledge of the human rights issues combined with a lack of action, can change the qualification from being “directly linked” to human rights abuses to “contributing” to human rights abuses. Indeed, the PRI recognises that an investor’s connection to an actual or potential outcome will change over time and that three factors in particular will determine whether an investor can be said to have “contributed to” or be “directly linked to” a negative outcome:²²

- The extent to which an investor facilitated or incentivised human rights harm by another;
- The extent to which it could or should have known about such harm; and
- The quality of any mitigating steps it has taken to address it.

As a result, an insurance company which contributed to human rights abuses would then be expected under the UNGPs and OECD Guidelines to provide remedy to the victims.

The corporate responsibility to respect all human rights includes respecting the right to remedy. This right is often neglected and/or not well understood. In order to fully implement the corporate responsibility to respect the right to remedy, it is important to understand its meaning.

All victims of human rights violations have the right to an effective remedy. This right lies at the very core of international human rights law and is pillar 3 of the UNGPs. It encompasses the victim’s right to:

- Equal and effective access to justice;
- Adequate, effective and prompt reparation for harm suffered; and
- Access to relevant information concerning violations and reparation mechanisms.

Central to the right to effective remedy is the requirement of measures to repair/compensate for the harm caused to victims of human rights violations. This can take many forms as the actual reparation that should be provided in a case will depend on the nature of the right violated, the harm suffered and the wishes of those affected. There are five recognized forms of reparation: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.²³

1.2 Research design

The study is carried out through the following steps:

1.2.1 Methodology development

For the 2018 research, a set of nine indicators and assessment guidance were developed by Amnesty International Netherlands, PAX and Profundo. Based on the methodology used in 2018, the suggestions by the FIG and Profundo's insights, the methodology was updated to be closer to the terminology and criteria included in the *UN Guiding Principles on Business and Human Rights*, the *OECD Due Diligence Guidance for Responsible Business Conduct* and the OECD-document *Responsible business conduct for institutional investors*. The total number of indicators to be assessed remains nine. Main adjustments made focused on the following elements:

- Further attention was brought to divestment in the scoring, as an option in case of persisting unsuccessful engagement
- The topics of monitoring and disclosure were integrated into a common section (section C)
- The topic of remediation was assessed in a dedicated section (section D)
- The scoring model was changed to attribute more weight to engagement (section B) and remediation (section D).

This evaluation framework sets the basis for the assessment and rating of the selected insurance companies. A first draft was shared with the selected insurance companies for their input. Amnesty International Netherlands and PAX organized a meeting with the insurance companies to discuss the methodology and collect their feedback. The two organisations and Profundo answered the questions raised by insurance companies in written form and incorporated their feedback in the method where it has added value for the design of the study and where it was workable / practically possible.

1.2.2 Selected insurance companies

The study will cover the nine largest insurance groups active in the Netherlands:

- Achmea;
- Aegon;
- Allianz;
- ASR;
- Athora NL (formerly Vivat);
- CZ;
- Menzis;
- NN Group; and
- VGZ.

Six insurance groups were already covered in the 2018 report (Achmea, Aegon, Allianz, ASR, Vivat, NN Group), while three health insurance groups are new in this case study (CZ, Menzis and VGZ).

1.2.3 Selected cases of human rights abuses

In order to assess how the insurance companies have been implementing effective due diligence to prevent or address human rights adverse impacts from their investments, and to analyse the results of their engagement strategy, the research focuses on a selection of eleven cases of human rights abuses. Nine out of the eleven cases were already selected in the previous study in 2018, while two new cases related to the oil company Total and the mining company Vale were added to the list. Both companies have been subject to legal proceedings for their involvement in cases of severe human rights abuses, which received a lot of media attention.

The case related to Trafigura, which was included in the 2018 study, was taken out of the selection because some form of remedy was provided in this case and no (other) significant new developments have occurred since the 2018 study. Where relevant and possible to assess, the efforts observed since the 2018 report will be commented in the assessment of each of the insurance companies in Chapter 3.

The cases were selected based on the following criteria:

- The case shows evidence that the company has caused or contributed to human rights' violations;
- The case is known to the insurance company, either through the work of the FIG, or through one of its member organizations or via considerable media coverage; and
- The case must be ongoing (so far not resolved/remediated).

Table 7 provides a list of the selected case studies. A description for each of the cases is provided in Chapter 2. The case descriptions should be read as summaries of the human rights violations/abuses, and not as exhaustive reports of all facts.

Table 7 List of selected case studies

Short description	Country	Company
Conflict insensitive operations / public health / pollution	(South) Sudan	China National Petroleum Corporation (CNPC)
Land grabbing / forced evictions / indigenous land rights	India	Coal India
Surface water pollution / violence / indigenous land rights	Indonesia	Freeport-McMoRan
Human rights violations / land rights / violence	Colombia	Glencore
Involvement in war crimes	(South) Sudan	Lundin Energy (former Lundin Petroleum)
Indigenous land rights / pollution / violence	Guatemala	Newmont (former Goldcorp)
Forced evictions / environmental damage / violence	Myanmar	Rio Tinto
Human Rights violations / environmental damage	Nigeria	Royal Dutch Shell
Human rights violation / land rights / pollution	Uganda, Tanzania ^v	Total
Life losses / environmental and social damage / health and safety	Brazil	Vale
Pollution of drinking water / livelihoods	India	Vedanta Resources

^v Recently Total is under scrutiny for its involvement in Myanmar. While the involvement of Total in Myanmar as such is not recent, the more acute human rights concerns surrounding its financial transactions to the military regime are more recent. The events in Myanmar could not be incorporated in this study.

In addition, the selected insurance companies could propose severe cases of human rights violations/abuses in the extractive industry, including cases from the same company, before the start of this research project. Conditions to be met by the proposed cases were the same of those previously described for the selected cases. The number of cases that could be submitted was limited to two cases. This resulted in the case related to Vale to be proposed to be included in the list of cases. After the FIG approved the inclusion of the submitted case in the scope of the research, the engagement in relation to this case was assessed with the same methodology as the other cases and integrated into the overall score of the insurance companies.

Furthermore, where insurance company provided evidence of engagement with one of the selected companies on human rights topics which takes a more general approach, but not on the specific cases described in the methodology, this was still considered in the scoring and if applicable, scored with full points. This flexibility in scoring assumes that a more general engagement on human rights topics with a company can have a positive impact on the specific cases too. However, when an insurance company provided evidence of engagement on another case of human rights abuses related to one of the selected companies it was scored with half a point.

1.2.4 Financial research

Profundo conducted financial research to determine whether at present the selected insurance companies are invested in shares and bonds issued by the companies that are related to the human rights abuses in the selected cases. To this end, Profundo collected data on the investments by the insurance companies through shares and bonds, as of the most recent filing date identified for each insurance company. These represent total investments in the companies; both for own account of the insurer as well as asset management for third parties. The identified holdings were reported respectively by the investors between June 2019 and February 2021. The sources used for the financial research are financial databases (Refinitiv formerly known as Thomson Reuters, Bloomberg) and publications of the insurance companies. In addition, the insurance companies were given the opportunity to comment on the outcomes of the financial research and to make adjustments in case of identified errors.

All insurance companies, except Allianz, commented on the existence of investment links identified with the selected companies during the financial research conducted by Profundo. Two insurance companies confirmed the financial links and provided comments or adjustments to the amounts (Achmea and Athora NL), while NN Group and Aegon confirmed the existence of investment links but not the amounts. ASR commented that all investments are incorrect but was not willing to provide adjusted amounts nor confirm a financial relationship with the companies. Lastly, for three insurance companies (Menzis, CZ and VGZ) the financial research could not identify the financial links, as they were not disclosed. In a response to the questionnaire, all three insurance companies were willing to provide the details of their investments with the companies included in this study. As a result, if adjustments to the financial links were provided, these were considered and disclosed in this report. If no adjustments were made, either with or without a confirmation that the numbers were correct or incorrect, the results of the financial research are considered and reported.

The establishment of financial links was used as a starting point to determine that an insurance company is connected to the selected companies via its investments. The results of the financial research, as well as the information provided by the insurance companies in a response to the questionnaire, were used to determine the number of cases on which each insurance company was evaluated.

Example: VGZ provided information about financial relationships with six of the selected companies. Therefore, six out of the eleven companies are considered relevant for the elements of the assessment that evaluate the selected cases included in this study.

For all insurers covered by this research, financial links have been found with at least two of the selected companies.

1.2.5 Assessment and rating of insurance companies

To assess how the insurance companies selected in this study have responded to the selected cases of severe human rights abuses, the insurance companies were asked to provide answers to a questionnaire. Together with the questionnaire, Profundo shared the results of the financial research with the insurance companies. They were requested to fill in the questionnaire and to provide written evidence to support all their answers (such as internal-use documents, public evidence or other documents). The insurance companies' responses to the questionnaires formed the basis for the assessment. If further clarification was needed on the answers of a particular insurer to the questionnaires, Profundo sent additional questions and/or proposed to organise a call with this insurer to collect further explanations.

Subsequently, Profundo aggregated and analysed the information and gave a final judgement based on scores for each insurance company. After finalization of the draft assessments, Profundo shared the assessment with each insurance company for their feedback.

1.3 Indicators and criteria

1.3.1 Overview of the indicators

This section presents the indicators that were used for the assessment. The indicators were designed taking into account the normative framework included in the UNGPs and the OECD guidelines for which highlights the responsibility of businesses to conduct due diligence to prevent, mitigate and remedy human rights abuses. Although remediation is not a formal component of due diligence under the OECD Guidelines for multinational enterprises, it represents a supporting element necessary to enable and complement due diligence. In addition, the indicators strongly rely on the OECD sector guidelines for institutional investors, which state that an effective due diligence is composed of the following essential steps including:

1. Embedding RBC into relevant policies and management systems for investors;
2. Identifying actual and potential adverse impacts within investment portfolios and potential investments;
3. As appropriate, using leverage to influence investee companies causing an adverse impact to prevent or mitigate that impact;
4. Tracking performance of the investor's own performance in managing RBC risks and impacts in its portfolio;
5. Communicating results; and
6. Providing for or cooperating in remediation where appropriate.

Considering that the Fair Insurance Guide publishes a detailed assessment of the nine insurance companies' policies once every two years, the indicators designed for this case study will instead focus on the steps 2-6, which relate to the operationalization of the human rights policies.

The indicators used to score the insurance companies in this research are divided in four main sections, closely related to the structure of the OECD due diligence framework. Each section represents a key step of an effective due diligence according to the OECD, except section C which combines two steps, namely "tracking performance" (step 4) and communicating results (step 5). Consequently, the indicators are divided in the four following sections:

- A. Identification, qualification and prioritization of human rights issues and risks;
- B. Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts;
- C. Tracking progress and outcome and communicating about the results; and
- D. Providing for or cooperating in remediation.

These indicators are written for insurance companies that have investments, on their own accounts and on behalf of clients, in shares and bonds in the companies involved in severe human rights abuses. Table 8 provides an overview of all four sections and the nine key indicators associated with each section.

Table 8 Overview of sections and indicators

Section		Indicator	
A	Identification, qualification and prioritisation of human rights issue(s) and risk(s)	A1	The insurance company identifies actual and potential adverse human rights impacts
		A2	The insurance company adopts a risk-based approach to further investigate facts and their human rights impacts
B	Using leverage to influence investee companies	B1	The insurance company sets goals, a strategy and timeline(s) for engagement
		B2	The insurance company requires the investee company to involve multiple stakeholders when addressing its human rights impacts
		B3	Additional (engagement) steps of the insurance company
C	Tracking progress and outcome by the Insurance company	C1	The insurance company monitors the engagement progress
		C2	The insurance company publishes relevant information, when available
D	Providing for or cooperating in remediation	D1	Where the insurance company is directly linked to the adverse impacts that investee companies have caused or contributed to, it uses its leverage to encourage the investee company to provide remedy
		D2	Where the insurance company has contributed to the adverse human rights impacts it provides for, or cooperates through legitimate processes in, the remediation of adverse impacts

For each of the four sections a score was calculated and normalised on a scale from 0 to 10. Each section score was attributed a weight to calculate a consolidated weighted average score per investor. The consolidated score was normalised to a scale from 0 to 10. For additional information on the scoring model, including the weight factor for each section, see section 1.4.

In the following sub-sections, the different indicators and the scoring criteria are further discussed.

1.3.2 Section A: Identification, qualification and prioritisation of human rights issue(s) and risk(s)

Two indicators will be assessed under *Section A: Identification, qualification and prioritisation of human rights issue(s) and risk(s)*. These are:

- **A1: The insurance company identifies actual and potential adverse human rights impacts**

If the insurance company has effective instruments in place, to enable a proper identification of human rights risks among investee companies, also taking into consideration the type of asset class.

1. The insurance company screens its investment portfolio on human rights issue (including passive investment);
2. The screening methodology includes assessment of high-risk variables: geography, sectors, products, governance context (including weak rule of law, or conflict zones), stages of the supply chain;

3. The screening of investee companies is done before and at regular intervals after the investment is done.

This indicator sets up an expectation from insurance companies to have systems in place enabling a continuous identification of human rights risks amongst their investee companies. These systems should enable investors to apply a risk-based approach meaning “that investors with large portfolios may identify general areas where the risk of adverse impacts is most significant and, based on this assessment, prioritise investee companies for further assessment where appropriate”.²⁴ Consequently, the screening methodology adopted by insurance companies should take into account variables that might be related to high human rights risks such as the sector concerned/ nature of activities, the risks related to the home country of investee companies or the countries of their operations (including relevant socio-economic factors, or governance context in which investee companies operates).

As highlighted in the OECD guidelines, the due diligence “is an on-going, proactive and reactive, and process-oriented activity; it is to be carried out throughout the entire life-cycle of operations, products and services because circumstances change and so will adverse impacts.” This means that due diligence should not be limited to an initial investigation prior a potential investment but be renewed at regular intervals to identify general RBC issues that have emerged and prioritise for follow up.²⁵

- **A2: The insurance company adopts a risk-based approach to further investigate facts and their human rights impacts**

If through its own screening processes or by an external party, the insurance company has become aware of the (alleged) human rights abuse(s) selected for this research to which it is directly linked via the investee company, the insurance company:

4. Starts an investigation into the allegations (alone or in cooperation with others);
5. As part of the investigation, looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character;
6. As part of the investigation, makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked;
7. As part of the investigation, makes a qualification on its relationship as investor to the impacts (contribute or directly linked).

This indicator expands on A1 and sets up an expectation from insurance companies to conduct detailed investigations on the selected cases of human rights abuses as part of their due diligence when an investee company is associated with severe human rights risks/abuses (UNGP 17, 18).

Follow up and additional fact-finding may be done through the insurance company’s own desk-based research, using specialised research services, collaborative databases, and engagement techniques, as well as direct engagement with the investee company concerned, to obtain additional information on their approach to the human rights abuse(s) e.g. by requesting to provide certain information, questionnaires, site visits etc. Insurance companies can work collaboratively to approach investee companies in these situations or to collect more information about them.²⁶

Where (potential) severe adverse impacts are identified, insurance companies may consult additional sources to verify or triangulate claims, e.g. reports from national authorities, international organisations, NGOs, media coverage, industry literature, statements from National Contact Points.²⁷

The investigation needs to assess the severity of the abuse, as the more severe an abuse is, the higher the insurance company should prioritize their due diligence efforts (UNGP 19). To determine the severity, the insurance company needs to look at the ‘scale, scope and irremediable character’. Both the gravity of the impact and the number of individuals that are affected (for instance, from the delayed effects of environmental harm) are relevant considerations. Irremediability means any limits on the ability to restore those affected to a situation at least the same as, or equivalent to, their situation before the impact. It is often the case that the greater the scale or the scope of an impact, the less it can be remedied. (UNGP 14).

It is important to assess how the investee company is involved in the human rights abuse(s). If the investee company is causing or contributing to the abuse(s), its responsibility to respect human rights requires active engagement in remediation, by itself or in cooperation with other actors (UNGP 22).

It is also important for the insurance companies to assess their relationship to the human rights impacts to understand their responsibility. While investors will in most instances not cause or contribute to, but only be directly linked to the adverse impact, in some instances, investors may be contributing to impacts caused by their investee companies and may be responsible for remediation.²⁸ As a result, investors will be expected to provide remedy.

Consultation with stakeholders might be helpful in assessing harm and developing appropriate responses. Who the stakeholders are will depend on the adverse impact in question.²⁹ Table 9 provides an overview of the scoring approach for each indicator and criterium.

Table 9 Scoring table for Section A

Indicator	Criterium	Scoring guidance	Points
A1	The insurance company screens its investment portfolio on human rights issues	Never	0
		The screening is applied only to a limited part of its investments in corporate shares and bonds	1
		The screening is applied to all its investments in corporate shares and bonds whatever the active or passive investment strategy	2
	The screening methodology includes assessment of high-risk variables such as: geography, sectors, products, governance context, and an analysis of track record of some investee companies related to HRT controversies when relevant	None of the variables are assessed	0
		Some of the variables related to the sector and countries of operations of the investee companies are assessed	1
		Some of the variables related to the sector and countries of operations of the investee companies are assessed as well as the human rights risks related to the investee companies themselves	2
	The screening of investee companies is done before investing and at regular intervals after the investment is done	Never	0
		Screening is done prior to investment only	1
		Screening is done at regular intervals	2
	A2	The insurance company has started an investigation on the case(s) of human rights abuses.	never
for less than half of the selected cases			1
for half or more than half of the selected cases			2

Indicator	Criterion	Scoring guidance	Points	
The insurance company adopts a risk-based approach to further investigate facts and their human rights impacts	The investigation looks into the severity of the (alleged) human rights abuses, including the scale, scope and irremediable character.	for all the selected cases	3	
		never	0	
		for less than half of the selected cases	1	
		for half or more than half of the selected cases	2	
		for all the selected cases	3	
	The investigation makes a qualification of how the investee company is involved in the abuse(s) – cause, contribute or directly linked	never	0	
		for less than half of the selected cases	1	
		for half or more than half of the selected cases	2	
		for all the selected cases	3	
	The investigation makes a qualification of the insurance company's relationship to the human rights impacts	never	0	
		for less than half of the selected cases	1	
		for half or more than half of the selected cases	2	
		for all the selected cases	3	
	Maximum score for Section A			18

As shown in Table 9, the maximum score for *Section A: Identification, qualification and prioritisation of human rights issue(s) and risk(s)* is 18 points. This score is normalised to a 10-point scale. For example: insurance company X obtains a score of 6 points for A1 and a score of 8 points for A2. The total score for section A is equal to 14 (6+8) points. The score is then normalised to a 10-point scale which mean $(14*10)/18 = 7.8$ out of 10.

1.3.3 Section B: Using leverage to influence investee companies

Two indicators will be assessed under *Section B: Using leverage to influence investee companies*. These are:

- **B1: The insurance company sets goals, a strategy and timeline(s) for engagement**

After the identification and assessment of the human rights, if the insurance company has decided to engage on this specific case with the investee company, it sets (alone or in cooperation with others, for example an external asset manager):

1. Specific goals to be achieved by its engagement;
2. an engagement strategy with the investee companies;
3. a timeline, or timelines for its engagement activities and goals to be achieved;
4. concrete intermediary steps, for example in the form of an action plan, from the investee company;

This indicator is applicable where the insurance company has decided to start to conduct engagement activities with the investee company. The formulation of specific goals, a strategy and timeline(s) is key, as without specific and written goals, the engagement process runs a risk to become unguided, unrealistic, not measurable and unbound in time.

Among the factors that will determine the appropriate strategy are the insurance company's leverage over the entity concerned, how crucial the relationship is to the insurance company, the severity of the abuse, and whether terminating the relationship with the entity itself would have adverse human rights impact (UNGP 19). Other factors to be considered could be for example whether the engagement efforts are already underway by other investors, or possible leverage limitations due to applicable corporate governance rules and practices in some countries and characteristics of an asset class.³⁰

The insurance company is expected to build and exert its leverage to the extent possible in order to influence the investee company to take action to prevent and mitigate the human rights abuse(s). Concrete steps of the investee company will enable the insurance company to assess whether the goals the insurance company has set for the engagement process will actually be achieved. The investee company should be able to demonstrate to the insurance company that it is able to respond adequately and timely to the abuses, provide remediation and learn from mistakes.³¹ Concrete steps might include measures to terminate the ongoing human rights abuses or to prevent new human rights abuses.

- **B2: The insurance company requires the investee company to involve multiple stakeholders when addressing its human rights impacts**

1. The insurance company requires from the investee company that it involves multiple stakeholders when formulating the concrete steps to address the human rights abuse(s).

Multi-stakeholder engagement is an important means of implementing due diligence. Stakeholders can provide important knowledge to help identify potential or actual impacts on themselves or their surroundings. The values and priorities of impacted stakeholders are vital considerations in evaluating impacts and identifying appropriate avoidance or mitigation steps.³²

Engagement needs to happen as a continuing, two-way process and to be moulded by local context. [...] in particular, embedding grievance mechanisms in community engagement will help build relationships of trust with local stakeholders in the mechanism.³³

In situations where direct consultation with (potentially) affected stakeholders is not possible, business enterprises should consider reasonable alternatives such as consulting credible, independent expert resources, including human rights defenders and others from civil society (UNGP 18).

- **B3: Additional (engagement) steps of the insurance company**

1. If the engagement goals are not fully met, but the insurance company sees sufficient reason(s) to continue engagement instead of ending the relationship, the insurance company exerts additional forms of leverage to mitigate the human rights abuse(s), for example:³⁴

- Attending and speaking at the Annual General Meetings to express views on the human rights abuse(s);
- Using voting rights to express views on the human rights abuse(s);
- Collaboration with other investors to increase leverage on the human rights abuse(s) (for instance within the PRI network);
- Engagement with regulators and policymakers on the human rights abuse(s);
- Joining geographic or issue-specific initiatives that seek to prevent and mitigate the human rights abuse(s) in the areas identified;
- Reduction of the investment position and clearly communicating the reason for the reduction;
- Increase intensity of engagement actions if the company does not respond positively in the first instance;

- For active strategies, temporary divestment while pursuing mitigation efforts;
- For active strategies, divestment either after failed attempts at mitigation or where the investor deems mitigation not feasible, or due to the severity of the human rights abuse(s); or
- For passive strategies, where possible and in compliance with regulatory obligations, redesign of investment strategy to avoid investments with highly severe impacts (e.g. exiting a passive index and investing in an adjusted or tailored index which excludes severe risks identified by the investor).

Engagement is an ongoing process, which can take time but eventually must bring concrete solutions to prevent and mitigate adverse human rights impacts. Considering the timeline and objective set as part of their engagement strategy, investors should take appropriate actions if progresses to mitigate the adverse impacts caused or contributed by their investee companies are too slow, or if they face persistent failed attempts at mitigation. The following points of departure, derived from international standards, need to be taken into consideration:

- If the insurance company remains in the relationship, it should be able to demonstrate its own ongoing efforts to mitigate the impact and be prepared to accept any consequences – reputational, financial, or legal – of the continuing connection;
- When there is a lack of leverage, the insurance company should try to increase it.

If the situation is such that the insurance company lacks the leverage to mitigate adverse impacts and is unable to increase its leverage, it should consider ending the relationship, considering credible assessments of potential adverse human rights impacts of doing so. Generally, the more severe the impact is, the quicker the insurance company will need to see the change before it takes a decision on whether it should end the relationship (UNGP 19).

Bonus: since the assessment of each insurance companies is done only on the selected companies for which financial relationships have been found (over the period 2019-2021), under indicator B3.1, exclusions of companies by the insurers because of ESG reasons before the time period of this research are not taken into account. In order to integrate this information in the scoring, bonus points were granted based on the number of excluded companies for ESG reasons for the exclusions that occurred before the time period of this research, with a maximum of three points. Table 10 provides an overview of the scoring approach for each indicator and criterium.

Table 10 Scoring table for Section B

Indicator	Criterium	Scoring guidance	Points
B1	The insurance company sets goals, a strategy and timeline(s) for engagement	Never	0
		The insurance company provides examples for less than half of the relevant selected cases	1
		The insurance company provides examples for half or more of the relevant selected cases	2
		The insurance company provides examples for all of the relevant selected cases	3
	The insurance company explains the main features of its engagement strategy.	Never	0
		The insurance company provides information for less than half of the relevant selected cases	1
		The insurance company provides information for half or more of the relevant selected cases	2

Indicator	Criterion	Scoring guidance	Points
		The insurance company provides information for all of the relevant selected cases	3
	The insurance company has set timelines for its engagement activities and goals to be achieved.	Never	0
		The insurance company has set timelines and goals for less than half of the relevant selected cases	1
		The insurance company has set timelines and goals for half or more of the relevant selected cases	2
		The insurance company has set timelines and goals for all of the relevant selected cases	3
	As a part of its engagement goals, the insurance company has required concrete intermediary steps (for example in the form of an action plan) from the investee company.	Never	0
		The insurance company provides information on required intermediary steps from the investee company for less than half of the relevant selected cases	1
		The insurance company provides information on required intermediary steps from the investee company for half or more of the relevant selected cases	2
		The insurance company provides information on required intermediary steps from the investee company for all of the relevant selected cases	3
B2	The insurance company requires the investee company to involve multiple stakeholders when addressing its human rights impacts	Never	0
		The insurance company provides examples for less than half of the relevant cases	1
		The insurance company provides examples for half or more of the relevant cases	2
		The insurance company provides examples for all of the relevant cases	3
B3	Additional (engagement) steps of the insurance company	Never	0
		Incidentally: ad-hoc examples	1
		Frequently: shows sufficient evidence	2
		Systematically: evidence for all the relevant selected cases	3
Bonus		1 or 2 companies (1 extra point)	
		Between 3 and 5 companies (2 extra points)	

Indicator	Criterion	Scoring guidance	Points
	Extractive companies covered by this research have already been excluded for sustainability issues before the period investigated in the financial research (2019-2021)	More than 5 companies (3 extra points)	
Maximum score for Section B			18

As shown in Table 10, the maximum score for *Section B: Using leverage to influence investee companies* is 18 points. Potential bonus points are added to the total score obtained, therefore the maximum score remains 18 in any case. This score is normalised to a 10-point scale.

1.3.4 Section C: Tracking progress and outcome by the insurance company

Two indicators will be assessed under *Section C: Tracking progress and outcome by the insurance company*. These are:

- **C1: The insurance company monitors the engagement progress**

1. The insurance company (alone or in cooperation with others) actively monitors and measures the outcome of its engagement to prevent and mitigate human rights adverse impacts, including execution of the concrete steps the investee company has committed itself to and achievement of the goals set.

The insurance company's role as the monitor of the investee company's concrete steps to address the human rights abuse(s) is central. Tracking is part of the "know" of "knowing and showing" how the investor is managing adverse human rights impacts throughout its operations and with its business relationships.³⁵

Monitoring the ongoing processes signals to all stakeholders involved in the incident, including the adversely impacted communities, that the insurance company is committed to its resolution. Monitoring the activities taking place to address the abuse(s) will help the insurance company to manage expectations. When other stakeholders communicate about the incident, it is important that the insurance company is aware of the current status to be able to communicate in ways that restore trust.

For the verification whether the human rights abuse(s) are addressed, the effectiveness of the response (concrete steps) should be tracked. Tracking should amongst others draw on feedback from both internal and external sources, including adversely impacted individuals or communities (UNGP 20).

- **C2: The insurance company publishes relevant information, when available**

In order to account for how the insurance company has addressed the human rights abuse(s), including the incidents in this report, the insurance company publishes, when available:

1. Its human rights policy, including human rights due diligence approaches;
2. Names of companies with which it has formally engaged;
3. Formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies, including the investee companies that form part of this research;
4. Results of the (intermediate and final) engagement processes with specific companies, including the investee companies that form part of this study.

The insurance company requires the investee company to publicly provide:

5. Updates on the circumstances of the human rights abuse(s);

6. Concrete steps taken to address the human rights abuse(s).

This indicator is related to the overall transparency of insurance companies and not limited to the selected cases. Transparency is important for a number of reasons. First, it makes public accountability possible. Second, it helps adversely impacted individuals and communities to follow the actions of the insurance company and the investee company. And third, it makes it possible for investors and consumers of the insurance company (and the investee company) to follow its action towards a specific incident. As such, it is important that the insurance company publishes both its general procedures and as much relevant information regarding specific abuses as possible.

The UNGPs require business enterprises to be prepared to communicate externally how they address their human rights impacts, particularly when concerns are raised by or on behalf of affected stakeholders. In case the operations or operating contexts pose risks of severe human rights impacts, formal reporting on how business enterprises address them is expected and should (a) be of a form and frequency that reflects the enterprise’s impacts and be accessible to its intended audience, (b) provide sufficient information to evaluate the adequacy of the response to a particular impact and (c) not pose risks to affected stakeholders, personnel or to legitimate requirements of commercial confidentiality (UNGP 21).

These expectations apply to both the insurance company and the investee company.

Domestic law may sometimes prevent certain disclosures, or outline areas of protected commercial information for the insurance company. Nonetheless, the insurance company should do what is possible within the legal context to maximise transparency and act in the spirit of the UNGPs.³⁶ Table 11 provides an overview of the scoring approach for each indicator and criterion.

Table 11 Scoring table for Section C

Indicator	Criterion	Scoring guidance	Points
C1	The insurance company monitors the company's progress on the implementation of the concrete steps the company has committed itself to and the achievement of engagement goals.	Never	0
		The insurance company provides examples for less than half of the relevant cases	1
		The insurance company provides examples for half or more of the relevant cases	2
		The insurance company provides examples for all of the relevant cases	3
C2	The insurance company ensures transparency by publishing its human rights policy and the due-diligence process.	No reporting	0
		The policy is published but not the due-diligence process	1
		Human rights policy and due-diligence processes are published	2
	The insurance company ensures transparency by disclosing names of the companies it has formally engaged.	No reporting	0
		Less than half of the engagement cases are mentioned	1
		Half or more of the engagement cases are mentioned	2
		All engagement cases are reported	3
	No reporting	0	

Indicator	Criterion	Scoring guidance	Points	
	The insurance company ensures transparency by publishing formal (intermediate and final) decisions on concluding or continuing the engagement with specific companies, including the investee companies that form part of this research.	Reporting for less than half of all engagement cases	1	
		Reporting for half or more of the engagement cases	2	
		Reporting for all engagement cases	3	
	The insurance company ensures transparency by publishing results of the (intermediate and final) engagement process with specific companies, including the investee companies that form part of this study.	No reporting	0	
		Reporting for less than half of all engagement cases	1	
		Reporting for half or more of the engagement cases	2	
		Reporting for all engagement cases	3	
	The insurance company ensures transparency by requiring investee companies to publicly report on the circumstances of the human rights abuse(s).	Never	0	
		The insurance company requires some investee companies to publicly report	1	
		The insurance company requires all investee companies to publicly report	2	
	The insurance company ensures transparency by requiring investee companies to publicly report on the concrete steps taken to address the human rights abuse(s).	Never	0	
		The insurance company requires some investee companies to publicly report	1	
		The insurance company requires all investee companies to publicly report	2	
	Maximum score for Section C			18

As shown in Table 11, the maximum score for *Section C: Tracking progress and outcome by the insurance company* is 18 points. This score is normalised to a 10-point scale.

1.3.5 Section D: Providing for or cooperating in remediation

Two indicators will be assessed under *Section D: Providing for or cooperating in remediation*. These are:

- **D1: Where the insurance company is directly linked to the adverse impacts that investee companies have caused or contributed to, it uses its leverage to encourage the investee company to provide remedy**

If the insurance company has established that its connection to the adverse human rights impacts for the relevant selected cases is a direct linkage, the insurance company:

1. Has tried to use its leverage to influence investee companies to enable remediation, including ensuring the investee companies have set up a grievance mechanism which meets the effectiveness criteria described in the UNGPs;
2. Has participated in dialogue or mediation processes regarding the adverse impacts in question.

In most instances, investors are directly linked to the adverse human rights impacts of their investee companies. As a result, investors are not expected to remediate, but may apply efforts to persuade the investee company to do so as a component of their responsibility to seek to prevent and mitigate.³⁷ The investee company should be able to demonstrate to the insurance company that it is able to respond adequately and timely to the abuses, provide remediation and learn from mistakes.³⁸

When an investee company has caused or contributed to adverse impacts, it should provide for or cooperate in their remediation through legitimate processes. On the basis of the international business and human rights standards, the investee company should establish or participate in effective operational-level grievance mechanisms for individuals and communities adversely impacted to make it possible for grievances to be addressed early and remediated directly. In order to ensure their effectiveness, non-judicial grievance mechanisms should be: legitimate, accessible, predictable, equitable, transparent, rights-compatible, source of continuous learning and based on engagement and dialogue (consulting the stakeholder groups for whose use they are intended on their design and performance and focusing on dialogue as the means to address and resolve grievances). (UNGP 22, 29, 31).

In addition, the investor can also participate in dialogue or mediation processes with affected stakeholders/rightsholders to strengthen its management system or due diligence processes.³⁹

- **D2: Where the insurance company has contributed to the adverse human rights impacts it provides for, or cooperates through legitimate processes in, the remediation of adverse impacts**

1. If the insurance company has established that it has contributed to the adverse human rights impacts, the insurance company provides evidence that it has provided for, or co-operated through legitimate processes in, the remediation of adverse impacts.

Remediation is an expectation in situations where an enterprise causes or contributes to adverse impacts. In some instances, investors may be contributing to impacts caused by their investee companies and may be responsible for remediation. Remediation processes can include cooperation with judicial or state-based non-judicial mechanisms or establishment of operational-level grievance mechanisms.⁴⁰ In its comments on the work of the Thun Group of Banks⁴¹, John G. Ruggie states:

"(...) there is a continuum between contribution and linkage. A variety of factors can determine where on that continuum a particular instance may sit. They include the extent to which a business enabled, encouraged, or motivated human rights harm by another; the extent to which it could or should have known about such harm; and the quality of any mitigating steps it has taken to address it. Asserting that only a bank's own activities can constitute "contributing to" harm, as the paper does, bypasses these critical questions entirely."

The UN PRI also highlight that an investor's connection to an actual or potential outcome will change over time, In particular the PRI identifies three factors that will determine whether an investor can be said to have "contributed to" or be "directly linked to" a negative outcome: the extent to which an investor facilitated or incentivised human rights harm by another; the extent to which it could or should have known about such harm; the quality of any mitigating steps it has taken to address it.⁴²

If it has been evaluated that the insurance company never contributed to the adverse impacts for all the relevant selected cases, this indicator was deactivated and set to n.a. Where information provided by the insurance companies on the selected cases were too limited to assess to what extent the insurance company has contributed to the specific adverse human rights impacts, the indicator was also deactivated.

Table 12 provides an overview of the scoring approach for each indicator and criterium.

Table 12 Scoring table for Section D

Indicator	Criterium	Scoring guidance	Points	
D1	Where the insurance company is directly linked to the adverse impacts that investee companies have caused or contributed to, it uses its leverage to encourage the investee company to provide remedy	The insurance company has tried to use its leverage to influence investee companies to enable remediation (including the establishment or participation in effective operational-level grievance mechanism)*	Never	0
			For less than half of the relevant selected cases	1
			For half or more than half of the relevant selected cases	2
			For all the relevant selected cases	3
	Where the insurance company has participated in dialogue or mediation processes regarding the adverse impacts in question		Never	0
			For less than half of the relevant selected cases	1
			For half or more than half of the relevant selected cases	2
			For all the relevant selected cases	3
D2	Where the insurance company has contributed to the adverse human rights impacts it provides for, or co-operate through legitimate processes in, the remediation of adverse impacts	The insurance company has provided for, or cooperated through legitimate processes in, the remediation of adverse impacts	Never	0
			For less than half of the selected cases	1
			For half or more than half of the selected cases	2
			For all the selected cases	3
Maximum score for Section D			9	

* If for one relevant selected case the evidence does not include an effective operational-level grievance mechanism, but other interesting measures to enable remediation, only half of the score can be attributed for this selected case.

As shown in Table 12, the maximum score for *Section D: Providing for or cooperating in remediation* is 9 points. This score is normalised to a 10-point scale.

1.4 Final scoring

For each of the four sections a score on a 10-points scale is calculated. These four scores will then be combined into a final score by using the weights as shown in Table 13.

Table 13 Overview of sections and indicators

Section	Weight
A Identification, qualification and prioritisation of human rights issue(s) and risk(s)	20%
B Using leverage to influence investee companies	40%
C Tracking progress and outcome by the Insurance company	20%
D Providing for or cooperating in remediation	20%
Total	100%

Considering that this research focuses primarily on engagement, section B will be weighted double compared to section A, C and D. Consequently, sections A, C and D account each for 20% of the total score, while section B accounts for 40% of the total score.

Example: Insurance company X obtains a 10-point scale score of 7 points for section A, 6 points for section B, 7 points for section C and 3 points for section D. Total consolidated score for Insurance company X: $(7 \cdot 20\% + 6 \cdot 40\% + 7 \cdot 20\% + 3 \cdot 20\%) / 100\% = 5.8$

2

Selected cases

This chapter elaborates about the eleven selected cases of human rights abuses and companies associated with them. It also highlights the main human rights breaches related to the cases and recommendations of the Fair Insurance Guide to the companies involved in the human rights abuses through their operations.

2.1 CNPC in South Sudan

2.1.1 Short description

China National Petroleum Corporation (CNPC) is the government-owned parent company of publicly listed Petro China and the world's 3rd largest oil company.

CNPC owns 41% of the jointly operated consortium Dar Petroleum Operating Co. (DPOC), that exploits the oil deposits in Blocks 3 and 7 in South Sudan (former Sudan), the so-called Melut basin. The Melut Basin in the South Sudan, one of the major sources of crude oil in Africa, is located about 700 miles south of Khartoum east of the river Nile. Oil-rich areas in the Melut Basin have suffered the same pattern of oil-related death, destruction and displacement as the Muglad Basin fields in Western Upper Nile, though on a smaller scale. Well over a hundred villages have been emptied and the natural environment has been severely damaged, and the population has never received any substantial benefits or compensation.

The oil fields have been developed against the background of a war in which the Petrodar consortium acted as a loyal partner of one of the warring sides, the Government of Sudan. The Consortium has shown no due regard for the natural environment or concern for the rights of the population. Serious environmental damages have been reported and documented, that have not adequately been addressed by the Consortium.⁴³

Oil exploitation has coincided with a decline in the rural population in parts of Melut and Maban Counties. This is mostly due to violent forced displacement of the Dinka and Maban Populations between 1999-2002, and partially to the effects of cheap and environmentally harmful engineering. The total number of people that has been forcibly displaced can be safely estimated at well above 15.000 minimum; the true number could easily be double that figure. Several hundreds of people have reportedly been killed. In 2014, the Geneva-based Small Arms Survey project reported direct DPOC financing of Padang Dinka militia's, who have, according to UN reports, allegedly committed war crimes. DPOC stands also accused of hiring helicopter gunships that are reported to have arbitrarily attacked civilian targets.

Petrodar and DPOC have never in any way accounted for their social and environmental impacts, and have never defended themselves against the accusations of complicity in war crimes, falling short of the most elementary requirement to know and show one's impact on society.

CNPC owns 40% the jointly operated consortium Greater Nile Petroleum Operating Company (GNPOC) that stands credibly accused of complicity in war crimes committed between 1995 and 2003. In 1999, a civil lawsuit in the US against fellow consortium member Talisman Energy presented strong evidence of direct links between the Consortium and large-scale war crimes and forces displacements. The US District Court did not rule on the merit of the case but rejected the civil claim because it believed that 'intent' was required in civil war crimes proceedings in the US (contrary to the ICC Statute), and it was not shown that Talisman, when contributing to war crimes, did so with the intention that they were committed.

GNPOC operated in the oil sector in Sudan in a time when the country was torn up by civil war. This war centered partly around control over the oil fields in CNPC's concession area. During this war, atrocities took place that qualify as human rights violations, including violations of International Humanitarian Law. Successive UN Rapporteurs reported killings, rape, child abduction, torture, looting, arson, destruction of schools, markets and clinics and deliberate destruction of food stocks, villages, and means to of existence. Many thousands of people died and tens of thousands were deliberately and violently displaced. There are reasons to believe that CNPC has knowingly contributed to the commissioning of at least some of these crimes.

CNPC never accounted for its role and impact in Sudan and South Sudan. The company is not known to have made any effort to know or show its impact on society.

In February 2020, a Transitional Government of National Unity (TGoNU) was established in South Sudan, formed by former political rivals Salva Kiir and vice president Riek Machar. The peace agreement provides for the implementation of reforms related to the management of oil revenues and the transparency of their use, as well as economic measures aimed at creating opportunities for South Sudanese who have decided to return home. The continued lack of transparency from the oil sector in South Sudan was also highlighted in report from the United Nations Security Council.⁴⁴

Aside from CNPC's contributions to gross and systematic human rights abuses, the company is also causing severe environmental and social damage through its activities in South Sudan. A report of June 2020 by an independent research organization, The Sudd Institute, revealed the strong adverse environmental and social impacts caused by oil companies, including CNCP, in South Sudan. In particular, the study states that the high concentrations of salt and heavy metals related to oil exploration, development and production was responsible of birth defects, miscarriages, infertility, and cancers in the affected areas.⁴⁵

In October 2020, populations of the former Unity state in South Sudan have gathered to demonstrate against the non-respect of social commitments by oil companies in the region.⁴⁶ The protesters want oil companies to stop discharges of chemicals that reportedly contaminate agricultural land and groundwater and to respect the commitments made few weeks earlier to provide drinking water for the region, build medical centers and compensating victims of pollution of agricultural land, water and air. The peaceful protest was forcibly broken up by large number of security forces, resulting in the serious injury of a number of the youthful protesters.⁴⁷ According to an interview of Chol Deng Thon Abel, Managing Director of the Nile Petroleum Corporation, the government of South Sudan is planning to take over the oil fields managed by China's CNPC. The government will let CNPC's contract as operator in some oilfields expire, allowing state-owned Nile Petroleum Corporation to take over the role from 2027.

2.1.2 Main human rights violations/abuses

The main human rights violations by the company in this case include:

- Murder;
- Assault;
- Abductions;

- Torture;
- Rape;
- Displacing individuals/communities;
- Violent practices from security forces;
- Arbitrary detention;
- Harms to public health;
- Violation of the right of freedom of expression and security of person; and
- Air, soil and water pollution.

2.1.3 Recommendations to the company

The major recommendations to the company are:

- Acknowledge that CNPC has contributed to the harms suffered by the communities in Upper Nile through its relationship with the Sudanese government;
- Acknowledge that CNPC activities are still causing serious environmental and social impacts, and does not demonstrate any efforts to prevent the use of security forces for the government (contributing then to violent repression); and
- Contribute to effective remedy for the victims, including by putting aside money in a fund for the victims, and respecting commitments made to provide drinking water for the region, building medical centres and compensating victims of pollution of agricultural land, water and air.

2.2 Coal India Limited - India

2.2.1 Short description

Coal India Limited (CIL) is a state-owned mining and refining company headquartered in Kolkata, West Bengal, India. CIL is the largest coal producer in the world and functions through its subsidiaries in 84 mining areas spread over eight states of India. It is a Maharatna company - a privileged status conferred by Government of India to select state owned enterprises in order to empower them to expand their operations and emerge as global giants.⁴⁸

About 70 per cent of India's coal is located in the central and eastern states of Chhattisgarh, Jharkhand and Odisha, where over 26 million members of Adivasi (indigenous) communities live – nearly a quarter of India's Adivasi population. Coal India Limited (CIL) and its subsidiaries are estimated to have displaced at least 14,000 Adivasis from 1973 to 2014.⁴⁹ In 2016-17 itself, Coal India subsidiaries acquired or took possession of over 21,000 hectares of land.

Amnesty India researched how land acquisition and mining in three mines in three different Indian states run by three different CIL subsidiaries - which are all seeking to expand production - have breached Indian domestic laws, and India's obligations under international human rights law. The report published in 2016 demonstrated how CIL as a company has failed to meet its human rights responsibilities.⁵⁰ The three coal mines profiled are South Eastern Coalfields Limited's Kusmunda mine in Chhattisgarh, Central Coalfields Limited's Tetariakhar mine in Jharkhand, and Mahanadi Coalfields Limited's Basundhara-West mine in Odisha. Adivasi communities in these areas complain that they have been routinely shut out from decision-making processes around their traditional lands, rights and resources. Many have had to wait for decades for the compensation and rehabilitation they were promised. The violations of their rights to consultation and consent - around land acquisition, environmental impacts, Indigenous self-governance, and the use of traditional lands - have led to serious impacts on their lives and livelihoods.

South Eastern Coalfields Limited (SECL), one of the subsidiaries of Coal India producing coal in Chhattisgarh has been aiming at doubling its coal production from 124 MT in 2013-14 to 250 MT by 2019-20. Rapid expansion of coal mines has strong impacts on air pollution and are often associated with laxity in safety norms.

Recent international benchmark evidenced the insufficient actions from Coal India Limited to act on human rights issues. The Responsible Mining Index 2020, which assesses mining companies' sustainability policies and practices, reports that the overall results of the five Coal India mine sites assessed are particularly weak. Regarding human rights topics, the report states that "while CIL has made some level of commitment to respect human rights, it shows no evidence of undertaking human rights due diligence or reporting on its management of human rights issues".

The Responsible Mining Foundation classifies CIL among the companies that have not made any form of commitment to specifically respect the rights of human rights defender.⁵¹ Moreover the company also received a weak score of 6.0 out of 26 from the 2020 Corporate Human Rights Benchmark, evidencing insufficient engagement with affected stakeholders and the lack of commitment to remedy its adverse impacts.⁵²

2.2.2 Main human rights violations/abuses

The main human rights violations in this case include:

- Violations of the right of Indigenous peoples to lands they traditionally occupy and violations of the right of Indigenous peoples to free, prior and informed consent. The UN Declaration on the Rights of Indigenous Peoples includes amongst others an obligation for states to consult and cooperate in good faith with Indigenous peoples concerned to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water or other resources. Where land has been taken without consent, Indigenous peoples have the right to restitution, and where that is not possible, compensation;
- Natural resource extraction can affect a range of rights of Indigenous peoples, including their rights to health, physical well-being, a clean and healthy environment, rights to culture and religion, and to set priorities for development; and
- Forced evictions: These constitute gross violations of a range of internationally recognised human rights, including the human rights to adequate housing, food, water, health, education, work, security of the person, security of the home, freedom from cruel, inhuman and degrading treatment, and freedom of movement. Forced evictions may only be carried out as a last resort and only after all feasible alternatives to eviction have been explored in genuine consultation with affected people.

While the state and central governmental authorities bear significant responsibility for the violations and abuses, CIL and its subsidiaries have clearly breached their responsibility to respect human rights. It cannot point to the role of the government to defend the fact that it knowingly benefited from processes that violated the human rights of thousands of people. By continuing to acquire land through flawed processes that breach international law, CIL's failure to respect human rights is ongoing. There is evidence that CIL subsidiaries were directly involved in evictions. The companies and the governmental authorities were working together to remove people from land needed for coal mining.

2.2.3 Recommendations to the company

The major recommendations to the company are:

- Urgently address and remedy the existing negative environmental and human rights impacts of the expansions of the Kusmunda, Tetariakhar and Basundhara (West) mines, in full consultation with project-affected communities;

- Ensure that these expansions do not go ahead until existing human rights concerns are resolved, and the free, prior and informed consent of affected Adivasi communities is obtained;
- CIL should also conduct a comprehensive review of operations in all its coal mines across India to identify and assess human rights risks and abuses, and publicly disclose the steps taken to identify, assess and mitigate them; and
- The company should seek the free, prior and informed consent (FPIC) of Adivasi communities, and consult all affected communities, prior to any land acquisition or mining, and respect their decisions.

2.3 Freeport-McMoRan in West Papua (Indonesia)

2.3.1 Short case description

Freeport-McMoRan Copper & Gold (Freeport-McMoRan) is an American mining company, headquartered in Phoenix, Arizona. The activities of the company mainly focus on copper mining in Indonesia, in South America (Peru and Chile) and North America.

In Indonesia, Freeport-McMoRan portfolio of assets includes the Grasberg minerals district in Indonesia, one of the world's largest copper and gold deposits located in the Indonesian province of West Papua.⁵³ Freeport-McMoRan operates through its subsidiary, PT-FI, which used to be 90.64% owned by Freeport-McMoRan. However in August 2017, Freeport agreed to divest a 51 percent stake in its Indonesian subsidiary, following sustained pressure by the government to reform a mining sector long seen as not doing enough to benefit local communities or contribute to the national economy. In return, Freeport's contract, originally set to expire in 2021, will be extended to 2041 under new terms.⁵⁴

Since the start of its operations in West Papua in 1967, this mine was associated with severe environmental and human rights adverse impacts. Freeport-McMoRan dumped waste in the Otomina and Ajkwa Rivers. The dumping of toxic mining waste into rivers is extremely harmful to the river and surrounding ecosystems. In both valleys in the area the rivers are seriously polluted, which resulted in violations of various socio-economic rights: the right to an adequate standard of living, the right to food and the right to clean drinking water.⁵⁵

Next to this, violations of civil and political rights are caused by security forces who are employed by the Indonesian government but paid by Freeport-McMoRan.⁵⁶ Their behaviour often leads to violent and sometimes deadly confrontations with residents, employees, and rights groups. With respect to its relations with public security personnel the company fails in securing adequate respect for the security and fundamental freedoms of workers and the local population.⁵⁷

In addition, The PTFI project area is located where indigenous peoples of Papua hold customary land rights. Specifically, the Amungme in the highlands and the Kamoro in the coastal lowlands are considered traditional landowners of the area, along with the Dani, Damal, Moni, Mee, and Nduga.

In 2017, Indonesia's National Commission on Human Rights (Komnas HAM), a state-funded body, said that PTFI had never compensated the Amungme and the Kamoro as the original stewards of the land where it operates. The BPK, Indonesia's Supreme Audit Agency, also found that Freeport had used 4,536 hectares (11,208 acres) of protected forest area without obtaining the proper permits, costing the government \$20 million in lost fees between 2008 and 2015.⁵⁸ Freeport McMoRan responded that all land used by its subsidiary PTFI has been legally and formally released by customary landowners through a contract with the government.⁵⁹

In July 2020, The Federation of Chemical, Energy and Mining Workers of the Indonesian Labour Union (PC FSP KEP SPSI) in Mimika regency filed a lawsuit against Freeport Indonesia (PT FI) and the Indonesian Department of Manpower and Transmigration (Disnakertrans). The lawsuit is one of multiple initiatives of former Freeport workers who were dismissed by PT Freeport Indonesia after the company introduced a “furlough program” in February 2017. According to a report by the Indonesian NGO Lokataru, approximately 12,000 permanent workers and 20,000 contract workers were laid off. A few months later, PT FI reportedly fired around 4,200 workers participating in a strike against the furlough program.⁶⁰ Among the other initiatives conducted by workers to defend their rights, the workers of PT FI supported by the human rights organisation LOKATARU reported the Minister for Employment Hanif Dhakiri to the Ombudsman national office in Jakarta in August 2018. The executive director of LOKATARU, Haris Azhar, stated in a public interview that the complaint was filed on the grounds of maladministration and that the minister had not taken a neutral position in the conflict between the workers and PT FI.⁶¹

On May 2020, an article from the non-profit conservation organisation reports that Freeport McMoRan was continuing operations at its Grasberg mine, despite 56 of its employees testing positive for COVID-19. Workers say that if they opt to leave the site over health concerns, they won't get paid and risk losing their job.⁶²

Of note, the Grasberg mine which is assessed in the Responsible Mining Index 2020 obtains weak scores on most environmental and social issues assessed, in particular the mine site obtains a score of zero on the following topics: worker grievances, air quality, water quality, water quantity and emergency preparedness.⁶³

2.3.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violations of the right to an adequate standard of living, including the right to food;
- Violations of the right to access to secure and clean water;
- Violation of the land rights of indigenous people;
- Violation of the right to life and prohibition of arbitrary use of force;
- Violation of the right to demonstration and peaceful assembly;
- Violation of the right to collective action;
- Failure to ensure access to effective remedy for people whose human rights have been violated.

2.3.3 Recommendations to the company

The major recommendations to the company are:

- Stop the internationally unacceptable negative impact on the environment;
- Contribute to the restoration of the impacted areas;
- Ensure that adequate compensation is provided to indigenous people affected by the company's activities;
- To use its influence to address the human rights violations of the security forces that secure its operations; and
- Protect the rights of health and safety of workers.

2.4 Glencore in Colombia

2.4.1 Short description

In the early 1990's mining companies Prodeco/Glencore and Drummond started to operate in Cesar, Colombia, which was effectively a war zone. Between 1996 and 2006 paramilitaries waged systematic terror in this region, killing more than 3,100 people and displacing over 55,000 from their villages. The bodies of 240 persons are still missing. Community organizations and labour unions were being severely repressed.

The paramilitary group responsible for these atrocities arrived roughly at the same time that mining multinationals started their operations in the area.⁶⁴ However, mining companies have so far failed to address the human rights impact in the mining zone, while at the same time they have benefited from the abuses, for example by obtaining land in zones where communities had previously been forcibly displaced. While victims have been waiting for recognition, truth and reparations for a long time, threats and assaults by paramilitary successor groups have recently increased again.⁶⁵

The victims of violence in the mining region suffer to date. They still do not know the truth behind what happened to their loved ones, the land has not been returned (restituted) to displaced families, and the leaders continue to be targeted by new illegal armed groups when they try to claim their rights. A recent announcement that the company intends to close its mines in Cesar has raised concerns among the population and other stakeholders that Prodeco-Glencore may avoid its responsibility towards the victims of violence in the Cesar mining region.

2.4.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Murder;
- Assault;
- Rape; and
- Forced displacement.

2.4.3 Recommendations to the company

The major recommendations to the company are:

- Take an active, cooperative role in ensuring access to effective remedy for the victims of gross human rights violations committed by the paramilitaries in Cesar between 1996 and 2006 through initiating a direct dialogue with victim organizations on truth and reconciliation;
- Cooperate fully with official, non-judicial truth-seeking mechanisms (Colombian Truth Commission) relating to the events described above;
- Publish the findings of the Human Rights Impact Assessment, commissioned in 2018, and indicate how adverse impacts will be addressed;
- Take adequate measures for the prevention of human rights violations against employees, members of communities, and other vulnerable stakeholders in the Cesar mining region. These violations include, in particular, recent threats against trade union leaders, members of the victims' movement, human rights lawyers, and participants in the land restitution movement;
- Do not profit, or seem to be profiting, from human rights violations by others. This relates particularly, but not exclusively, to the acquisition or use of lands that have been illegally or forcibly taken from the original owners (or holders); and Promptly and without reservation comply with the spirit and letter of all court orders and decisions of legal authorities (e.g. Attorney-General's Office) relating to issues listed above, including land restitution orders.

2.5 Lundin Energy in South Sudan

2.5.1 Short description

From 1983 to 2005, Sudan was torn apart by a civil war between the Government and Southern armed groups. In 1997, the Swedish oil company Lundin Oil signed a contract with the Government for the exploitation of oil in the concession area called Block 5A in the southern part of the country, that was not at that time under full Government control. The companies decided to operate without any guarantees that human rights and international law would be respected in the middle of a civil war and despite the Government's record of committing international crimes. The start of oil exploitation set off a vicious war in their area. Between 1997 and 2003, international crimes were committed on a large scale in what was essentially a military campaign by the Government of Sudan to secure and take control of the oil fields in Block 5A. Thousands of people died and almost two hundred thousand were violently displaced. Lundin's activities coincided with a spectacular drop in agricultural land use.

The actual perpetrators of the reported crimes were the armed forces of the Government of Sudan and a variety of local armed. The 2010 report Unpaid Debt argued extensively why Lundin, Petronas and OMV, as a matter of international law, may have been complicit in the commission of war crimes and crimes against humanity. Subsequently, the Swedish Prosecution Authority opened an investigation between the reported crimes and Sweden. In 2016, Ian Lundin, the Chairman of the Board of Lundin, and the CEO Alex Schneider were identified as suspects in the investigation. He prosecutor has informed the company of his intention, in case of a conviction, to declare the Sudanese operation a criminal enterprise and forfeit all enjoyed benefits for a total of SEK320 billion. This decision indirectly implicates a legal entity in a war crimes case, a novelty and potentially significant legal development. In June 2020, the prosecution announced that his work was completed and there were sufficient grounds for indictment. The case is expected to be brought to trial in the second half of 2021.

Lundin should have been aware of that gross and systematic abuses including international crimes were committed by the armed groups that partly provided for their security needs. However, Lundin worked alongside the perpetrators of international crimes and allegedly provided them with material support. Its infrastructure enabled the commission of crimes by others. Armed raids against, and the forcible displacement of, significant parts of the population enabled the exploitation its concession. In addition to other human rights violations, Lundin may have been aiding and abetting war crimes and crimes against humanity by others during the period 1997-2003. Furthermore, the company may have benefitted immensely from these crimes.⁶⁶

Lundin Energy is disregarding the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights (UNGPR), as it:

- Never conducted an appropriate due diligence for its Sudanese operations;
- Has made no effort to know their human rights impacts; and
- Does not show how it address alleged adverse human rights impacts.

Lundin denies any wrongdoing and is firmly convinced that it was a force for peace and development in (South) Sudan.

2.5.2 Main Human rights violations/abuses

The main human rights violations/abuses in this case are:

- Indiscriminate attacks and intentional targeting of civilians;
- Burning of shelters;
- Pillage;
- Destruction of objects necessary for survival;
- Unlawful killing of civilians;

- Rape;
- Abduction of children;
- Torture; and
- Forced displacement.

2.5.3 Recommendations to the company

The major recommendations to the company are:

- Request an authoritative entity, in agreement with victim communities, to conduct a comprehensive independent assessment of adverse human rights impacts of its operations in what is now South Sudan;
- Demonstrate commitment to the UNGP and OECD Guidelines duty to contribute to remedy of adverse human rights impact by allocating \$500 million for this purpose;
- Adopt a human rights oriented legal strategy, that balances the right to a fair trial of the suspects with the right to full and prompt access to justice of victim of crimes; and
- Remove from the Board of Directors and the senior management all individuals who, through their unswerving support for a policy that flouts basic human rights duties and commitments, have shown to be misplaced to steer the company into compliance with fundamental international standards.

2.6 Newmont Corporation (former Goldcorp) in Guatemala

2.6.1 Short description

Goldcorp Inc. is a metal producer with headquarters in Toronto, Canada and offices in Reno, Nevada. Goldcorp operates 10 mines in North, Central and South America. Goldcorp is one of the world's largest gold producers. In 2019, Goldcorp Inc. and Newmont Mining Corp. have merged to form Newmont Goldcorp Corp., today renamed Newmont Corporation. The mining company is focused on the production and exploration for gold, copper, silver, zinc and lead. It is primarily a gold producer with operations and/or assets in the United States, Australia, Peru, Ghana and Suriname.⁶⁷

This case focuses on the Marlin gold mine in Guatemala. The Marlin deposit was discovered through regional exploration in 1998 by Montana Exploradora, S.A. and was later purchased by Francisco Gold Corporation in 2000. In 2002, Francisco merged into Glamis Gold and the mine was brought into production in 2005 by Glamis. The following year Glamis was acquired by Goldcorp.⁶⁸ Goldcorp's Marlin gold mine in Guatemala spans the boundary of two municipalities in Guatemala, San Miguel and Sipacapa, both within the San Marcos Department. The mining activities were operated by Goldcorp from October 2005 until May 2017 by Goldcorp's subsidiary, Montana Exploradora. The mine was closed in June 2017.

Mining activities in Guatemala have been marked by protests and controversies. Guatemala is still struggling with the legacy of past human rights violations by the internal armed conflict (1960-1996), when over 200,000 people were killed, including an estimated 40 000 people who disappeared.⁶⁹ Indigenous communities remain economically and socially marginalized. Their loss of land is a particular problem.

Goldcorp's gold mine in Guatemala is placed in a rural area in the department of San Marcos. The area has around 52,000 residents, a majority of whom are Mayan Indigenous peoples. Since the mine began operating in 2003 there have been on-going tensions around its presence. The root causes of the protest are described by community members and local NGOs as a lack of consultation before the mine began operating, disagreements over land acquisition and the failure of the company to address risks associated with the mine.⁷⁰ Tensions have been exacerbated by the way in which the security forces have dealt with protests and by attacks, carried out by unknown persons, on anti-mining activists. In January 2005, Raúl Castro Bocel was fatally shot when police and soldiers broke up a protest against the transportation of heavy equipment to the mine site. One of the local activists, who opposed Goldcorp's mine, Diodora Hernández, was shot in her home on the evening of 7 July 2010. She survived but lost the sight in her right eye and the hearing in her right ear. She believes she was attacked for speaking out against the mine. Many more were injured. No one has been arrested or brought to justice for either of these events.

In 2007, the Government of Guatemala was subject to a petition with the Inter-American Commission on Human Rights (IACHR) about the permitting process for the mine.

In 2010, the Inter-American Commission on Human Rights ordered precautionary measures for eighteen Mayan Indigenous communities, requesting that the Guatemalan government suspend Canada-based Goldcorp's controversial Marlin Mine and address issues of water contamination, illness and other measures necessary to guarantee the life and wellbeing of the communities while an assessment was carried out of the complaint from affected communities, who asserted that they never gave their consent for the controversial mine.⁷¹ The Ministry of Energy and Mines initiated the administrative process in July 2010 but determined that there was no cause to suspend the Marlin Mine operations.⁷²

The UN Special Rapporteur on the rights of Indigenous peoples reported in June 2011 that there had been no consultation process around the Marlin mine that was consistent with the United Nations Declaration on the Rights of Indigenous Peoples.

The company's own 2010 Human Rights Assessment concluded that consultation was largely inadequate and often confusing for community members. Protests erupted in December 2013 when local communities set up roadblocks on a major highway to oppose new exploration activities in the nearby area of Sipacapa. Since 2011, Goldcorp says it has sought the approval of municipal mayors and councils, auxiliary Indigenous mayors, and local development councils in carrying out its operations.

However, former UN Special Rapporteur on the rights of Indigenous Peoples, James Anaya, stated that this form of consultation is insufficient as it does not take sufficiently into account the complexity of internal indigenous organisation, including of their traditional leaders. He advised the State to enact a Consultation law that would bring the country in line with its international obligations regarding the right to consultation under ILO convention 169 and the UNDRIP.

In 2017, Goldcorp announced the mine was entering into the closure and reclamation phase. The operations at the Marlin Mine ceased on May 31, 2017 and a formal list of grievances was presented to the company in June 2017.

In 2019, Mining Watch Canada, the Institute for Policy Studies and the Center for International Environmental Law (CIEL) released a report exposing 38 cases of mining companies that have been filing dozens of multi-million dollar claims against Latin American countries before supranational arbitration panels, demanding compensation for court decisions, public policies and other government measures that they claim reduce the value of their investments. One of the key findings is that *"Guatemala and Ecuador have been threatened with tens or hundreds of millions of dollars in suits related to gold and silver projects that communities have spent many years fighting, facing criminalization and threats to defend their water, health, and livelihoods"*.⁷³

In January 2020, Newmont provided a summary of the status of the grievances addressed by a government convened dialogue process.⁷⁴ Most of the grievances were solved, and some actions still needed to be resolved in 2020.

The Responsible Mining Index 2020 stated that while Newmont absolute results remain low overall, Newmont shows one of the three stronger results in Community Wellbeing and Environmental Responsibility. In addition, the RMI 2020 reports that "Newmont is the only assessed company to have made a formal commitment to respect the rights of human rights defenders, and shows one of the better results on having systems to assess and address the potential impacts of involuntary displacement."⁷⁵ The benchmark states that the company has produced a new policy statement on human rights defenders and has developed new management standards on engaging with Indigenous Peoples and managing involuntary resettlement.

2.6.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violation of the right to security of the person;
- Violation of the right to a healthy environment and clean water;
- Violation of the right of freedom of expression;
- Violation of the rights of indigenous communities;
- Failure to address grievance in the affected communities; and
- Failure to protect the right of human rights defenders.

2.6.3 Recommendations to the company

The major recommendations to the company are:

- Remediate any damage inflicted on communities and individuals that its mining activities contributed to or caused;
- Ensure meaningful stakeholder engagement is integrated in the Human Rights due diligence of all projects, taking into consideration the language of local communities; and
- Ensure a responsible long-term closure of the mining site.

2.7 Rio Tinto in Myanmar

2.7.1 Short case description

Rio Tinto is an Anglo-Australian multinational mining and metals company. The Company's segments include Iron Ore, Aluminium, Copper & Diamonds, Energy & Minerals and Other Operations. The multinational has operations and projects in 60 countries.

Rio Tinto is the majority shareholder of Turquoise Hill Resources, a Canadian mineral exploration and development company. The latter was active in Myanmar under the name Ivanhoe Mines. Its activities in Myanmar are tainted by human rights abuses, which were detailed in the 2015 report 'Open for Business?', by Amnesty International.⁷⁶ The case focuses on copper mining activities in Myanmar and more particularly on the Monywa project. Rio Tinto is involved in the abuses surrounding these activities through its steering share in Turquoise Hill Resources. This project consisted of two copper mining sites: Sabetaung and Kyisintaung (S&K) and Letpadaung. Ivanhoe mines became involved in these mines in 1996, for a share of 50%. The other half of the share was in the hands of a Myanmar government owned mining company.

The violations initially included forced evictions for the Sabetaung and Kyisintaung mines, mostly in 1996 and 1997, and later again between 2011 and 2014 for the Letpadaung mine. The evictions took place without compensation and were based on legal procedures that are in violation of international laws to which Myanmar is party as well.

Pollution and waste dumping took place in 1995 and 1996 by the Sabetaung and Kyisintaung mine, with consequences long after. The government violently repressed peaceful protests related to the forced evictions. In one instance in 2012, the Myanmar police used white phosphorus to break up a protestors' camp. The use of this type of incendiary munitions constitutes to torture, and hence a crime under international law.

Till date, no actions on this case have been reported showing that Rio Tinto takes responsibility for the human rights violations/abuses.⁷⁷ Recently, Rio Tinto has been involved in more cases of human rights violations. In April 2020, the company was accused of leaving people in Bougainville, Papua New Guinea, with polluted land, water and a destroyed river valley, after operations of its Panguna mine.⁷⁸ Subsequently, in May 2020, the company detonated explosives at an Aboriginal site in Western Australia. This case received much international attention, including investors publicly raising concerns and stating to strengthen engagement efforts with the company.⁷⁹ The Rio Tinto Chief Executive, Jean-Sébastien Jacques, and two other senior executives resigned after its board bowed to intense investor pressure.⁸⁰ However, although a number of climate and governance related shareholder resolutions have been proposed at Rio Tinto's Annual General Meetings during 2018-2020, no such resolutions on human rights issues have been brought in.⁸¹

2.7.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Forced evictions
- Murder
- Pollution of living environments
- Right to demonstration and peaceful assembly;
- Right to collective action; and
- Failure to ensure access to effective remedy for people whose human rights have been violated;

2.7.3 Recommendations to the company

Rio Tinto, as current majority shareholder of Turquoise Hill Resources, the successor of Ivanhoe Mining, has a responsibility to ensure compensation for the victims of Turquoise Hill Resources. In its 2015 report, Amnesty International specifically recommended the company:

- "Turquoise Hill Resources (Ivanhoe Mines) should disclose all the information it holds on pollution from the S&K mine and clean-up undertaken by MICCL. It is responsible for compensating people for environmental damage and forced evictions linked to its joint venture and should put aside funds for such compensation and engage with the government of Myanmar to ensure that compensation is paid."⁸²

2.8 Royal Dutch Shell in Nigeria

2.8.1 Short description

Royal Dutch Shell is a company based in the Netherlands that explores for crude oil and natural gas around the world, both in conventional fields and from sources, such as tight rock, shale and coal formations.

Following the discovery of crude oil in the Niger Delta, Royal Dutch Shell (then known as Shell British Petroleum) was the first multinational company to start exploitation in the area in 1958. To date, Shell remains the biggest oil company active in the area, though now joined by other subsidiaries of multinational companies including Eni, Chevron, Total and ExxonMobil as well as some Nigerian companies.

Oil exploration and production in Nigeria has to be undertaken in joint ventures involving the state-owned Nigerian National Petroleum Corporation (NNPC) and one or more oil companies within production sharing contracts. The NNPC is the majority shareholder in all these joint ventures, while the non-state companies act as the operators, managing daily business activities.

Shell Petroleum Development Company of Nigeria Limited (SPDC) is Shell's main operator in the Niger Delta as part of a joint venture with NNPC (which holds 55 percent), Shell (30 percent), Total (10 percent) and Eni (5 percent).⁸³ SPDC alone operates over 31,000 square kilometres, an area crisscrossed by over 6,000 kilometres of pipelines and flowlines, punctuated by wells and plants. With this massive infrastructure, most of which is located close to homes, farms and water sources, Shell produces 39 percent of Nigeria's oil.⁸⁴

However, in the last six decades of oil exploration, frequent oil leaks have heavily polluted the Niger Delta. Every year, about 40 million litres of oil are spilled, with nearly daily reports of new leaks and spillages.⁸⁵ These include hundreds of leaks along pipelines owned by Shell, who claims that the majority of leaks are caused by local criminal groups that sabotage the pipes to steal the crude oil. However, a 2020 report by Friends of the Earth Netherlands (Milieudefensie) revealed that in addition to negligence and a failure to properly maintain the dated pipes and to secure them against sabotage, employees of Shell Nigeria have also actively contributed to the leaks incentivised by the payments for cleaning operations following a spillage.⁸⁶

The consequences for the communities living in the Niger Delta are severe. The oil has significantly reduced the live expectancy of people living in the area and doubled the infant mortality rate. The population also faces high levels of illnesses such as cancer, kidney damage, malnutrition and diarrhoea.⁸⁷ In addition, with little employment opportunities in the region, three-quarters of the local population dependent on fishing and farming to survive, but the polluted waterways and contaminated farmland now hardly yield food. In other words: the oil industry has not only cost people their health, but also their livelihoods.⁸⁸

Holding Shell accountable for the human rights abuses and pollution has been a major obstacle for the affected communities, who have been fighting for decades to get the company to clean up the mess and provide redress. In 2011, the UN Environment Programme (UNEP) documented the devastating impact of the oil leaks in the region and urged Shell to clean up the pollution. Nearly 10 years later in June 2020, Amnesty International reported that Shell started cleaning works on only 11 percent of planned sites, leaving vast areas contaminated. The researchers in fact found that even areas declared clean by the government regulator were still contaminated with crude oil, with black encrusted soil and oily sheens on waterways in multiple locations.⁸⁹

More recent legal proceedings against Shell have been more promising. In November 2020, a Nigerian court ruled that Shell has to pay USD 467 million in damages for a 1970 oil spill that severely affected the Ejama-Ebubu community after the polluted waterways destroyed their livelihoods and caused numerous diseases.⁹⁰ In February 2021, the UK Supreme Court ruled that two Nigerian communities can bring claims against the company and its Nigerian subsidiary in an English court, which was seen as a landmark decision allowing for transnational corporate accountability.⁹¹ Particularly because just a month earlier in January 2021, a Dutch court ruled in favour of four Nigerian farmers in a case started in 2008. The judges ruled that Shell's Nigerian subsidiary is responsible for four out of the six pipeline leaks covered by the lawsuit and that the mother company Royal Dutch Shell had neglected its duty of care to prevent these leaks. As a result, Shell needs to install leak detection equipment in its pipelines and pay damages to the four farmers, which brings hope for other farmers and affected individuals to claim redress from the company as well. Shell has decided to lodge an appeal in cassation in May 2021⁹². In addition, on May 26, Shell has lost a landmark legal case in the Netherlands brought by Milieudefensie, the Dutch wing of Friends of the Earth and over 17,000 co-plaintiffs, on the company's failure to cut carbon emissions as a human rights violation.⁹³ The Dutch Court has ordered Shell to cut carbon emissions by 45% by 2030 compared to 2019 levels. Shell said it would appeal the decision.

2.8.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violations of the right to water – oil spills pollute water used for drinking and other domestic purposes as well as farming;
- Violations of the right to health – which arise from failure to secure the underlying determinants of health, including a healthy environment, and failure to enforce laws to protect the environment and prevent pollution;
- Violations of the right to an adequate standard of living, including the right to food – because of damage on agriculture and fisheries;
- Failure to ensure access to effective remedy for people whose human rights have been violated; and
- Failure to provide affected communities with information relating to oil spills and clean-up.

The government of Nigeria is failing to fulfil its duty to protect the human rights of people living in the Niger Delta, including by ensuring that they enjoy their human right to a remedy and proper clean-up. However, the fact of government failure to protect rights does not absolve the non-state actor from responsibility for their actions and the impact of them on human rights. Shell has a responsibility to ensure that its actions do not cause or contribute to human rights violations, and to cease and redress when abuses occur.

2.8.3 Recommendations to the company

The major recommendations to the company are:

- Urgently carry out effective clean-up and remediation operations at oil spill sites in consultation with the local communities;
- Uphold the duty of care to prevent oil leaks, going beyond installing a leak detection system and ensuring that regular maintenance, security and internal company policies are geared towards diminishing to the maximum extent possible the risk of spillages;
- Cooperate in remediation processes, both legal and otherwise, to ensure that all affected communities have access to redress and extend damage payments to individuals beyond those included in lawsuits;
- Ensure that the cleaning process is more transparent and thorough, ensuring that clean-up is conducted properly, and that Shell employees or other actors are not incentivised to intentionally cause leaks by separating Shell employees from the cleaning contracts or by conducting cleaning operations internally;
- Provide the affected communities with clean drinking water, for free; and
- Consult and cooperate with the community how livelihoods can be restored, and help impoverished families to access meaningful ways to earn an honest income.

2.9 Total – Uganda and Tanzania

2.9.1 Short description

Total is a French multinational integrated oil and gas company founded in 1924 and one of the seven "supermajor" oil companies. The company operates in more than 130 countries and its businesses cover the entire oil and gas chain, from crude oil and natural gas exploration and production to power generation, transportation, refining, petroleum product marketing, and international crude oil and product trading.

Total operates in Uganda through its wholly-owned subsidiary, Total E&P Uganda. Total has been present in upstream oil exploration in Uganda since 2011, after acquiring an initial 33.33% interest from Tullow. It obtained approval to operate oil exploration and production activities in the Tilenga area in August 2016. Tullow announced the sale of its last shares to Total in April 2020, and CNOOC declined to exercise its right to acquire 50% of them. Currently, Total owns 33.33% of the shares, but will become the majority owner with 66.66% of the shares once the conditions of the purchase agreement are fulfilled.⁹⁴

Since 2006, a series of oil discoveries under and around Lake Albert in the West of Uganda have led to investment by a consortium of multinational companies, in particular Total Group (“Total”), China National Offshore Oil Corporation (“CNOOC”), and Tullow Oil plc (“Tullow”), as well as by the Ugandan Government.⁹⁵ The Lake Albert oil extraction and development project entails concessions for exploration and extraction to the Joint Venture Partners, with Total operating the oil fields in the northern part of the lake, the Tilenga area, while CNOOC operates those in the southern part, the Kingfisher area – and for a consortium to build a refinery in the Hoima district, where some of the oil will be refined for national and regional markets. A total of about 400 wells will be drilled from over 30 well pads in Tilenga, while 20 production wells and 11 water injection wells will be drilled under the lake from four well pads in Kingfisher.⁹⁶

A pipeline of 1443 km, passing mostly through Tanzanian territory (79% of the pipeline located Tanzania and 21% in Uganda), will take the oil for export to the Indian Ocean port of Tanga on the Tanzanian coast.⁹⁷ The pipeline, which still need to be constructed is called the East African Crude Oil Pipeline (EACOP), and will be the longest heated pipeline in the world. The construction which did not start is planned to last for about 36 months.⁹⁸ The pipeline will traverse 231 villages in Tanzania and 178 in Uganda.⁹⁹

In September 2020, two research reports “New Oil, Same Business?”¹⁰⁰ by the International Federation for Human Rights (FIDH) and the Foundation for Human Rights Initiative (FHRI), and “Empty Promises down the Line?” researched by Oxfam, highlight major risks of oil projects by French energy company in Uganda and Tanzania. According to the reports, at least 12,000 families in Tanzania and Uganda have lost land. The reports, which are both community based human rights assessments, document a number of actual and potential human rights violations and abuses resulting from the activities of the State of Uganda and the companies developing the oil projects in the Tilenga and Kingfisher areas. They include testimonies of community members who have been harassed, intimidated, and forced to leave their lands without receiving adequate compensations. The testimonies also mention that local communities are never involved in the decision-making or consulted about adequate compensation contrary to Uganda law.

The oil projects have been subject to legal actions. In May 2019, a legal action was filed by the Ugandan NGO AFIEGO against the National Environment Management Authority of Uganda (NEMA) and the Petroleum Authority of Uganda (PAU) regarding the process by which Tilenga’s Environmental and Social Impact Assessment (ESIA) was approved.

In June 2019, six NGOs, Friends of the Earth France, Survie, AFIEGO, CRED, NAPE/Friends of the Earth Uganda and NAVODA presented Total with a formal demand to revise its vigilance plan and the implementation of that plan for the oil project in Uganda. Among other, the organisations wants the oil company to include risk prevention measures for human rights defenders, and better mitigation measures to address adverse effects. After an unsatisfactory response to the formal request by Total, legal action was launched on October 23, 2019. The complainants argued that the company had failed to comply with its obligations under the French duty of vigilance law. This was the first ever legal action of its kind - seeking emergency proceedings against Total for non-compliance with its legal obligations under the 2017 French duty of vigilance law, which aims to address corporate negligence.¹⁰¹

- The summary hearing took place on December 12, 2019 before the High Court of Nanterre. To the dismay of the plaintiffs, on 30 January 2020, the court in Nanterre declared itself incompetent to rule on the case involving Total's activities in Uganda and instead referred the matter to the Commercial court (Tribunal de Commerce).¹⁰² The plaintiffs filed an appeal which will be heard by the court on October 29, 2020. They are supported on this point by two "voluntary interventions" (amicus) filed by three civil society organisations (ActionAid France, CCFD-Terre Solidaire and collectif Éthique sur l'étiquette) and by the main French trade union, CFDT.

In December 2020, the Court of Appeal of Versailles ruled in favour of Total, confirming the judgment of the first instance court which considered that this dispute fell within the jurisdiction of the commercial court. Civil society organizations (CSOs) believe that this decision is contrary to the spirit of this law, which aims at making companies liable for the impacts of their activities on third parties, such as employees of subsidiaries, suppliers and subcontractors, local communities and the environment. Friends of the Earth France, Survie and their Ugandan partners are considering filing an appeal before the Cour de Cassation (French Supreme Court).¹⁰³

Maxwell Utuhara, an Ugandan human and environmental rights defender and lawyer with NAVODA, and lawyer recently testified that the situation is not improving in Tilenga (and Ikop) area. He particularly denounces the ongoing threats and intimidation of land, environmental and human rights defenders for their activism against forced evictions and environmental harms.¹⁰⁴

2.9.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violation of human rights defenders' right to work and freedom of expression, through the use of intimidation practices, violence, harassment, and impunity for perpetrators
- Violation of the right to land, including the social and cultural dimensions of the use of land, and of women's equal rights to land and property
- Potential violation of the right of indigenous and vulnerable ethnic communities;
- Denial of the right to an adequate standard of living;
- Negative impacts on the right to water and health; and
- Negative impacts on the right to a healthy environment.

2.9.3 Recommendations to the company

The major recommendations to the company are:

- Taking steps to go beyond the standards set forth in Ugandan and Tanzanian law, especially in relation to improving opportunities for participation and inclusion in the land acquisition process with a particular attention to the participation of women and the respect of their rights to equal treatment in resettlement schemes as mentioned in the Convention on the Elimination of All Forms of Discrimination against Women¹⁰⁵;
- Undertake a Free, Prior and Informed Consent (FPIC) process for the use of indigenous peoples and other vulnerable communities' lands, resources, traditional knowledge;
- Provide adequate compensation to affected communities and account for the way compensation was conducted, compensation should also take into account the customary land rights of affected communities, including women; and
- Monitor and disclose the effectiveness of measures implemented to mitigate the human rights risks related to the project.

2.10 Vale – Brazil

2.10.1 Short description

Vale is the world's largest producer of iron ore, pellets, and nickel. Originally established in 1942 as the state-owned Companhia Vale do Rio Doce, Vale became a private company ranking among the largest miners in the world. The company's operations abroad cover approximately 30 countries.¹⁰⁶

On 25th January 2019, the tailings dam of the Brumadinho iron mine, in south-eastern Brazil operated by Vale S/A, collapsed and unleashed a tidal wave of waste and mud (11.7 million cubic meters) that engulfed homes, businesses and residents in its path. In this tragedy, 270 lives were lost, which include two pregnant women, unborn babies, and 11 victims not yet located, one of the deadliest mining accidents in Brazil history¹⁰⁷. The sirens that would have alerted workers if the dam burst, were destroyed by the mud flow before anyone could sound the alarm¹⁰⁸. After flowing more than five miles downhill, the mud reached the Paraopeba River, threatening areas downstream with toxic pollution.

According to an investigation from the New York Times, some experts reported that all the elements of a potential catastrophe had been present, and warning signs of structural problem that could lead to a collapse have been overlooked, for years.¹⁰⁹ The investigation also reveals that questions about the safety of the dam had been brushed aside for years. Despite them, Vale managed to get its plan to expand the mining complex in Brumadinho fast-tracked for approval by local officials. Beyond the enormous number of victims from this accident, the environmental and social impacts are disastrous including water pollution and biodiversity loss, soil contamination, loss of livelihood for villagers.¹¹⁰

Vale is the main source of income for the 37,000 people living in Brumadinho, but as the death toll rose, public anger boiled over at the company.

The disaster, which has claimed up to 300 lives, led to the formation of the Investor Mining & Tailings Safety Initiative spearheaded by the Church of England and the Swedish AP funds with the support of other investors such as APG, Robeco, New Zealand Super, LGPS Central and BMO Global Asset Management.¹¹¹ In addition, Vale was suspended from the Corporate Human Rights Benchmark in February 2019.¹¹²

In January 2020, the Brazilian state prosecutors charged the Vale's former chief executive, Fabio Schvartsman, and 15 other people with homicide. In addition to homicide charges, Vale and TUV SUD, the German company responsible for inspecting the dam, were charged with environmental crimes.¹¹³

In May 2020, Norges Bank Investment Management which manages the Norwegian Government Pension Fund Global, decided to exclude the Brazilian mining firm Vale from its investments. The decision came after a recommendation from its ethics panel and an assessment of the risk of contribution to severe environmental damage and focuses on the environmental damage caused by the Brumadinho disaster and the earlier Samarco accident, another dam collapse which occurred in 2015.¹¹⁴

On February 2021, Vale has agreed a \$7bn settlement with the Brazilian government. The Minas Gerais Court of Justice, which acted as a mediator, described the agreement as "historic and with global repercussions". 1.68 billion dollars should be paid as a direct compensation to bereaved families, 1.2 billion will go to "environmental rehabilitation projects" and 868 million in "socio-economic rehabilitation projects".¹¹⁵ However, campaign groups criticised the figure, which was lower than the \$10bn which the authorities were initially seeking, claiming that "Vale comes out winning" in the agreement and that affected stakeholders did not participate to the conversations that resulted in the agreement.

There are 87 mining dams in Brazil built like the one that failed – enormous reservoirs of mining waste held back by little more than walls of sand and silt. And all but four of the dams have been rated by the government as equally vulnerable, or worse. At least 27 sit directly uphill from cities or towns, with more than 100,000 people living in especially risky areas if the dams failed, an estimate by The New York Times found.¹¹⁶

This is not the first catastrophe caused by Vale's activities, as in November 2015, a similar dam burst in the city of Mariana, killing 19 people and unleashing one of the worst environmental disasters in Brazilian history. That dam was jointly owned by Vale and the Anglo-Australian mining company BHP.

2.10.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Irreversible negative impacts on the life of people: 270 deaths, which include two pregnant women, unborn babies, and 11 victims not yet located;
- Irreversible impacts on the biodiversity and the environment;
- Violation of the health and safety rights of individuals (including workers and local;
- communities affected by the dam collapse), failure to implement an Emergency Action Plan for Mining Dams;
- Serious adverse impacts on the affected communities;
- Negative impacts on the right to water; and
- Negative impacts on the right to a healthy environment

The irreversible impacts caused by the Brumadinho disaster evidence Vale's failure to comply with the UN Guiding Principles, and implement an adequate due diligence to identify, prevent, and mitigate actual and potential adverse impacts. In this case, Vale is considered to have caused adverse human rights impacts of high severity and is consequently held accountable for taking the necessary steps to cease or prevent the impact.

2.10.3 Recommendations to the company

The major recommendations to the company are:

- Provide for remediation through legitimate processes, including fair level of compensation for all the victims of the dam collapse;
- Review its policies and processes to prevent such accident to happen again and be transparent on the correction actions it has taken to do so;
- Ensure that human rights due diligence is integrated to its risk management systems, and take into consideration risk to right-holders and not only the material risks to the company itself. To identify the potential human rights risks to all right-holders, Vale should ensure that meaningful consultation with potentially affected groups and other relevant stakeholders are part of its policies and processes;
- Review and strengthen health and safety processes, including its Emergency Action Plan for Mining Dams; and
- Monitor and evaluate stakeholder engagement activities, also through the support of independent external experts.

2.11 Vedanta Resources in India

2.11.1 Short description

Vedanta Resources Limited is a global diversified metals and mining company headquartered in London, England. It extracts and processes minerals, oil and gas and operates primarily in India, Africa, Ireland and Australia.

In south-west Orissa in eastern India – one of the poorest areas of the country – communities are at a continued risk of bauxite mining activities and an alumina refinery. Between 4,000 and 5,000 people who live in the 12 villages that surround the Lanjigarh refinery, including the Indigenous Majhi Kondh Adivasi, Dalit and other marginalised communities, have been affected by the refinery's operations, including its impact on water and air, which has compromised community access to water for drinking and domestic use, and has placed their health and livelihoods at risk. In addition, the thousands of people surrounding the bauxite mines have faced similar issues relating to land grabbing, environmental destruction and pollution, and harassment of human rights defenders.¹¹⁷

Vedanta Aluminium Limited – a subsidiary of Vedanta Resources Plc group – owns an alumina refinery at Lanjigarh. Through a joint venture between the State of Orissa and another subsidiary of Vedanta, the South-west Orissa Bauxite Mining Company formed in 2009 to mine bauxite in the region to supply the Vedanta refinery. In 2008, India's Ministry of Environment and Forests (MoEF) approved bauxite mining projects in this region and granted environmental clearance to the Orissa Bauxite Mining Corporation to cut down 435 hectares of forest land in the Niyamgiri Hills. The forests and its hills are considered sacred by the Dongria Kondh, an Indigenous community that for centuries has also depended on these lands for economic, physical, and cultural livelihoods.¹¹⁸

In addition, in February 2018 the Odisha Mining Corporation signed a Memorandum of Understanding with Vedanta to supply the refinery with 70 percent of the bauxite obtained from mines around the Kodingamali hill. For this purpose, the Odisha Mining Corporation received clearance to develop the mining in 435 hectares of forest land in the Kodingamali hill region. Villagers assert that once again, they have not been consulted on the project, and the clearance and construction activities are already destroying local farming fields and polluting waterways.¹¹⁹

Not only the mining activities, but also the alumina refinery itself is abusing the human rights of the surrounding communities. In 2010, the Vedanta refinery was planning a six-fold expansion of its capacity, which included land grabbing and forced displacement of hundreds of families that depended on the lands for farming. In addition, the construction of the refinery as well as its regular operations have polluted the environment, including the water on which communities depend for drinking, domestic use and for farming and livestock. Vedanta also failed to adequately consult the communities and provided misleading and too limited information on the negative impacts of the refinery and the scope of the expansion.¹²⁰ Vedanta currently plans again to further expand its refinery, after the board of directors announced in February 2021 an expansion that more than doubles its production capacity, raising renewed concerns for the communities surrounding the refinery.¹²¹

Although at several points, the government halted expansion activities or placed further conditions on the company due to violations of environmental laws, the government has failed to stop Vedanta's harmful business activities and continues to condone its expansions by granting clearances for further development without following due processes. In addition, other governmental policies such as India's new coal policies further aggravate the conflicts, and continuous refusal of the government and the publicly owned Odisha Mining Corporation to cooperate in due hearings and consultations pose systematic setbacks that repress community input and their rights to Free, Prior and Informed Consent.¹²²

Human rights defenders and local communities protesting against the companies' activities have systematically faced intimidation, police violence and harassment. Due to the government's involvement in the mining activities, activists assert that the local government is trying to subvert and repress the movement.¹²³ In a similar struggle against another subsidiary of Vedanta, the copper smelter Sterlite Industries, thirteen people were killed by the police during a protest against the company in 2018, which further raises significant concerns about the safety of those opposing Vedanta and its subsidiaries.¹²⁴

2.11.2 Main human rights violations/abuses

The main human rights violations/abuses in this case are:

- Violation of the rights to water, food, health – including a health environment, and an adequate standard of living due to the environmental pollution of water and air, and the destruction of forests and farmland surrounding the mines and refinery;
- Violation of the rights to information and participation through failure to adequately inform and consult local communities on expansion activities;
- Violations of the rights of Indigenous peoples, including land rights and their right to Free, Prior and Informed Consent;
- Land grabbing;
- Violation of the right to organise and peacefully demonstrate, and
- Failure to protect the rights of human rights defenders.

2.11.3 Recommendations to the company

The major recommendations to the company are:

- Urgently and fully address the existing negative environmental, health, social and human rights impact of the Vedanta Aluminium refinery at Lanjigarh: this should be done in genuine and open consultation with the affected communities and through cooperating in legitimate remediation processes;
- Proactively disclose to the affected communities, information on the existing refinery, the proposed expansion and the mining project; ensure that this is done in a manner that is accessible to them and cooperate fully with any state process on such disclosure;
- Cooperate with an independent and impartial human rights and environmental impact assessment of the proposal for expansion of the refinery as well as the mining activities;
- Make a public commitment to halt expansions of the refinery and mining until existing problems are addressed; full, impartial, and adequate assessments of the human rights implications of the proposed projects are carried out; and effective plans are developed, and action taken to ensure that human rights are respected and protected; and
- Respect the decision taken by the Dongria Kondh communities in July 2013 as well as subsequent decisions to not give consent to mining bauxite from their sacred lands; a decision taken after exercising their right to Free, Prior and informed Consent. It is clear that the Niyamgiri Hills are of vital importance to the Dongria Kondh, and essential to their survival as a distinct people, and maintenance of their livelihood, culture, and way of life.

3

Profiles and assessments of insurance companies

This chapter presents the results of this case study per insurance company. For each insurance company, an overview is provided that includes a company profile, an overview of the financial relationships with the eleven selected companies (in the form of shareholdings and/or bondholdings), and the scores it has received in this case study, including justifications. The scores assess the approach of each insurance company to the human rights abuses of the extractive companies it invests in, focusing on four phases: investigation, decision making, engagement and outcomes.

3.1 Achmea

3.1.1 Profile

Achmea B.V. (Achmea) is a leading private insurance company based in the Netherlands.¹²⁵ Achmea provides primarily insurance services, including health, life and non-life, as well as pension and asset management services.¹²⁶ In addition, its subsidiary Achmea Bank offers retail banking services including mortgages, to private customers in the Netherlands. Internationally the insurance company is active in Turkey, Greece, Slovakia, Canada and Australia.¹²⁷ As of December 31st 2020, Achmea Investment Management had assets with a total value of € 203 billion under management.¹²⁸

3.1.2 Financial relationships with selected companies

As of the most recent filing date, Achmea held shares with a total value of € 14 million and/or bonds with a total value of € 195 million, in five of the eleven selected companies for this research, namely:

- Glencore
- Newmont Corporation
- Rio Tinto
- Shell
- Total

The insurance company's largest shareholding is in Rio Tinto, with € 6.6 million, while its largest bondholding is in Total (€ 118 million). These amounts of share- and bondholdings were provided by Achmea. Table 14 provides an overview of the insurance company's shareholdings and bondholdings as of the most recent filing date.

Table 14 Overview of Achmea’s share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Glencore	Switzerland	Bondholdings	37.1	Mar 2021
Newmont Corporation	United States	Shareholdings	1.9	Mar 2021
Rio Tinto	United Kingdom	Shareholdings	6.6	Mar 2021
		Bondholdings	1.9	Mar 2021
Shell	Netherlands	Shareholdings	5.0	Mar 2021
		Bondholdings	37.7	Mar 2021
Total	France	Shareholdings	0.4	Mar 2021
		Bondholdings	118.0	Mar 2021
Total			208.6	

Source: Achmea’s response to Profundo’s questionnaire, 25 March 2021.

3.1.3 Assessment and score overview

Achmea achieved a total score of 5.2 out of 10, and is ranked as third among the insurance companies assessed in this study. The information provided by Achmea for this study, shows that it holds shares and bonds in five of the eleven selected companies.

Three of the other companies covered by the scope of this study are excluded by Achmea for sustainability reasons, which are Coal India, Vale and Vedanta Resources.¹²⁹ More specifically, Vale has been excluded based on non-compliance with human rights norms, while Coal India and Vedanta Resources are on the exclusion list because they are classified as polluting and CO₂ intensive companies.

Achmea shared information, including confidential documents, with the researchers, which provided insight into the details of the engagement processes with part of the companies it is financially linked with. Based on the answers provided by Achmea and the supporting evidence, Table 15 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 15 Overview of Achmea’s score (/10)

Section	Score	Weight
A Identification, qualification and prioritisation of human rights issue(s) and risk(s)	8.3	20%
B Using leverage to influence investee companies	5.6	40%
C Tracking progress and outcome by the Insurance company	5.0	20%
D Providing for or cooperating in remediation	1.7	20%
Total	5.2	

3.1.4 Section A: Identification, qualification and prioritization of human rights issues and risks

Achmea screens its investment portfolio on human rights issues, by applying the UN Global Compact, UN Guiding Principles and OECD Guidelines for Multinational Enterprises. Screening is conducted by an external research provider, which screens Achmea's full investment universe.¹³⁰ Achmea explains that companies are monitored on a regular basis for breaching human rights norms, through continuously and systematically assessing controversies. Based on research into these individual controversies, identified through a broad range of sources, company assessments are updated when a significant development arises. In addition, assessments are reviewed on an annual basis.

In its most recent semi-annual report on responsible investment, Achmea indicates that, after identifying a potential breach of norms as part of the screening process, an external research provider conducts research into the allegations.¹³¹ The insurance company has an explicit exclusion policy; when a company structurally (more than 24 months in a row) breaches the UN Global Compact principles, the insurance company excludes the company from investments. The current exclusion list is published on Achmea's website.¹³²

The investigation conducted by Achmea's external research provider determines the severity of the controversy, attributes a score, and makes a qualification of how the investee company is involved in the abuse. However, Achmea does not make a qualification on a case-by-case basis of its own relationship, as an insurance company, to the human rights impacts. The insurance company explains that, in principle, it assumes its relationship to be "directly linked", since this applies to more than 99% of the investments, but would classify itself as contributing if this would be the case. However, it does not become clear how it is assessed and flagged if the situation defers from the default qualification of directly linked.

Achmea confirmed that investigations took place for all relevant cases and explains that investigations can include engaging in dialogue with the respective companies. The insurer provided evidence on engagements with Glencore and Rio Tinto on human rights issues, which include starting a dialogue on alleged human rights abuses. Further evidence was provided showing that the specific cases were flagged and investigated by the external research provider, determining the severity of controversies and making a qualification of how the investee company is involved in the abuse(s).

3.1.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

As part of its due diligence process, Achmea decides on the selection of companies that it will start a normative engagement with. Achmea engaged with three of the relevant companies on human rights issues: Shell, Rio Tinto and Glencore, but provided evidence for these engagements for only two of them, namely Rio Tinto and Glencore. Engagements with Total and Newmont took place, but on different topics than human rights (Corruption for Total and Biodiversity for Newmont). This negatively affects the score of Achmea for this section.

For Rio Tinto, Achmea demonstrated engagement between December 2012 and April 2016, related to incidents at its operations, but not on the specific case in Myanmar which is part of this study. However, the evidence also shows engagement on a broader scope on the company's human rights related practices, based on the long track record of the company on human rights incidents globally. The engagement focused on the management systems in place to ensure full and effective implementation of Rio Tinto's policies at all operations, such as risk assessments, stakeholder dialogue and transparency (including external verification) regarding human rights issues. The evidence shows that specific goals were set for improving the human rights practices of the company, including the setup of a legitimate grievance mechanism that is responsive to affected stakeholders, and reporting specific information on the results of external audits of its mining sites. Furthermore, an indication of the timeline for the engagement activities is provided, which is three years, but no intermediate steps were defined for these engagements. The engagement activities were conducted through letters and calls. Also, evidence of recent engagements (2020) with the company related to human rights issues and other incidents is reported, but without further details.

Regarding the engagement activities with Glencore, Achmea reports engagements with the company between June 2014 and October 2017. Again, this does not include a specific focus on the case included for this study, but on other incidents as well as on the company's broader human rights related approach. Clear goals were set for improving Glencore's human rights approach, including the development of an indigenous peoples policy consistent with the ICMM Position Statement on Indigenous Peoples and Free, Prior and Informed Consent. An indication of the timeline for the engagement activities is provided, which is three years, but no intermediate steps were defined for these engagements, and the engagement activities were conducted through letters and e-mails. Similar to engagements with Rio Tinto, evidence of recent engagements (2020) with Glencore related to human rights issues and other incidents is reported, but without further details.

For its engagement with Shell, Achmea did not produce any evidence. Limited information of this engagement on the specific case included in this study was found online, including information on the timeline and the engagement strategy, but not on the goals set nor on any intermediate steps required.¹³³

For both the engagements with Rio Tinto and Glencore, Achmea demonstrated that it required the companies to follow a multi-stakeholder approach in improving their human rights practices, involving potentially affected communities (Rio Tinto) and participating in cross-sectoral platforms with independent third parties (Glencore).

For engagements with Shell, Rio Tinto and Glencore, Achmea indicated that the threshold for success of the engagements was achieved, so no further steps were needed. However, Achmea reports on more recent engagements with Rio Tinto and Glencore on other cases and various social and environmental topics, showing further efforts to increase its leverage to reach concrete results from the companies. Also, the evidence shows that the engagements with Rio Tinto and Glencore (between 2012 and 2017) were considered successful when the first, and one of the other objectives were achieved. In this way, an engagement can be concluded as successful while not all of the engagement goals set are achieved. This raises the question whether the threshold for success is sufficiently ambitious, as was also raised in the 2018 report of the Dutch Fair Insurance Guide on the same topic.¹³⁴

Furthermore, the insurance company explains that it excludes companies if they are structurally (24 months in a row) violating human rights, which is evidenced by the exclusion of Coal India, Vale and Vedanta Resources.

3.1.6 Section C: Tracking progress and outcome and communicating about the results

For the engagements with Rio Tinto, Glencore and Shell, Achmea confirms that it monitors and measures the outcomes of engagement activities which is evidenced through internal progress reports supplied by an external research provider. During the engagement process, dialogue takes place with the companies, during which information is provided on progress, and publicly available information is researched. This results in an analysis based on the engagement goals in a progress report. Furthermore, more recent internal bi-annual progress reports show tracking of all engagements including a system of milestones and qualitative information on the responsiveness of the company.

Achmea discloses a Responsible Investment Policy, in which it explains how sustainability issues including human rights are integrated in its due diligence, engagement and voting processes.¹³⁵ In addition, the insurance company publishes quarterly Active Ownerships Reports of Robeco, their engagement partner.¹³⁶ In these reports, a full list of names of companies Achmea is engaging with is published, while in its Responsible Investment Report a selection is provided. In H2 2020, Achmea engaged with a total number of 74 companies on 109 violations of standards.¹³⁷ However, only for a selection of companies results and formal decisions on the engagements are published.

Transparency forms an important part of Achmea's engagement goals, which is evidenced in the engagement reports provided for Rio Tinto and Glencore. These goals focus on reporting on progress and results of stakeholder dialogues to be implemented by Rio Tinto, and disclosure on the results of audits and corrective measures taken at Glencore's mining sites. Also, Achmea IM signed a public statement calling on companies to demonstrate their respect for human rights through public reporting.¹³⁸ However, no evidence is provided on fostering transparency about the human rights abuses related to the specific cases included in this study.

3.1.7 Section D: Providing for or cooperating in remediation

Achmea explains that remedy is part of the engagement goals, when it is clear that stakeholders have been negatively affected. The insurer reports that remediation is part of the engagement objectives with Glencore, specifically regarding another case (Tampakan, the Philippines) but also generally at all high-risk operations. For the engagement with Rio Tinto and Shell, the documentation does not provide information to conclude that remedy was discussed.

The insurance company indicates that participation in remediation by Achmea could be an option, but it did not perceive this as necessary for engagement with Glencore, because the company was willing to do provide remedy itself. However, the evidence shows that the engagement goal expecting Glencore to implement processes for remedy in general and at Tamapakan was met because the company withdrew from the specific project, and made a general commitment to “provide remedy” in its reporting. This raises the question to what extent remedy was actually provided. Furthermore, processes to support remediation such as dialogue or mediation processes with affected stakeholders, or Human Rights Defenders are not reported.

In general, Achmea states that if it has contributed to the adverse impacts, and if it has determined that it can influence a company, it takes its responsibility to provide for reparation for the affected stakeholders. In the investor’s opinion, it did not contribute to the adverse impacts of Glencore, Rio Tinto and Shell. The evidence provided by Achmea regarding its engagements with these three companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. However, since the evidence provided for Rio Tinto and Glencore was not on the specific cases, and information on Shell limited, and relatively outdated, it does not allow to assess whether the insurance company has taken sufficient mitigation steps to address the specific human rights abuses. Therefore, based on the evidence provided, we cannot qualify whether Achmea’s relationship to these abuses is one of “contributing to” or if it is merely “directly linked”. The same conclusion can be drawn for the cases related to Total and Newmont, for which recent engagement efforts are not focused on human rights issues but governance and environmental topics.

3.1.8 Conclusions

Achmea achieved a total score of 5.2 out of 10, and is ranked as third among the insurance companies assessed in this study. This score is based on the following conclusions:

- Achmea has investments in five of the eleven selected companies, namely Total, Shell, Glencore, Rio Tinto and Newmont Corporation. Three companies covered by the scope of this study are excluded by Achmea for sustainability reasons, which are Coal India, Vale and Vedanta Resources.
- Achmea uses an external research provider to screen its investments on potential human rights violations, and investigate individual controversies. Evidence was provided showing that the cases were flagged and investigated, determining the severity of controversies and making a qualification of how the investee company is involved in the abuse(s).
- Achmea provided evidence for engagements regarding human rights issues with two of the relevant companies selected for this study (Rio Tinto and Glencore). These engagements focused on other cases than the ones included for this study and on the companies’ broader human rights related practices. For its engagement with Shell, Achmea did not produce any evidence, and limited information could be found online. Achmea reports that in general transparency and enabling remedy form an important part of its engagement objectives, but limited evidence was shown. This significantly affects the score obtained by Achmea.
- The insurance company reports all names of companies it engages with and is transparent on its responsible investment policy and due diligence process. However, transparency regarding progress and formal decisions of all engagements, including on the specific cases of this research, can significantly be improved.
- In the 2018 report of the Dutch Fair Insurance Guide on the same topic, the question was raised whether the threshold for success is sufficiently ambitious. The evidence on engagements provided for the current study raise the same question, because it shows that engagement can be concluded as successful while not all of the engagement goals set are achieved. However, since these engagements took place between 2012 and 2017, it could not be established whether currently, Achmea is still applying this approach to determine whether engagement has been successful.

- The financial research conducted in 2018 did not establish financial relationships between Achmea and the five companies for which links were found in the current study, but only with one other company (Freeport-McMoRan). However, since evidence was provided of engagements with Glencore, Rio Tinto and Shell prior to 2018, this indicates financial interests in the companies prior to the period of research, and/or a different level of responsiveness from the insurer to comment on the findings of the financial research in the past report.
- In general, Achmea states that if it has contributed to the adverse impacts, and if it has determined that it can influence a company, it takes its responsibility to provide reparation payments to the affected stakeholders. In Achmea's opinion, it did not contribute to the adverse impacts of Glencore, Rio Tinto and Shell, but the insurance company does not clarify on which analysis this conclusion is based. Since the evidence provided did not refer to the specific cases, it does not allow us to assess to whether the insurance company has taken sufficient mitigation steps to address the human rights abuses. This prevents the researchers from making a qualification of the insurance company's relationship to the human rights impacts.
- Overall, significant differences in scores between this research and the 2018 report can be explained by the fact that more financial relationships with the selected companies were identified in this research, while evidence was provided only on a limited number of cases. This contrasts with the 2018 report, where Achmea was linked to one selected case for which significant evidence of engagement was provided, leading to a high score.

3.2 Aegon

3.2.1 Profile

Aegon N.V. (Aegon) is a publicly-listed leading insurance and banking group based in the Netherlands.¹³⁹ Aegon has life insurance and pensions operations in in the Americas, Europe and Asia and is also active in savings and asset management operations, accident and health insurance, general insurance and banking operations. The group serves customers in Europe, Asia and the Americas, including the Netherlands, United Kingdom, Singapore, Hong Kong, and the United States.¹⁴⁰ Aegon Asset Management had € 388 billion assets under management as of 31 December 2020.¹⁴¹

3.2.2 Financial relationships with selected companies

As of the most recent filing date, Aegon held shares with a total value of € 326 million and/or bonds with a total value of € 467 million, in nine of the eleven selected companies for this research, namely:

- PetroChina (CNPC)
- Freeport-McMoRan
- Glencore
- Lundin Energy
- Newmont Corporation
- Rio Tinto
- Shell
- Total
- Vale

Investments were held by the Group's subsidiaries in the Netherlands, UK, US and Brazil. The insurance company's largest shareholding is in Rio Tinto, with € 176.6 million, while its largest bondholding is in Shell (€ 132.1 million). Table 16 provides an overview of Aegon's shareholdings and bondholdings as of the most recent filing date.

Table 16 Overview of Aegon's share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Freeport-McMoRan	United States	Bondholdings	77.4	Sep – Dec 2020
Glencore	Switzerland	Shareholdings	6.9	Oct 2020 - Dec 2020
Glencore	Switzerland	Bondholdings	18.5	Sep – Dec 2020
Lundin Energy	Sweden	Shareholdings	0.5	Oct 2020
Newmont Corporation	United States	Shareholdings	3.1	Oct 2020
Newmont Corporation	United States	Bondholdings	57.1	Jun 2019 – Dec 2020
PetroChina (CNPC)	China	Bondholdings	0.7	Jun 2020
Rio Tinto	United Kingdom	Shareholdings	176.6	Oct 2020- Feb 2021
Rio Tinto	United Kingdom	Bondholdings	44.4	Jun – Sep 2020
Shell	Netherlands	Shareholdings	112.4	Oct 2020 - Feb 2021
Shell	Netherlands	Bondholdings	132.1	Aug 2019 – Dec 2020
Total	France	Shareholdings	22.8	Oct 2020 - Dec 2020
Total	France	Bondholdings	103.5	Aug 2019 – Dec 2020
Vale	Brazil	Shareholdings	3.3	Oct 2020
Vale	Brazil	Bondholdings	33.3	Sep 2020
Total			792.6	

Source: Thomson Reuters Eikon, 'Share ownership, multiple securities', viewed in February 2021; Thomson Reuters Eikon, 'Bondholdings, EMAXX', viewed in February 2021.

3.2.3 Assessment and score overview

Aegon achieved a total score of 4.4 out of 10, and is ranked as fifth among the insurance companies assessed in this study. Within the scope of this research, Aegon had financial links with nine out of eleven selected companies.

Aegon NL indicated that it was only willing to respond on behalf of Aegon NL, and not Aegon N.V. This study assesses Aegon N.V., therefore the results of the financial research on the whole group form the basis of the assessment (number of relevant cases). However, the researchers only received the responses to the questionnaire from Aegon NL and not Aegon. Therefore, Aegon NL is mentioned when evidence applies only to this entity.

It is important to note that as of January 2021, two companies out of the eleven companies covered by the scope of this study are on the exclusion list of Aegon Netherlands (Aegon NL).¹⁴² These companies are PetroChina (CNPC) and Freeport-McMoRan, which have been excluded for non-compliance with Aegon NL's Responsible Investing Policy Principles and Topics, categorized as "Insufficient engagement progress following non-compliance with global standards".¹⁴³ Evidence indeed shows that engagement and ultimately exclusion was, among others, based on the human rights violations related to the specific cases included in this study.

However, the financial research shows that other subsidiaries within the Aegon Group do have financial relations with PetroChina (CNPC) and Freeport-McMoRan and that these companies are indeed not excluded by Aegon at group level.¹⁴⁴ While it may not matter which subsidiary within the group performs engagement with a company, if the engagement is successful and contributes to effective change in the behaviour of the company involved in the human rights abuses, the (ultimate) decision to exclude a company from investments would be most effective when taken on the group level and not solely at the subsidiary level. Consequently, the selected cases related to these companies are still considered relevant for Aegon. Aegon N.V. publishes a separate exclusion list, on which only Coal India is listed as an excluded company for investments at group level.¹⁴⁵

Aegon NL responded to the questionnaire and Profundo accepted the offer to have a video call to verify the information provided. After this call, further information was shared, including confidential documents. Based on the answers provided by Aegon NL and the supporting evidence, Table 17 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 17 Overview of Aegon's scores

Section		Score (/10)	Weight
A	Identification, qualification and prioritisation of human rights issue(s) and risk(s)	7.2	20%
B	Using leverage to influence investee companies	3.9	40%
C	Tracking progress and outcome by the Insurance company	3.9	20%
D	Providing for or cooperating in remediation	3.3	20%
Total		4.4	

3.2.4 Section A: Identification, qualification and prioritization of human rights issues and risks

Aegon NL screens all its investments in companies (equities and bonds) as part of its investment due diligence process.¹⁴⁶ Apart from expecting companies the insurance company invests in to comply with international standards, including the UN Global Compact, UN Guiding Principles and OECD guidelines for multinational enterprises, Aegon NL publishes a comprehensive list of screening criteria.¹⁴⁷ These screening criteria are divided into five broad sustainability topics which include human rights.¹⁴⁸ The insurance company has an explicit exclusion policy for companies that repeatedly violate international standards.¹⁴⁹ The current exclusion list is published on Aegon NL's website.¹⁵⁰

These policies and screening criteria only apply to the companies invested in by Aegon NL. Considerable financial links were found with the selected companies through other subsidiaries within the insurance group, the researchers requested information on the due diligence process for other entities too, but this could not be provided. This negatively affects the score of Aegon for this section. At group level, Aegon only reports that it expects portfolio managers to integrate ESG factors and recognize human rights topics for most investment strategies.¹⁵¹ Aegon Asset Management explains that investments in company bonds and equities are screened by applying the UN Global Compact, the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises.¹⁵²

Aegon NL explains that it uses data from various external research providers for screening, which is done prior to investment and at regular intervals. Variables taken into consideration in the screening process include the sector, activities, the region and territory of operations, and the investee adoption of the UN Guiding Principles to their business operations. This information was not provided for other entities within the group.

Aegon NL indicates that it uses the services of external research providers to conduct research into the allegations, and provides evidence that all relevant companies have been investigated for involvement in community conflict and human rights violations, including the cases within the scope of this research. During a call, evidence was shown of the online assessments and controversy reports. The analyses investigate the severity of the controversies and their reoccurrences, as well as the involvement of the investee company in the abuse. Additionally, documentation was provided evidencing that Aegon NL used these analyses as input for further investigating through direct engagement with some of the relevant companies. However, Aegon NL does not assess its own relationship, as an investor, to the human rights impacts.

Compared to the 2018 report, Aegon NL has improved its due diligence process by not using the research of one service provider but combining those of two providers.¹⁵³ Furthermore, in the 2018 report of the Dutch Fair Insurance Guide on the same topic, it was advised to publish the screening criteria and due diligence process regarding human rights. Aegon NL is currently publishing both.¹⁵⁴ Notwithstanding these improvements for Aegon NL, it is advised to improve transparency and accountability on Aegon's human rights due diligence processes at group level.

3.2.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

As part of its investment due diligence process, Aegon NL decides on the selection of companies that it will start engagements with, based on company ratings provided by external research providers. Out of the nine companies it has financial links with, Aegon NL has carried out an engagement process with PetroChina, Freeport-McMoRan, Shell and Vale regarding the selected cases. In addition, the insurer engaged with Glencore, Newmont and Rio Tinto on human rights practices in general. Aegon NL did not engage with Lundin Energy, because it was determined that the company is not a priority for engagement, while engagement with Total did not relate to the specific case nor human rights issues in general. Although the cases related to these two companies were identified, they did not result in an adjustment of the company rating, and therefore no engagement has taken place.

For PetroChina and Freeport-McMoRan, Aegon NL demonstrates bilateral engagements between 2019 and 2020, related to the specific cases included in this study. Although no written goals were set for these engagements, Aegon NL explains which engagement activities it performed and how this has led to the decision to exclude the companies from investments. This was based on insufficient response from and willingness to discuss the details of the respective projects by the companies. In addition, evidence shows that prior to these recent engagements, Aegon NL engaged collaboratively with PetroChina in 2016. Furthermore, the 2018 report shows previous engagements with Freeport-McMoRan during 2015-2017.¹⁵⁵ The bilateral engagement activities were conducted through letters and calls.

The engagements with Shell and Vale evidence collaborative engagement strategies on the specific cases included in this study. For Vale, clear engagement objectives were set, including the establishment of a robust remediation plan that involves affected stakeholders. This was not the case for engagement with Shell, which entailed a general update as part of a dialogue with the company.

Regarding the engagement activities with Glencore, Newmont and Rio Tinto, Aegon NL reports collaborative engagements on human rights controversies across the companies' operations and their broader human rights related approach. For Newmont, engagement entailed encouraging the company to conduct human rights risk assessments including community risks, as well as increasing transparency on community conflicts. For Glencore and Rio Tinto, the engagements focused on how the companies ensure they will not cause human rights harm at their sites in the future.

For none of the engagements, evidence is provided that clear goals (except for Vale), a timeline and intermediate steps to be achieved were formulated. Aegon comments that it cannot always set a clear trajectory at the beginning of the engagement and therefore sets and changes the goals, timelines and steps along the way. As part of the engagement goals set for Vale, Aegon NL demonstrates that it required the companies to follow a multi-stakeholder approach by involving all affected stakeholders. This was not evidenced for other engagements.

Aegon NL explains that, as part of its active ownership policy, further steps are taken if engagement goals are not met. This process is demonstrated through engagements with PetroChina and Freeport-McMoRan; engagements were started collaboratively, followed-up bilaterally and finally, the decision was made to exclude the companies from investments. However, for the other engagement examples provided, no clear engagement goals were formulated, except for Vale. Therefore, this raises questions on whether the threshold for success of an engagement is sufficiently ambitious. Indeed, the evidence provided on the result of the engagement with Glencore indicates that the company "is taking the allegations seriously and has taken initiatives at their mining sites". This description does not clarify if and how meaningful steps are taken.

A similar concern was raised in the 2018 report of the Dutch Fair Insurance Guide on the same topic, regarding collaborative PRI engagements that Aegon joined; it seemed that the evaluation of the targets achieved for each company was not critical enough and therefore, it was advised to substantiate the outcomes with additional internal knowledge and decision-making capabilities.¹⁵⁶

In 2018, solely evidence was provided of collaborative engagement with three of the nine selected companies by Aegon. Based on the evidence provided for the current study, it can therefore be noted that Aegon has made some improvements in its engagement process, by engaging through different strategies and with more than half of the selected companies (seven out of nine), partially relying on internal assessments and using its escalation process. However, this is only applied by Aegon NL, and not at group level.

3.2.6 Section C: Tracking progress and outcome and communicating about the results

Aegon NL confirms that it monitors and measures the outcomes of engagement activities which is evidenced in its internal engagement database. Examples from the internal progress reports show tracking of engagements including a system of milestones and qualitative information on the responsiveness of the company. This is confirmed for seven of the nine relevant companies for Aegon, either for engagement on the specific cases or on a broader human rights related scope.

Aegon NL discloses its Responsible Investing Policy Principles and Topics, in which the insurer explains how sustainability issues including human rights are integrated in its due diligence, engagement and voting processes.¹⁵⁷ Aegon N.V. (group) publishes a Responsible Investment Policy too, that includes human rights.¹⁵⁸

In addition, Aegon Asset Management (Aegon AM) publishes an annual Active Ownership Report.¹⁵⁹ In the 2019 report, it publishes a selection of engagement cases, including the names of companies, background information of the engagement, engagement goals, concrete actions and engagement outcomes. During 2018, Aegon AM engaged with a total number of 269 companies.¹⁶⁰ However, only for a selection of companies engagement details are provided.

Aegon NL explains that asking for increased disclosure is part of their engagement activities with the selected companies, and signed a public statement calling on companies to demonstrate their respect for human rights through publicly reporting.¹⁶¹ However, no evidence is provided on fostering transparency about the human rights abuses related to the specific cases included in this study.

3.2.7 Section D: Providing for or cooperating in remediation

As part of monitoring progress of its engagements, Aegon reports that Glencore and Rio Tinto have taken various initiatives at their mining sites, but it is not specified that remedy was discussed. Only for engagement with Vale, the setup of a robust remediation plan is part of the engagement objectives. Regarding participation in remediation processes by the insurance company itself, Aegon NL indicates that it participated in the Mining Tailings Safety initiative and contributed to the enabling of a dialogue between Vale and the affected communities at the Brumandinho tailings dam.¹⁶²

In general, the evidence provided by Aegon NL regarding its engagements with seven of the companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. For the cases related to PetroChina, Freeport-McMoRan, Shell and Vale, Aegon provided sufficient evidence that engagement is or has taken place and has taken mitigating steps. Therefore, Aegon NL is “directly linked” to the human rights abuses through its business relationships and is not responsible for remediation, but it should continue to encourage the investee companies to do so.

Since the evidence provided for Glencore, Newmont and Rio Tinto was not on the specific cases, and engagement with Total not on human rights issues, it does not allow us to assess to whether the insurance company has taken sufficient mitigation steps to address the specific human rights abuses. Therefore, based on the evidence provided, we cannot qualify whether Aegon NL's relationship to these abuses is one of “contributing to” or if it is merely “directly linked”.

Regarding the case related to Lundin Energy, Aegon NL indicated that it decided not to engage with the company because of prioritization based on company risk rating. This decision was made because, even though the controversies were identified and analysed, they were not flagged by the research provider as a breach of international human rights standards and it did not result in an adjustment of the company rating. It is therefore important that research providers are being challenged on this. Aegon NL mentioned that they are increasingly doing so. Although the OECD Guidelines expect financial institutions to indeed prioritize in their due diligence, the eleven selected cases have been evaluated by the Dutch Fair Insurance Guide as relevant cases of human rights abuses in conflict affected/high risk areas, and therefore deserve prioritisation. Although relatively small, a financial link with Lundin Energy was found in the 2018 research, as well as in the current study. By not engaging, Aegon NL runs the risk to be in fact facilitating the lack of steps taken by Lundin Energy to remedy the human rights harms in South Sudan.

3.2.8 Conclusions

Aegon achieved a total score of 4.4 out of 10, and is ranked as fifth among the insurance companies assessed in this study. This score is based on the following conclusions:

- The Aegon Group has investments in nine of the eleven selected companies, namely PetroChina (CNPC), Freeport-McMoRan, Glencore, Lundin Energy, Newmont Corporation, Rio Tinto, Shell, Total and Vale. Among these there are seven continued financial relationships since the 2018 report.¹⁶³ Three companies covered by the scope of this study are excluded by the Group's Dutch subsidiary, Aegon NL, for sustainability reasons, which are PetroChina (CNPC), Freeport-McMoRan and Coal India (the latter is also excluded by Aegon at group level).

- Aegon NL uses data from various external research providers to screen its investments on potential human rights violations, and conduct research into the allegations. Evidence provided showed that all relevant companies have been investigated for involvement in community conflict and human rights violations, including the relevant cases.
- Compared to the 2018 report, Aegon NL has improved its due diligence process by not using the research of one service provider but combining those of two providers. Furthermore, it was advised to publish the screening criteria and due diligence process regarding human rights. Aegon NL is currently publishing both.
- Notwithstanding these improvements for Aegon NL, it is advised to improve transparency and accountability on Aegon's human rights due diligence processes at group level. Out of the nine companies it has financial links with, Aegon NL has carried out an engagement process with four of them on the selected cases: PetroChina, Freeport- McMoRan, Shell and Vale. In addition, the insurer engaged with Glencore, Newmont and Rio Tinto on human rights practices in general. Aegon NL did not engage with Lundin Energy, because it was determined that the company is not a priority for engagement, while engagement with Total did not relate to the specific case nor human rights issues in general.
- Aegon NL reports that increased disclosure forms part of its engagement activities, but no evidence is provided. Regarding remedy, Aegon NL reports that this is part of the engagement objectives set for Vale. Furthermore, the insurance company participated in the Mining Tailings Safety initiative and contributed to the enabling of a dialogue between Vale and the affected communities.
- The insurance company only reports on a selection of engagement cases, but is transparent on its responsible investment policy and due diligence process.
- In 2018, solely evidence was provided of collaborative engagement with three of the nine selected companies by Aegon. Based on the evidence provided for the current study, it can therefore be noted that Aegon has made some improvements in its engagement process, by engaging through different strategies and with more than half of the selected companies (seven out of nine), and using its escalation process. Notwithstanding these improvements, in the 2018 report, the question was raised whether the threshold for success of an engagement is sufficiently ambitious. The evidence provided for the current study raises the same question, especially for collaborative engagements.
- In general, the evidence provided by Aegon NL regarding its engagements with seven of the companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. For the cases related to PetroChina, Freeport-McMoRan, Shell and Vale, Aegon provided sufficient evidence that engagement is or has taken place and that mitigating steps have been taken. Consequently, Aegon NL did not incentivise human rights harm and is considered to be "directly linked" to these impacts.
- Aegon did not provide evidence for Glencore, Newmont, Rio Tinto and Total, on the specific cases investigated in this case study. The evidence provided consequently does not allow us to assess whether the insurance company has taken sufficient mitigation steps to address the specific human rights abuses, and to make a proper qualification of the insurance company's relationship to the human rights impacts.

- Regarding the case related to Lundin Energy, Aegon NL indicated that it decided not to engage with the company because of prioritization. Although the OECD Guidelines expect financial institutions to indeed prioritize in their due diligence, the eleven selected cases have been evaluated by the Dutch Fair Insurance Guide as relevant cases of human rights abuses in conflict affected/high risk areas, and therefore deserve prioritisation. A financial link with Lundin Energy was found in the 2018 research, as well as in the current study. Aegon indicated that this case was not prioritized, because, even though the controversies were identified and analysed, they were not flagged by the research provider as a breach of international human rights standards and it did not result in an adjustment of the company rating. It is therefore important that research providers are being challenged on this. Aegon NL mentioned that they are increasingly doing so. By not engaging, Aegon NL runs the risk to be in fact facilitating the lack of steps taken by Lundin Energy to remedy the human rights harms in South Sudan.

3.3 Allianz

3.3.1 Profile

Allianz SE (Allianz) is a global insurance and asset management group with headquarters in Germany that serves customers in Europe, Asia, the Americas and Australia.¹⁶⁴ It provides a wide range of life and non-life insurance and asset management services to its retail and corporate clients. The group's core markets are Germany, France, Italy and the United States. In addition, the United Kingdom and the Asia-Pacific region are crucial markets for the group's asset management services. As of 31 December 2020, Allianz had a total value of € 2,389 billion in assets under management.¹⁶⁵

3.3.2 Financial relationships with selected companies

As of the most recent filing date, Allianz held shares with a total value of € 743 million and/or bonds with a total value of € 2,006 million, in ten of the eleven selected companies for this research, namely:

- PetroChina (CNPC)
- Freeport-McMoRan
- Glencore
- Lundin Energy
- Newmont Corporation
- Rio Tinto
- Shell
- Total
- Vale
- Vedanta Resources

The insurance company's largest shareholding is in Total, with € 185.7 million, while its largest bondholding is in Vale (€ 390.5 million). Table 18 provides an overview of Allianz' shareholdings and bondholdings as of the most recent filing date.

Table 18 Overview of Allianz' share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Freeport-McMoRan	United States	Shareholdings	145.0	Dec 2020
Freeport-McMoRan	United States	Bondholdings	318.4	Mar 2020 - Dec 2020
Glencore	Switzerland	Shareholdings	16.3	Sep 2020 - Dec 2020
Glencore	Switzerland	Bondholdings	208.2	Dec 2019 - Dec 2020

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Lundin Energy	Sweden	Shareholdings	1.4	Dec 2019 - Dec 2020
Newmont Corporation	United States	Shareholdings	95.2	Sep 2020 - Dec 2020
Newmont Corporation	United States	Bondholdings	350.2	Dec 2019 - Dec 2020
PetroChina (CNPC)	China	Bondholdings	75.0	Dec 2019 - Oct 2020
Rio Tinto	United Kingdom	Shareholdings	177.9	Jul 2019 – Dec 2020
Rio Tinto	United Kingdom	Bondholdings	66.8	Dec 2019 - Sep 2020
Shell	Netherlands	Shareholdings	73.7	Jul 2019 – Feb 2021
Shell	Netherlands	Bondholdings	379.1	Jun 2019 – Jan 2021
Total	France	Shareholdings	185.7	Mar 2020 - Dec 2020
Total	France	Bondholdings	208.8	Jun 2019 – Dec 2020
Vale	Brazil	Shareholdings	48.0	Sep 2020 - Dec 2020
Vale	Brazil	Bondholdings	390.5	Jun 2019 – Jan 2021
Vedanta Resources	India	Bondholdings	9.0	Dec 2019 - Nov 2020
Total			2,749.2	

Source: Thomson Reuters Eikon, 'Share ownership, multiple securities', viewed in February 2021; Thomson Reuters Eikon, 'Bondholdings, EMAXX', viewed in February 2021.

3.3.3 Assessment and score overview

Within the scope of this research, Allianz had financial links with ten out of eleven selected companies and was found to be the insurance company with the largest total amount invested in the selected companies (€ 2,749 million).

In a response to the questionnaire sent, Allianz indicates that it is not possible to confirm the financial relationships identified, because its investment portfolio "is changing on a daily basis". In addition, the insurance company was not willing to disclose details of the engagement processes it conducts.

By refusing to provide information, Allianz ignores its responsibility to be transparent towards civil society on its responsible investment efforts. As outlined in 1.3.4, transparency is crucial for public accountability and the OECD Guidelines recommend enterprises to do so. Although the Guidelines acknowledge that this should be done considering confidentiality and the effectiveness of the engagement when disclosed, "investors should strive to account for their due diligence processes to the extent possible".¹⁶⁶ By not participating in the survey, Allianz did not score any points at all, but still gets the score of 1 out of 10 since that is the lowest score that the FIG can assign.

3.4 ASR

3.4.1 Profile

ASR Nederland N.V. (ASR) is a Dutch insurance group with operations exclusively in the Netherlands. ASR offers a wide range of financial products, including property & casualty insurance, occupational disability and health insurance, group and individual pensions, individual life insurance and asset management services for insurance entities and institutional clients.¹⁶⁷ As of 31 December 2020, ASR had investments for own account of € 37 billion and managed € 25 billion assets on behalf of clients.¹⁶⁸

3.4.2 Financial relationships with selected companies

In a response to the questionnaire, ASR indicated that the amounts of shareholdings identified in our financial research were not correct. ASR was neither willing to disclose the correct information, nor to confirm the presence of a financial relationship with the selected companies. As our financial research is based on respected and reliable information sources, we will still report the financial relationships found. No bondholdings in the selected companies were found.

As of the most recent filing date, ASR held shares with a total value of € 39 million in six of the eleven selected companies for this research, namely:

- Total
- Rio Tinto
- Glencore
- Lundin Energy
- Newmont Corporation
- Freeport-McMoRan

The insurance company's largest shareholding is in Total, with € 16.3 million, followed by Rio Tinto (€ 10.6 million). Table 19 provides an overview of ASR's shareholdings, as of the most recent filing date.

Table 19 Overview of ASR's shareholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Total	France	shareholdings	16.3	Dec 2020
Rio Tinto	United Kingdom	shareholdings	10.6	Dec 2020
Glencore	Switzerland	shareholdings	5.4	Dec 2020
Lundin Energy	Sweden	shareholdings	3.0	Dec 2020
Newmont Corporation	United States	shareholdings	2.7	Dec 2020
Freeport-McMoRan	United States	shareholdings	1.2	Dec 2020
Total			39.2	

Source: Thomson Reuters Eikon, 'Share ownership, multiple securities', viewed in February 2021.

3.4.3 Assessment and score overview

ASR achieved a total score of 3.0 out of 10, and is among the three lowest scoring insurance companies assessed in this study. Within the scope of this research, ASR had financial links with six out of eleven selected companies.

It is important to note that as of January 2021, two companies out of the eleven companies covered by the scope of this study are on the exclusion list of ASR.¹⁶⁹ These companies are Shell and Vale, which have been excluded over violations of the UN Global Compact Principles. Evidence indeed shows that engagement and ultimately exclusion was, among others, based on the human rights violations related to the specific cases included in this study.

ASR responded to the questionnaire and has provided additional documents and information after later requests. Based on the answers provided by ASR and the supporting evidence, Table 20 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 20 Overview of ASR's scores

Section		Score (/10)	Weight
A	Identification, qualification and prioritisation of human rights issue(s) and risk(s)	6.7	20%
B	Using leverage to influence investee companies	2.2	40%
C	Tracking progress and outcome by the Insurance company	3.9	20%
D	Providing for or cooperating in remediation	0.0	20%
Total		3.0	

3.4.4 Section A: Identification, qualification and prioritization of human rights issues and risks

ASR screens its investment portfolio on human rights issues by applying the UN Global Compact, UN Guiding Principles for Business and Human Rights and the OECD Guidelines for Multinational Enterprises, as well as ASR's own positive screening criteria. Screening of the whole investment universe is carried out twice a year by two external research providers and is required prior to investing in a company.¹⁷⁰

When a controversy is identified, the research provider investigates the case. An assessment of the severity of the case, the level of involvement and responsiveness of the company, and the company's capacity to mitigate risks is made. This was done for the cases of Freeport-McMoRan, Lundin Energy, Total, and Glencore, as well as Shell and Vale before exclusion. For Rio Tinto and Newmont, investigations were made into other human rights controversies instead of the cases discussed in this study. The investigation of the cases did not make a qualification of the level of involvement of the insurance company itself.

3.4.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

ASR indicates in its SRI policy that every engagement project has concrete objectives, a dedicated strategy, concrete timelines and intermediate targets, defined at the beginning.¹⁷¹ However, no specific evidence was found about the concrete objectives, timelines and intermediate targets for any of the cases. For Glencore, Rio Tinto, and Total, ASR did provide information about the engagement strategy, which was conducted in collaboration with other investors.

ASR indicates in its SRI details for screening that it companies are assessed based on their involvement of local stakeholders and external parties. Evidence provided by ASR shows that this formed part of the due diligence for the Total case, and that Total has engaged with affected communities. No details on the other cases were provided.

No evidence was found that ASR took different steps to increase leverage in case of persisting unsuccessful engagement. However, ASR did exclude both Shell and Vale from its investment universe after severe breaches of the UN Global Compact Principles.

3.4.6 Section C: Tracking progress and outcome and communicating about the results

ASR actively monitors the progress and responsiveness of the companies on most of the selected cases (Freeport-McMoRan, Lundin Energy, Total, and Glencore, as well as Shell and Vale before exclusion). For Rio Tinto and Newmont, monitoring was done on other human rights controversies.

ASR is transparent about its human rights policies and processes: human rights are integrated into ASR's Socially Responsible Investment (SRI) policy, and the human rights due diligence processes are described in the SRI document on detailed criteria for screening.¹⁷²

In its overview of engagements, ASR publicly discloses the names of some companies, but not of all of the companies it engages with. In addition, decisions to continue or close the engagements of with companies, as well as the results of engagements, were disclosed for some of the selected cases. No evidence was found or provided showing that engaged companies were required to publicly report on the circumstances of, or the steps taken to address, the human rights abuses of the cases.

3.4.7 Section D: Providing for or cooperating in remediation

In its SRI policy, ASR indicates that companies are assessed on their attention to grievance mechanisms. However, no evidence was found or provided showing that engaged companies were encouraged to provide remediation or to participate in dialogue or remediation processes.

In general, the evidence provided by ASR regarding its engagements with four of the companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. Since the evidence provided was very limited compared to the 2018 report, it does not allow us to assess whether the insurance company has taken sufficient mitigation steps to address the specific human rights abuses. Therefore, based on the evidence provided, we cannot qualify whether ASR's relationship to these abuses is one of "contributing to" or if it is merely "directly linked".

Regarding the cases related to Freeport-McMoRan and Lundin Energy, no evidence was provided for engagement activities. In the 2018 report, a financial link with Lundin Energy was found, as well as in the current study, and it was indicated that ASR had decided not to engage with Lundin Energy, because the abuses dated back to 20 years ago and the company had withdrawn from operating in Sudan.¹⁷³ By not engaging, however, ASR runs the risk to be in fact facilitating the lack of steps taken by Lundin Energy to remedy the human rights harms in South Sudan.

3.4.8 Conclusion

ASR achieved a total score of 3.0 out of 10, and is ranked as the second-last among the insurance companies assessed in this study. This score was based on the following conclusions:

- ASR has investments in six out of eleven selected companies, namely Total, Rio Tinto, Glencore, Lundin Energy, Newmont Corporation and Freeport-McMoRan. Among these there are three continued financial relationships since the 2018 report (Rio Tinto, Glencore and Lundin Energy).¹⁷⁴ Two companies, Shell and Vale, had been excluded from investment over the human rights violations discussed in the present study.
- ASR has solid processes for identifying and investigating human rights issues and risks in its investment portfolio. Its human rights policies are based on key international human rights standards and the portfolio is regularly screened. Six of the specific human rights cases were identified by ASR, and for two of the eleven companies, investigations were started into different human rights violations than the ones discussed in this study.
- Little evidence was provided about the way ASR used its leverage to influence the investee companies to mitigate and prevent human rights violations in the selected cases. ASR indicates its engagements include a dedicated strategy, objectives, timelines and intermediate targets, but no supporting evidence for the relevant cases was provided.
- ASR is transparent about its human rights policies and processes. Public disclosure about the names of companies it engages with, as well as the results of the engagement, is limited. No evidence was found or provided showing that engaged companies were required to publicly report on the circumstances of, or the steps taken to address, the human rights abuses of the cases.
- No evidence was found or provided showing that engaged companies were encouraged to provide remediation or to participate in dialogue or remediation processes.

- ASR received a score considerably lower than in the previous assessment (when it scored 8.1). This is due to the fact that fewer information was provided on the different steps followed in the engagement processes with the various companies.
- In general, the evidence provided by ASR regarding its engagements with four of the companies shows some efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. However, since the evidence provided was very limited, we were not able to qualify whether ASR's relationship to these abuses is one of "contributing to" or if it is merely "directly linked".
- In the 2018 report, a financial link with Lundin Energy was found, as well as in the current study. By not engaging, however, ASR runs the risk to be in fact facilitating the lack of steps taken by Lundin Energy to remedy the human rights harms in South Sudan through its continued financial relationship.

3.5 Athora NL

3.5.1 Profile

Vivat N.V has been renamed Athora Netherlands N.V. in December 2020, following the acquisition of the organisation by Athora Holding Ltd., a European-focused life insurance and reinsurance group, in April 2020. Vivat non-life business was sold to NN Group in 2020. Athora Netherlands is organised in three business lines: Pension Business, Life Service Business and Asset Management. Athora Netherlands NV is the holding company of two insurance companies with strong positions in the Dutch life insurance markets. Through its main brand Zwitserleven, Athora Netherlands provides pension and life insurance products. Under the brand Reaal, Athora NL sells and provides services for life insurance products. Athora Netherlands also offers asset management services via its asset manager Actiam, which also manages its own account investments. On 31 December 2020, Athora NL had 2.1 million customers, about 1,700 employees and assets under administration with a value of € 66.0 billion.¹⁷⁵

3.5.2 Financial relationships with selected companies

As of the most recent filing date, Athora NL held shares with a total value of € 81.3 million and/or bonds with a total value of € 40.4 million, in three of the eleven selected companies for this research, namely:

- Newmont Corporation
- Shell
- Total

All investments were held by the Group’s asset manager Actiam. The insurance company’s largest shareholding is in Total with € 72.8 million, as well as its largest bondholding with € 27.8 million. Table 21 provides an overview of Athora NL’s shareholdings and bondholdings, respectively, as of the most recent filing dates.

Table 21 Overview of Athora NL’s share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Newmont Corporation	United States	Shareholdings	5.5	Mar 2021
Shell ^{vi}	Netherlands	Bondholdings	12.6	Nov 2020
Total	France	Shareholdings	72.8	Dec 2020
Total	France	Bondholdings	27.8	Sep 2019 - Nov 2020
Total			118.7	

Source: Thomson Reuters Eikon, ‘Share ownership, multiple securities’, viewed in February 2021; Athora NL’s response to Profundo’s questionnaire, 23 March 2021.

3.5.3 Assessment and score overview

Athora NL achieved of total score of 7.9 out of 10, which is the highest score among the insurance companies assessed in this study. Within the scope of this research, Athora NL has investments in three out of the eleven selected companies.

It important to note that as of April 2021, six companies out of the eleven companies covered by the scope of this study are on the exclusion list¹⁷⁶ of Athora NL for sustainability reasons. These companies are PetroChina, Coal India, Freeport, Rio Tinto (for which financial links were identified in the previous report released in 2018), Vale and Vedanta. All these companies have been excluded for non-compliance with Athora NL’s Fundamental Investment Principles¹⁷⁷, which include among other compliance with basic human rights and compliance with basic labour rights. All the six companies mentioned have been identified by Athora NL as not compliant with one or more of these principles, therefore excluded from its investment universe.

Athora NL shared a substantial amount of information with the researchers, which has provided detailed insight into how it is engaging with the companies it is financially linked with.

Based on the answers provided by Athora NL and the supporting evidence, the Table 22 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

^{vi} Athora NL decided to exclude companies with at-risk status from all sustainable funds, effective April 1st. Shell is one of these companies. Since 1 April 2021, the remaining positions in Shell have been sold.

Table 22 Overview of Athora NL's scores (/10)

Section		Score (/10)	Weight
A	Identification, qualification and prioritisation of human rights issue(s) and risk(s)	8.3	20%
B	Using leverage to influence investee companies	10.6 ^{vii}	40%
C	Tracking progress and outcome by the Insurance company	6.7	20%
D	Providing for or cooperating in remediation	3.3	20%
Total		8.0	

3.5.4 Section A: Identification, qualification and prioritization of human rights issues and risks

Athora's investments are managed by its internal asset manager Actiam. All companies in Athora NL's investment universe are screened on its Fundamental Investment Principles¹⁷⁸ and Material Sustainability Drivers¹⁷⁹. The Fundamental Investment Principles are a set of principles related to the environment, to human rights (such as the right to health, education, access to energy, water and sanitation), labour rights (such zero-tolerance to child and forced labour etc), and to the society at large (compliance with international sanctions, no systematic involvement in fraud, corruption or tax evasion, etc.). The Material Sustainability Drivers are used to assess the adaptive capacities of the companies to prepare themselves for the transition risks, they include for instance topics like water use and availability, land use (including impacts on biodiversity, local communities and inequalities), or social capital management (actions to maintain the licence to operate on which companies and countries depend).

Based on the assessment of the Fundamental Investment Principles and the Material Sustainability Drivers, each company and country are categorised within the Actiam Sustainability Framework. The categorisation is updated every quarter and relies also on external ESG data providers, which screens companies active in the extractive sectors on high-risk variable material for the sector.

Companies and countries not complying with the Fundamental Investment Principles are categorised as "unacceptable behaviour" and excluded from the investment universe.

Athora NL provided evidence that it has identified and investigated all cases also with the support of ESG data providers. Both those at companies that are currently in portfolio (Newmont, Shell and Total), as well as the other companies mentioned in the report. It is interesting to note that while some controversies involving Total were flagged to the insurance company by its ESG data provider, it has not been the case for the ongoing controversy around Total's activities in Uganda and Tanzania. Consequently, as a proactive step, Athora NL contacted its ESG data provider to ask if the case was under its radar, and requested some advice from its engagement provider on the potential of success of an engagement with the company on this topic. Following this discussion with its data provider and due to the severity of the ongoing issues in Uganda, Athora NL informed Profundo that it has decided to conduct a so-called fast-track engagement with Total to try to influence Total to change its behaviour and reach concrete results in limited timeframe (one year after the start of the engagement).

^{vii} Score higher than 10 is due to the bonus points Athora received for excluding a significant number of selected companies for human rights reasons.

For Shell and Newmont, Athora NL provided evidence that the investigations done by its ESG provider include a qualification of the severity of the human rights abuses, and a qualification of how the investee company is involved in the abuse(s). For the case of Total in Uganda and Tanzania, Athora NL provided evidence that it made an internal screening of the controversy and identified several environmental and social issues including displacement of people, potential biodiversity impacts of the EACOP pipeline, stakeholders' concerns around resettlement inadequate remediation etc.

However, Athora NL does not make a qualification of its own relationship, as an insurance company, to the human rights impacts.

3.5.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

Athora NL explained that the decision to engage with companies is depending on different factors, among which the position it has in a company, the gravity of the issues, the level of responsiveness of the company, the likelihood that engagement will be successful, and the possibility to cooperate with others on an engagement process. Athora NL also explains that sometimes this decision is triggered by concerns raised by stakeholders, including NGOs. Overall, Athora NL provided evidence that it has set goals to be achieved, timeline, and concrete intermediary steps (milestones) with all the three companies it is financially linked with. In addition, Athora NL provided information about the main features of its engagement strategy which took different forms (bilateral call, collaborative engagement with other investors, participation to SRI Investor Conference Call, meetings with companies). The insurance company demonstrates that it has required the three investee companies to follow a multi-stakeholder approach as part of the action plan during engagements undertaken (including past engagement with Total on other cases). However, since the decision to start engaging with Total on the controversy related to its activities in Uganda and Tanzania was taken very recently, Athora NL has not required the company to follow a multi-stakeholder approach yet.

Athora NL started engaging Goldcorp (now Newmont) on the situation in Guatemala in 2009. The engagement focused on the rights of the local population, as well as environmental impacts. Due to positive results, Athora NL reports that the engagement was changed from reactive focusing mainly on Guatemala, to proactive taking a broader approach on human rights and community relations within the company. Full description of the engagement and objectives including intermediary milestones was shared by the insurance company. Athora NL reports that the engagement was successfully concluded in 2014, with an agreement to monitor the situation and keep being involved in the annual SRI conference calls of the company. In 2015, Athora NL started to engage with the company again as part of a PRI joint-engagement initiative on Human Rights.

Most recently, Newmont is engaged by Athora NL through a collective initiative by the VBDO (Dutch Association of Investors for Sustainable Development), IUCN NL and several investors. The main topic of this engagement is water management, community water rights. A first call has taken place in January 2021 with the company and Newmont's actions on community engagement and conflicts were discussed. Athora NL reports that specific objectives and timeframes will be established in the next stage.

Regarding Shell, Athora NL has been involved in multiple engagement cases on the company's activities in Nigeria since 2008. The engagement focused on the rights of the local population, as well as environmental impact and labour rights. Full description of the engagement and objectives including intermediary milestones was shared by the insurance company. The engagement was started on an individual basis and continued in 2016 with the help of external engagement service providers. Athora NL reports that the engagement evolved through time based on newly acquired information or events. The engagement features, (sub)topics and goals to be achieved were adapted to this evolution. The engagement was officially closed in 2019, based on the progress the company has made on the insurance company's recommendations. However, Athora NL explains that communication with the company has been continuing in 2020 as part of the monitoring of the ongoing legal procedures and updates related to the situation in Nigeria.

For Total case in Uganda and Tanzania, Athora NL communicated that although its ESG research provider did not flag the case, the fact that the Fair Insurance Guide identified it as a serious case of human rights abuses triggered its decision to start a fast-track engagement with the company, Athora NL explains that due to the severity of the issues, it expects concrete commitments and results within a limited timeframe (one year) from Total. If no clear commitments and/or results have been reached by the company within a year from now, Athora NL reported it will look into other options to increase its leverage such as filing a shareholder proposal or exclusion.

As a first step, Athora NL reports it has completed a first meeting with Total, in order to assess the extent to which Total was open for engagement on this issue, and to identify areas on which Athora NL wants to see action. The insurance company explained it has required a follow-up meeting to discuss these concerns in more detail. Depending on Total's willingness to engage and concrete results, Athora NL will decide to change or not the status of Total in its investment universe. If Total is opened to engage and improve its behaviour, its status will remain adaptive (investable in Athora's universe). If Total is not responsive and/or shows unwillingness to engage, Athora NL will change its status to at-risk (excluded from all its sustainable fund range). Athora NL also reports that engagement initiatives were conducted in the past with the company. For instance, Athora NL engaged between 2013 and 2016 with Total about the human rights impacts of its operations in occupied Western Sahara.

In case engagement progress is insufficient or does not lead to the expected results, a decision is taken in Selection Committee meetings on how to proceed. The escalation method applied is determined on a case-by-case basis, depending on the characteristics of the case, the response level of the company and the means Athora NL has at hand. Several steps can be taken by Athora NL including seeking allies, making a public statement, using voting rights to express views, downgrading the ESG score or status of a company to prevent investments in such company, or outright exclusion. A specific reference to use of voting rights is mentioned in Athora's voting policy: "Actiam will periodically evaluate how engagement companies are responding to our engagement efforts and how the companies are progressing on the issues identified during engagement. Actiam may withhold support for management resolutions when companies are insufficiently responsive or making progress too slowly." In addition, Actiam states: "Actiam will also consider filing shareholder resolutions on our own initiative in cases where a company has been unresponsive to engagement efforts or did not make enough progress on an issue that Actiam has raised during intensive engagement"¹⁸⁰.

Also, the results of previous engagements is integrated into Athora's internal screening processes, and can trigger a downgrade of ESG score for companies associated with unsuccessful engagement. Athora NL reports that it uses exclusion as last resort in case of unsuccessful engagement. Evidence provided shows that the insurance company followed up engagement with formal steps, including exclusion when engagement was unsuccessful. In addition, Shell (since 2020) Lundin Energy (since 2009), and Glencore are classified as "high-risk" due to insufficient commitment and capacity to face energy transition, environmental and social issues related to their activities. This means that they are excluded of all sustainable funds of Athora NL, but that through active ownership, they may develop this capacity and reduce their risks so they are still allowed in Athora's responsible products.¹⁸¹ Regarding Shell, Athora NL reported in the questionnaire: "We recently decided to exclude companies with at-risk status from all sustainable funds, effective April 1st. Shell is one of these companies. The remaining positions in Shell will therefore be sold before April 1st".

Finally, six companies out of the eleven selected for this study are on Athora's exclusion list due to violation of human rights and labour rights, and systematic involvement in environmental damage. These companies are: PetroChina, Coal India, Freeport, Rio Tinto, Vale, Vedanta. Athora NL received bonus points for these exclusions, which explains a score higher to 10 (10.6) in this section.

3.5.6 Section C: Tracking progress and outcome and communicating about the results

Athora NL's approach to engagements, including goal setting and timelines is described in its Active Ownership policy.¹⁸² For each of the engagements, Athora NL tracks the progress towards the goals and report about the progress of engagements in its Selection Committee meetings. Athora NL has shared evidence in this regard, including engagement progress reports with details about milestones achieved during engagements with Newmont, Shell and Total.

Athora NL discloses the full list of companies targeted by its "responsive engagements"¹⁸³, which correspond to engagements initiated in response to unacceptable behaviour or specific incidents committed by a company. Glencore is part of this list.

For pro-active engagements, which correspond to engagements aiming to propose solutions with which the companies can move upwards, Athora NL does not report the name of companies engaged, but the number of companies, the topic, the sector and the region. Public reporting also indicates if these engagements are collective engagement as part of joint-investors initiatives.

In Athora's quarterly reports, some examples of engagement are described into more detail, including decision to exclude or continue engagement, however this covers a very limited number of cases.

As part of its engagement, Athora NL requires investee companies to communicate on the circumstances of the human rights abuses with relevant stakeholders, and on the concrete steps taken to address the human rights abuses. Examples have been provided for past engagements conducted with Goldcorp, Shell and Total.

3.5.7 Section D: Providing for or cooperating in remediation

Athora NL reports that remediation is a topic that is currently in development within its policy. It explains in the questionnaire that in the past, remediation was approached within its screening and addressed in engagement talks with companies, but not in a structural manner. Athora provided evidence that the topics of remediation and grievance mechanisms were discussed with Goldcorp for the controversy in Guatemala and Shell for the controversy in Nigeria.

Although the insurance company highlights that remediation is a difficult topic to tackle given the limited influence that insurers can have to ensure that adequate remediation is provided by their investee companies, Athora NL is currently evaluating the possibilities to address the topic in a more structural manner. Processes to support remediation such as dialogue or mediation processes with affected stakeholders, or Human Rights Defenders are not reported.

Overall, for the selected case on which Athora NL has conducted engagement initiatives, meaning Newmont in Guatemala, and Shell in Nigeria, the insurance company provided sufficient evidence that it has questioned repeatedly the company about its human rights risk management processes and has taken mitigating steps as part of its human rights due diligence. Engagement with Total on its activities in Uganda and Tanzania has just started, so it is too soon to assess the outcomes. Consequently, Athora NL did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts. Athora NL is considered to be directly linked to the selected case through its business relationships and is not responsible for remediation, but it should continue to encourage the investee company to do so.

3.5.8 Conclusion

Athora NL achieved a total score of 7.9 out of 10, and tops the ranking among the insurance companies assessed. This score is based on the following conclusions:

- Athora NL has investments in three out of the eleven selected companies, Newmont, Shell and Total. In addition, as of April 2021, six companies out of the eleven companies covered by the scope of this study are on the exclusion list of Athora NL for violation of human rights and labour rights. These companies are PetroChina, Coal India, Freeport, Rio Tinto (for which financial links were identified in the previous report released in 2018), Vale and Vedanta.
- Athora NL has robust processes to screen all its investment portfolio on human rights issues. In addition, the insurance company provided evidence that it has identified and investigated all selected cases or internally or with the support of ESG data providers. Of note, Athora NL was the only insurance company in the panel to provide evidence that it asked its ESG research provider to explain why the controversy related to Total in Uganda and Tanzania was not flagged, despite a high number of NGO reports and high media coverage.
- Athora NL provided evidence of engagement with all the three companies it is financially linked with, including information related to goals to be achieved, timeline, and concrete intermediary steps (milestones). Athora NL is the only company in the panel which decided to start engaging with Total on its activities in Uganda and Tanzania. The insurance company explained that this is an example of engagement decision that has been triggered by concerns raised by stakeholders, including NGOs.
- The insurance company demonstrates that it required investee companies to follow a multi-stakeholder approach as part of the action plan during engagements undertaken. However, it should be noted that since the decision to start engaging with Total on the controversy related to its activities in Uganda and Tanzania was taken very recently, Athora NL has not required the company to follow a multi-stakeholder approach yet.
- Athora NL tracks the progress towards the goals and report about the progress of engagements in its Selection Committee meetings. In addition, the insurance company discloses the full list of companies targeted by its "responsive engagements"¹⁸⁴, which correspond to engagements initiated in response to specific controversies committed by a company. Information provided by Athora NL evidenced that enhanced transparency related to the management of human rights impacts is among the objectives of its engagement with the selected companies.
- As regard remediation, Athora NL explained that it is currently revising its policy to integrate the topic of remediation in a structural manner. On the specific cases, Athora NL provided evidence that the topics of remediation and grievance mechanisms were discussed with Newmont Corporation (former Goldcorp) and Shell.

- Overall, the evidence provided on the selected cases show that Athora NL has deployed significant effort to engage and take mitigating steps. Consequently, it can be concluded that Athora NL did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts. Athora NL is considered to be directly linked to the selected case through its business relationships and is not responsible for remediation, but it should continue to encourage the investee companies to do so.

3.6 CZ

3.6.1 Profile

OWM CZ Groep U.A. (CZ) is a health insurance group based in the Netherlands.¹⁸⁵ CZ provides health insurance through the labels CZ, Nationale-Nederlanden and OHRA to clients in the Netherlands. The insurance company holds a 22% share in the Dutch health insurance market.¹⁸⁶ Insurance premiums and contributions amounted to € 11,068 million in 2020.¹⁸⁷ Assets are not internally managed, asset management is outsourced.¹⁸⁸

3.6.2 Financial relationships with selected companies

As of the most recent filing date, CZ held shares with a total value of € 2.6 million in shares and/or bonds with a total value of € 0.3 million, in two of the eleven selected companies for this research, namely:

- Total
- Newmont Corporation

The insurance company's largest shareholding is in Total, with € 1.9 million, while its only bondholding is in Total too (€ 0.3 million). These amounts of share and bond holdings were provided by CZ. Table 23 provides an overview of CZ's shares and bonds as of the most recent filing date.

Table 23 Overview of CZ's share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Total	France	Shareholdings	1.9	Mar 2021
Total	France	Bondholdings	0.3	Mar 2021
Newmont Corporation	United States	Shareholdings	0.7	Mar 2021
Total			2.9	

Source: CZ's response to Profundo's questionnaire, 25 March 2021.

3.6.3 Assessment and score overview

CZ's achieved of total score of 6.9 out of 10, and is ranked as second best performance among the insurance companies assessed in this study. Within the scope of this research, CZ had financial links with two out of the eleven selected companies for this case study.

It important to note that as of April 2021, five companies out of the eleven companies covered by the scope of this study are on the exclusion list of CZ for sustainability reasons.¹⁸⁹ These companies are: Coal India, Glencore, Rio Tinto, Shale and Vale. In addition, CZ reported in the questionnaire that PetroChina (CNPC) is on its watchlist due to the situation in South Sudan.

CZ shared information, including confidential documents, with the researchers, which has provided detailed insight into how it is engaging with the companies it is financially linked with.

Based on the answers provided by CZ and the supporting evidences, the Table 24 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 24 Overview of CZ's scores

Section		Score (/10)	Weight
A	Identification, qualification and prioritisation of human rights issue(s) and risk(s)	6.7	20%
B	Using leverage to influence investee companies	9.4	40%
C	Tracking progress and outcome by the Insurance company	5.6	20%
D	Providing for or cooperating in remediation	3.3	20%
Total		6.9	

3.6.4 Section A: Identification, qualification and prioritization of human rights issues and risks

CZ screens its investment universe on human rights issues, by applying the UN Global Compact, UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises. For investment in shares, CZ applies a passive investment strategy and follow the ESG index of an external ESG data provider. The ESG-score of the index is updated every quarter. CZ also mentions it monitors news continuously. For investment in corporate bonds, CZ reports that this is done by an external asset manager. For shares screening is explained in the Sectorverdeling aandelenportefeuille CZ, including on human rights issues. Variables taken into consideration in the screening process include the sector, countries of operations and track record associated with the companies under review.

CZ Policy on Socially Responsible Investment¹⁹⁰ also provides criteria for the exclusion of certain companies and countries. This exclusion policy concerns both parties involved in activities considered unacceptable which violate CZ Fundamental Principles, and parties that are not open to dialogue. In its Fundamental Principles, the insurance companies commit to not invest in companies that repeatedly violate the UN Global Compact, the UN Guiding Principles or ILO Standards. The exclusion list applies to all the investment universe of CZ and is updated twice a year.

To identify and investigate the occurrence of controversies related to its investee companies, CZ relies on an ESG research provider which conducts norm-based screening (UNGP, UNGC, ILO Conventions). The findings of the ESG provider are used to consider potential exclusion and decide to open a procedure of engagement.

While evidence (confidential documents shared by CZ) has been provided about the investigation of the selected case of human rights abuses for Newmont in Guatemala, the ongoing controversy in Uganda and Tanzania involving the oil and gas company Total, does not appear to have been flagged by the ESG data provider. However, CZ reports that previous engagement on human rights and land rights was conducted with the company in 2016.

CZ relies on the analysis of its ESG provider to determine the severity of controversies and make a qualification of how the investee company is involved in the abuse(s). However, CZ does not make a qualification of its own relationship, as an insurance company, to the human rights impacts.

3.6.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

In general, CZ reports that it works with its engagement manager on specific themes, and companies to set goals.

For Newmont, CZ provided evidence it has set timelines for its engagement activities, goals to be achieved, and intermediary targets specifically related to the Marlin gold mine Guatemala but also on a broader scope on the company's human rights related practices. Among other topics, the engagement initiatives covered the closure plan of the Marlin gold mine, the company's human rights due diligence processes and policies, local communities 'access to water, as well as processes to ensure stakeholders' consultations in its operations. The engagement initiatives were conducted through various forms, including letters, calls, meeting with management. CZ also reported that "Newmont is a target for follow-up engagement in 2021, in order to assess how its framework affects on the ground performance on human rights and remediation, including in Peru."

As regards Total, CZ reports it has been speaking from already 2016 with the company to discuss human and land rights issues, and met with some company's representatives in charge of human rights issues to improve its understanding of how Total's governance frameworks deal with human rights issues. Evidence provided by CZ shows that various engagement initiatives with the company on human rights, including collaborative engagement with other investors have taken place between 2008 and 2016. CZ also mentions that it encouraged Total to focus on building capacity on managing human rights along the company's value chain, with suppliers, contractors and joint venture partners. The most recent engagement with Total related to human rights issues is related to a controversy in Myanmar, where CZ contacted the company to inquire its position on the current military conflict in the country, the way it ensures that its activities are not contributing to human rights abuses and the role it can play to contribute to the establishment of a peaceful resolution of the conflict. In addition, CZ asked if Total was considering suspending its payments to the government, which is also part of the claims of various human rights campaigners¹⁹¹. However, CZ does not engage with Total on its activities in Uganda and Tanzania while various NGOs have documented and alerted about the serious impacts of the Tilenga project on local communities and biodiversity.

In its engagement with Total on various sustainability topics, CZ provides evidence that it tried different options to increase its leverage in order to reach concrete results from the company. This includes for instance collaboration with other investors to increase leverage, joint-investors statement before Annual General Meeting, contact with the top-management of the company. In case of persisting unsuccessful engagement, CZ explains it uses exclusion as last resort. As of April 2021, five of the eleven companies (Coal India, Glencore, Rio Tinto, Shale and Vale) are excluded from its investment universe for sustainability reasons. In particular, Shell and Vale are excluded for non-compliance with the UN Global Compact, UN Guiding Principles or ILO standards.

3.6.6 Section C: Tracking progress and outcome and communicating about the results

CZ reports it monitors the outcomes of engagement and always follow up, by organising meetings with the companies, on previous engagements according to its engagement goals and the severity of the misconduct/improvements to be made. This is confirmed by evidence provided on engagement with Total and Newmont.

CZ discloses a Socially Responsible Investing policy¹⁹² (Maatschappelijk Verantwoord Beleggingsbeleid), where it explains how sustainability issues including human rights are taken into account into its due diligence, engagement and voting processes. The responsible investment strategy is based on five steps: identification, assessment, governance, monitoring and reporting. CZ published an engagement and voting report¹⁹³ for the first quarter 2020, in which it provides a summary of its engagements and some examples of cases. It engaged, through BMO Global Asset Management, with 141 companies in Q1 2020, including 12 engagements specifically on human rights topics. Few examples related to companies whose name are reported, ("engagement case studies") are reported which include information about the decisions on continuing or concluding the engagement, including some names of company engaged. However, this reporting regards only limited number of cases.

CZ reports that it also aims to foster transparency by requiring investee companies to communicate on the circumstances of the human rights abuses with relevant stakeholders, as well as concrete steps taken to address the human rights abuses. Evidence is provided for Newmont on the selected case in Guatemala (Marlin gold mine). CZ encouraged the company to improve its communication with stakeholders and investors on various topics (i.e. Outcomes of water quality monitoring activities, consultations held with communities). However, CZ does not provide evidence about asking Total to foster transparency about how it is managing stakeholders concerns about its ongoing activities in Uganda and Tanzania.

3.6.7 Section D: Providing for or cooperating in remediation

CZ reports that it generally includes remedy in discussions with companies and provides evidence that the establishment of operational-level grievance mechanisms at all sites was discussed as part of general engagement with Newmont about its human rights risk management system. Evidence shared by CZ related to engagement with Total, does not enable to report that remedy was discussed.

CZ's processes to support remediation such as dialogue or mediation processes with affected stakeholders, or Human Rights Defenders are not reported. However, CZ communicated that it is part of a new general engagement project which will focus on the adoption of human and indigenous rights policies and processes by companies across three sectors (mining, renewables and oil and gas), placing specific emphasis on the protection of human rights defenders throughout industries.

Overall, for the selected case on which CZ has conducted engagement initiatives, meaning Newmont in Guatemala, CZ provided sufficient evidence that it has questioned repeatedly the company about its human rights risk management processes and has taken mitigating steps as part of its human rights due diligence. Consequently, CZ did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts. CZ is directly linked to the selected case through its business relationships and is not responsible for remediation, but it should continue to encourage the investee company to do so.

3.6.8 Conclusion

CZ achieved a total score of 6.9 out of 10, which is the second best performance among the insurance companies assessed in this study.

CZ has investments in two out of the eleven selected companies for this case study, namely Total and Newmont Corporation. In addition, as of April 2021, five companies out of the eleven companies covered by the scope of this study are on the exclusion list of CZ for sustainability reasons.¹⁹⁴ These companies are: Coal India, Glencore, Rio Tinto, Shale and Vale. In addition, CZ reported in the questionnaire that PetroChina (CNPC) is on its watchlist due to the situation in South Sudan.

CZ screens all its investment portfolio on human rights issues and commit to not invest in companies that repeatedly violate the international human rights standards. CZ relies on the analysis of its ESG provider to investigate and determine the severity of controversies. The insurance company provided evidence that it has identified and investigated the selected case related to Newmont in Guatemala, however the controversy related to Total in Uganda and Tanzania was not flagged by its research provider. This raises the question of the methodology used by ESG research providers to determine the severity of human rights controversies and the fact that relying only on ESG research provider(s) for controversy screening is sometimes not sufficient to catch all significant human rights abuses.

CZ provided evidence of engagement with Newmont, including information related to goals to be achieved, timeline, and concrete intermediary steps. As regards Total, CZ reports it has been discussing with the company since 2016 about human rights and land rights issues, and provided evidence of recent engagement with Total related to a controversy in Myanmar. However, CZ does not engage with Total on its activities in Uganda and Tanzania.

CZ provided evidence that it monitors the outcomes of its engagement with investee companies, and provided examples for Newmont and Total. CZ published an engagement and voting report¹⁹⁵ in which it provides a summary of its engagements and few examples of cases. The insurance company demonstrates that it also requires investee companies to improve their transparency related to the management of human rights issues and evidence was provided for Newmont on the selected case in Guatemala.

As regard remediation, CZ reports that it generally includes remedy in discussions with companies and provides evidence grievance mechanisms was discussed as part of general engagement with Newmont.

Overall, for the selected case on which CZ has decided to engage, meaning Newmont in Guatemala, the insurance company has deployed significant efforts to engage and take mitigating steps. Consequently, it can be concluded that CZ did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts. Regarding the case related to Total in Uganda and Tanzania, by choosing to not engage with the company, CZ runs the risk to be in fact facilitating the lack of steps taken by Total to remedy the human rights abuses they are causing or prevent potential other abuses to occur.

3.7 Menzis

3.7.1 Profile

Menzis is a health insurance group with a cooperative structure based in the Netherlands.¹⁹⁶ Menzis provides health insurance through the labels Menzis and Anderzorg to clients in the Netherlands.¹⁹⁷ The insurance company had 2.1 million clients, and insurance premiums and contributions amounted to € 6.630 million in 2020.¹⁹⁸ Assets are externally managed.

3.7.2 Financial relationships with selected companies

As of the most recent filing date, Menzis held shares with a total value of € 3.2 million and/or bonds with a total value of € 0.7 million, in five of the eleven selected companies for this research, namely:

- Coal India
- Newmont Corporation
- Rio Tinto
- Shell
- Total

The insurance company's largest shareholding is in Rio Tinto, with € 1.1 million, while its only bondholding is in Total (€ 0.7 million). These amounts of share- and bondholdings were provided by Menzis. Table 25 provides an overview of Menzis' shareholdings and bondholdings as of the most recent filing date.

Table 25 Overview of Menzis' share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Rio Tinto	United Kingdom	Shareholdings	1.1	Mar 2021
Total	France	Shareholdings	1.0	Mar 2021
Total	France	Bondholdings	0.7	Mar 2021
Shell	Netherlands	Shareholdings	0.7	Mar 2021
Newmont Corporation	United States	Shareholdings	0.4	Mar 2021
Coal India	India	Shareholdings	0.02	Mar 2021
Total			3.9	

Source: Menzis' response to Profundo's questionnaire, 25 March 2021.

3.7.3 Assessment and score overview

Menzis achieved a total score of 3.6 out of 10. The information provided by Menzis for this study, shows that it holds shares and bonds in five of the eleven other companies selected for this research.

Two of the other companies covered by the scope of this study are excluded by Menzis for sustainability reasons, which are PetroChina and Vale.¹⁹⁹ More specifically, both companies have been excluded based on non-compliance with the UN Global Compact principles.

Menzis shared information, including confidential documents, with the researchers, which provided insight into the details of the engagement processes with part of the companies it is financially linked with. Based on the answers provided by Menzis and the supporting evidence, Table 26 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 26 Overview of Menzis' scores

Section	Score (/10)	Weight
A Identification, qualification and prioritisation of human rights issue(s) and risk(s)	5.0	20%
B Using leverage to influence investee companies	3.3	40%
C Tracking progress and outcome by the Insurance company	4.4	20%
D Providing for or cooperating in remediation	1.7	20%
Total	3.6	

3.7.4 Section A: Identification, qualification and prioritization of human rights issues and risks

Menzis screens its investment portfolio on human rights issues, by applying the UN Global Compact, UN Guiding Principles and OECD guidelines for multinational enterprises. Screening is conducted by an external research provider, which screens Menzis' investment universe.²⁰⁰ Menzis explains that screening of the portfolio is done on a quarterly basis. Variables taken into consideration in the screening process include the sector, countries and companies itself, based on compliance with international human rights norms.

Menzis indicates that it uses the services of an external engagement provider to conduct research into the allegations and confirms that all relevant cases were part of the research provided. Additionally, the insurance company provides evidence of investigations conducted by its engagement manager with Rio Tinto, Shell and Total based on human rights issues. However, Menzis does not demonstrate that this research includes an investigation of the severity and makes a qualification of how the investee company is involved. Furthermore, the insurer does not assess its own relationship, as an insurance company, to the human rights impacts.

3.7.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

Out of the five companies it has financial links with, Menzis provided evidence for engagements regarding human rights issues with two of the relevant companies selected for this study, namely Rio Tinto and Total. In addition, the insurance company has carried out an engagement process with Shell regarding the selected case. Menzis uses the services of an external engagement provider for its engagements with companies. Menzis did not show evidence it has engaged with Coal India and Newmont.

For Rio Tinto, Menzis demonstrated engagements since 2012, related to incidents at its operations, but not on the specific case in Myanmar which is part of this study. However, the evidence also shows engagement on a broader scope on the company's human rights related policies and practices. The engagement focused on improving the company's human rights policy framework, as well as its human rights due diligence processes and governance. The evidence shows that goals were set for improving the human rights practices of the company, including more robust human rights due diligence processes as part of its standard social and environmental impact assessments. However, no indication of the timeline for the engagement activities is provided, nor concrete intermediate steps to be achieved as part of the goals. The engagement activities were conducted through letters and meetings, either bilaterally or collectively.

Regarding the engagement activities with Total, Menzis reports engagements with the company since 2016. Again, this does not include a specific focus on the case included for this study, but on other incidents as well as on the company's broader human rights related approach. The example provided shows a collaborative engagement, encouraging oil and gas and mining companies, including Total, to, among others, improve their transparency on human rights policies and processes. However, no evidence is provided of clear goals, a timeline and intermediate steps to achieve the engagement goals set. Recent engagement on another incident (Myanmar) is also provided.

For Shell, Menzis demonstrates engagements since 2010, on the specific case in Nigeria. In particular, Shell was encouraged through the engagement to adopt a multi-stakeholder approach to the clean-up process in Nigeria. In addition, PetroChina and Vale have been excluded from Menzis' investment universe due to breaches of the UN Global Compact principles in the selected cases.

3.7.6 Section C: Tracking progress and outcome and communicating about the results

Both Menzis' and its external engagement provider are in charge of monitoring the progress of engagements with the companies. The monitoring process involves a tracking system with milestones and main activities. For the selected cases of Shell, Rio Tinto and Total, Menzis provided evidence about the monitoring process. Menzis is transparent about its due diligence processes on human rights.

Menzis also publishes an engagement report, in which it provides a summary of engagements and some example cases. It discloses some of the names of companies with which it engages, as well as decisions on whether to continue or stop the engagement, and the results of the engagements.

Menzis confirmed that it requires some of the engaged companies to report on the circumstances of the human rights abuses and the steps taken to mitigate them. The evidence provided shows that this was done for Shell in the Nigeria case, by requesting the company to report on individual spills on its website and adopt the CDP water disclosure framework. For Rio Tinto and Total, transparency was required on issues not related to the selected cases.

3.7.7 Section D: Providing for or cooperating in remediation

Menzis confirms that its external engagement provider has encouraged both Shell and Rio Tinto to enable remediation for affected communities. For other cases, such as with Total, only general human rights issues were discussed and remediation was not specifically addressed. Menzis did not participate in dialogue or mediation processes with affected stakeholders itself.

In general, the evidence provided by Menzis regarding its engagements with three of the five relevant companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. Since the evidence provided for Rio Tinto and Total was not on the specific cases, and engagement with Shell outdated and more recent engagements focused on other ESG topics, it does not allow us to assess whether the insurance company has taken sufficient mitigation steps to address the specific human rights abuses. Therefore, based on the evidence provided, we cannot qualify whether Menzis's relationship to these abuses is one of "contributing to" or if it is merely "directly linked".

Regarding the case related to Coal India and Newmont, Menzis confirmed the cases were flagged and investigated, but not evidence is provided of further steps taken. Although the OECD Guidelines expect financial institutions to prioritize in their due diligence, the eleven selected cases have been evaluated by the Dutch Fair Insurance Guide as relevant cases of human rights abuses in conflict affected/high risk areas, and therefore deserve prioritisation. Since Menzis was not included in the 2018 study, it cannot be determined for which period the financial relationships have been continuing and to what extent the insurer is possibly facilitating the human rights harms. However, by not engaging, Menzis runs the risk to in fact facilitate the lack of steps taken by the companies to remedy the human rights harms in the future.

3.7.8 Conclusion

Menzis achieved a total score of 3.6 out of 10, and is ranked as sixth among the insurance companies assessed in this study.

Menzis has investments in five of the eleven selected companies, namely Coal India, Newmont Corporation, Rio Tinto, Shell and Total. Two companies covered by the scope of this study, PetroChina and Vale, are excluded for sustainability reasons.

Menzis uses an external service provider to screen its investments on potential human rights violations, investigate identified cases, and carry out engagement with companies. Evidence was provided about investigations for all of the five relevant cases. However, no evidence was provided or found that these investigations took into account the severity of the cases and the level of involvement of the investee companies.

The evidence provided by Menzis shows that the insurance company engaged with three of the five selected companies. For two of the companies, engagement was not focused on the cases selected for this study, but either about other human rights issues or the companies' general human rights approach. Only Menzis' engagement with Shell concerned the selected case in Nigeria.

Menzis is transparent about its due diligence processes on human rights and also publishes an engagement report. Disclosure of the names of engaged companies and the results of the engagement is limited. For some of the selected companies, Menzis confirmed that the companies were encouraged to report on the circumstances of the human rights abuses.

For engagements with Shell and Rio Tinto, Menzis provided evidence showing that the company was required to enable remediation for the affected communities. No evidence was found that remediation was addressed in the engagements with other companies.

In general, the evidence provided by Menzis regarding its engagements with three of the five relevant companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. However, the evidence provided does not allow us to assess whether the insurance company has taken sufficient mitigation steps to address the specific human rights abuses.

Regarding the case related to Coal India and Newmont, Menzis confirmed the cases were flagged and investigated, but not evidence is provided of further steps taken. Since Menzis was not included in the 2018 study, it cannot be determined for which period the financial relationships have been continuing and to what extent the insurer is possibly facilitating the human rights harms. However, by not engaging, Menzis runs the risk to in fact facilitate the lack of steps taken by the companies to remedy the human rights harms in the future.

3.8 NN Group

3.8.1 Profile

NN Group N.V. (NN Group) is a financial services company based in the Netherlands. NN Group is primarily active in Europe with additional activities in Japan.²⁰¹ NN Group's services include group and individual life insurance, non-life insurances, and asset management services. In addition, the Group offers retail banking services in the Netherlands.²⁰² NN Group's asset manager NN Investment Partners (NNIP) had a value of € 300 billion assets under management at year end 2020 (of which € 102 billion third party asset management).²⁰³

3.8.2 Financial relationships with selected companies

As of the most recent filing date, the financial research found that NN Group held shares with a total value of € 143 million and/or bonds with a total value of € 47 million, in seven of the eleven selected companies for this research, namely:

- PetroChina
- Lundin Energy
- Newmont Corporation
- Rio Tinto
- Shell
- Total
- Vale

The insurance company's largest shareholding is in Total, with € 90.3 million, while its largest bondholding is in Total too (€ 35.3 million). Table 27 provides an overview of NN Group's shareholdings and bondholdings as of the most recent filing date.

Table 27 Overview of NN Group's share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Lundin Energy	Sweden	Shareholdings	6.7	Sep 2020
Newmont Corporation	United States	Shareholdings	3.2	Nov 2020 – Dec 2020
Newmont Corporation	United States	Bondholdings	0.2	Sep 2020
PetroChina (CNPC)	China	Bondholdings	1.6	Sep 2020
Rio Tinto	United Kingdom	Shareholdings	9.5	Nov 2020
Shell	Netherlands	Shareholdings	32.6	Sep 2020
Shell	Netherlands	Bondholdings	9.9	Sep 2020 – Dec 2020
Total	France	Shareholdings	90.3	Sep 2020 – Dec 2020
Total	France	Bondholdings	35.3	Sep 2020 – Dec 2020
Vale	Brazil	Shareholdings	0.8	Sep 2020
Total			190.1	

Source: Thomson Reuters Eikon, 'Share ownership, multiple securities', viewed in February 2021; Thomson Reuters Eikon, 'Bondholdings, EMAXX', viewed in February 2021.

3.8.3 Assessment and score overview

NN Group achieved of total score of 5.0 out of 10, and is ranked as fourth among the insurance companies assessed in this study. Within the scope of this research, it was found that NN had financial links with seven out of the eleven selected companies for this case study.

While in the 2018 report, financial links with Freeport-McMoRan were identified, the financial research conducted for the period between 2019 and 2021 did not find investments in this company anymore. NN did not confirm the accuracy of data reported in the financial research, but communicated that engagement was ongoing with Freeport-McMoRan. Consequently, Freeport MacMoRan was considered as a relevant case as well and NN Group was assessed on 8 relevant cases. Coal India is on the exclusion list of NN Group for its involvement in thermal coal mining, while in the 2018 report, financial links were found with the company. Another difference with the 2018 report is that no financial links were found with Vedanta and Glencore, although the two companies are not included in NN Group's exclusion list.

NN Group shared information, including confidential documents, with the researchers, which has provided detailed insight into how it is engaging with some of the companies it is financially linked with.

Based on the answers provided by NN Group and the supporting evidences, Table 28 presents the scores per section (A,B,C,D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 28 Overview of NN's score

Section	Score (/10)	Weight
A Identification, qualification and prioritisation of human rights issue(s) and risk(s)	8.3	20%
B Using leverage to influence investee companies	4.4	40%
C Tracking progress and outcome by the Insurance company	4.4	20%
D Providing for or cooperating in remediation	3.3	20%
Total	5.0	

3.8.4 Section A: Identification, qualification and prioritization of human rights issues and risks

The investments of NN Group are managed by its internal asset manager NN Investment Partners (NN IP) and are held for own account or on behalf of clients. NN Group has developed a responsible investment policy that is drawn on various standards and principles including UN Global Compact, the OECD Guidelines for Multinational Enterprises, and the Principles for Responsible Investment. NN Group reports that in 2020, it integrated environmental, social and governance (ESG) factors into 74% of its assets under management and set the target to increase this proportion to 80% by 2023.²⁰⁴ NN Group's approach to human rights is further described in its Human Rights Statement²⁰⁵ and in a guidance document on human rights²⁰⁶ that includes NN Group's expectations from companies on human rights. The document also includes a human rights risk matrix for key sectors that NN Group invests in but has not been updated since 2016.

NN Investment Partners screens its universe on an ongoing basis on potential breaches of human rights-related principles of international standards (such as the UN Global Compact and OECD Guidelines). Screening is both done internally and by external ESG data providers. The outcomes of this screening are evaluated and assessed by the NN IP Controversy & Engagement Council (established in 2017), which provide advice on how to tackle the issue. The insurance company explains that screening includes assessment of high-risk variables including geography, sectors, products and governance context.

NN Group relies on ESG research provider for controversies screening. The severity is assessed by NN IP's Controversy & Engagement Council based on information from external research provider, including information on the severity and recurrence of controversies, as well as on insights from internal analysts. In particular, NN Group's research provider monitors the breaches of international standards (UN Global Compact and OECD Guidelines) on a continuous basis, and notify NN Group where relevant. Then, Controversy & Engagement Council advises the NN IP ESG Committee (chaired by the Chief Investment Officer) on its assessment whether companies are considered to be in violation of NN's norms-based criteria, as well as the key actions that should follow (engage, or restrict).

Evidence that all selected companies have been screened and that NN Group made a qualification of how they are involved in human rights abuse(s) was provided, however not for all the same cases as those selected for this research. For instance, NN Group reports it has flagged a breach of its norms-based criteria for Rio Tinto's operations in Australia which have been linked to the destruction of an important Australian heritage site and related governance issues, but does not mention the case in Uganda and Tanzania.

In addition, it is interesting to note that for three selected cases that have been screened, the outcome of the investigations was that the company assessed was not violating international human rights standards (Global Compact and OECD Guidelines for Multinational Enterprises). Such results regard Total's activities in Uganda and Tanzania, Newmont Corporation (former Goldcorp) in Guatemala and Lundin Energy in South Soudan.

For PetroChina, Freeport-McMoRan, Shell and Vale the screening of the selected cases described in this report conclude to a violation of NN Group's norms-based RI criteria.

While NN Groups made a qualification of how investee companies are involved in human rights abuses, it does not make a qualification on a case-by-case basis of its own relationship, as an insurance company, to the human rights impacts. In its feedback to the questionnaire, NN Group replies that as a general approach, it considers that "insurance companies are directly linked to (potential or actual) negative impacts through their investments in companies, and are not contributing to the negative impacts". This assumption is not in line with the UN PRI, which highlight that an investor's connection to an actual or potential outcome will change over time, and identifies three factors that will determine whether an investor can be said to have "contributed to" or be "directly linked to" a negative outcome: the extent to which an investor facilitated or incentivised human rights harm by another; the extent to which it could or should have known about such harm; the quality of any mitigating steps it has taken to address it.²⁰⁷

3.8.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

In General, NN Group explains that it conducts three different types of engagement. The first one is "controversy engagement" which focuses on companies that severely and structurally breach its norms-based criteria in the areas of governance, human rights, labour, environment, and bribery and corruption. This type of engagement is initiated and assessed by NN IP's Controversy and Engagement Council. The second type of engagement is qualified as "thematic engagement" and focuses on different themes (such as living wage or modern slavery) that have a material impact on society and for which there is potential for beneficial change. The exact engagement themes are selected in consultation with portfolio managers/analysts and external stakeholders. The third one consists in ESG dialogues conducted by analysts and portfolio managers on material ESG topics.

NN Group provided evidence of a formal decision taken to engage with five out of the eight companies it is financially linked with. These companies are PetroChina, Freeport-McMoRan, Rio Tinto, Shell and Vale.

While for the other three companies to which it is financially linked, Lundin Energy, Newmont Corporation and Total, NN Group explained it decided to not engage on the selected cases because the outcome of the controversy screening did not show a violation of its norms-based criteria. This raises questions about the methodology and criteria used to determine the severity of human rights-related controversies, and how decision to engage or not are made. Some of the other insurance companies assessed, have drawn different conclusions from their screening, and did decide to engage on these cases. This is all the more relevant for the case of Newmont in Guatemala, which is a case that was already brought to the attention of NN Group in the 2018 report, and for which no further actions was undertaken by NN Group, despite continuous investment in the company.

NN explains and provides evidence of written goals it has formulated as part of its engagements with PetroChina, Freeport, Rio Tinto, Shell and Vale. Evidence shared about these goals relates to the selected cases described in the methodology of this report, except for Rio Tinto, for which information is not related to the case in Myanmar but to the company's human rights practices in general. As such engagement is done on a broader scope and might have positive outcomes on several Rio Tinto's operations, evidence provided on this case was also taken into consideration in the scoring.

NN Group explains in the questionnaire that these engagements typically take three years and confirms that for the five engagements this timeline was set. However, this was not confirmed by the content of documents shared.

In addition, NN Group provides evidence that four of the companies have taken concrete actions: PetroChina, Freeport, Shell and Vale. However, it is not always clear what concrete intermediate steps were required from the insurance company as part of the engagement goals, except for Shell and Freeport-Mc Moran.

For instance, for Shell, NN Group reports that it has engaged through its external ESG provider, which required concrete intermediary steps to the company including taking steps in relation to the 'emergency measures' relating to water, re-assessing the 15 Shell Petroleum Development Company of Nigeria Limited sites mentioned in the UNEP report and, where required, remediating the sites, carrying out education, training and surveillance to prevent illegal activities.

NN states that in most cases a multi-stakeholder perspective is included in the engagement objectives. This is verified for engagements with Freeport-McMoRan, PetroChina, Shell and Vale. For instance, one of the objectives of the engagement with Vale was to adopt a remediation plan that includes the consultation of all affected stakeholders following the Brumadinho dam failure.

NN Group explains that after 1.5 years, or sooner if necessary, it evaluates engagement progress to recalibrate its engagement objectives or, in case of insufficient progress assess possible options to increase its leverage. Amongst the additional forms of leverage NN reported to use to address human rights issues are: voting in favour of shareholder resolutions related to human rights, voting against board members, seeking collaboration with other investors to increase leverage on human rights abuse(s), and joining initiatives that seek to prevent and mitigate human rights issues. For example, in 2015, NN IP signed up to the UN Guiding Principles Reporting Framework Investor Statement and became in 2018 a member of the Investor Alliance on Human Rights. Finally, NN Group reports that it uses exclusion as a last resort.

For PetroChina, Freeport and Vale, the engagement is still ongoing, and NN Group is waiting for the achievement of the goals set before considering exerting additional forms of leverage. For Shell, the issues addressed as part of the engagement conducted by Sustanalytics on the selected case were considered as resolved in 2020 as the engagement goals were met.

3.8.6 Section C: Tracking progress and outcome and communicating about the results

NN Group describes the different steps of its general engagement strategy in its NN Engagement Approach²⁰⁸ and tracking and evaluating progress on commitments is clearly defined as one specific stage in the engagement process.

NN explains that it monitors progress at regular intervals, and provides evidence/examples for Shell, Vale, PetroChina and Freeport-McMoRan. For instance for Vale, NN Group reports in the questionnaire that "so far, the engagement with Vale has elicited some progress, but there remains room for further improvement to adequately address concerns around tailings dam safety, community engagement, and reparations. Some outstanding areas of concern for investors are around health and safety, cultural and staff, and community engagement and reparation".

NN Group reports that in 2020, it engaged with 667 companies and 17 sovereigns for a total of 1,269 engagement dialogues (up 91% from 2019).²⁰⁹ Some examples of engagement are described into more detail, including intermediate results and decision to exclude or continue engagement, however these examples cover a limited number of cases.

NN explains that improving public disclosure is often part of the engagement goals with investee companies, this might include improving public reporting on Human rights policies, practices and performance. On the selected cases, evidence is provided for Shell and Vale.

3.8.7 Section D: Providing for or cooperating in remediation

NN Group reports that the topic of remediation, including, commitment to adopt grievance mechanisms and provide remedy to correct negative impacts is often part of the Human Rights-related engagement, research and screening. However, the fact that the topic of remediation is integrated to the companies' screening conducted by the ESG research provider does not mean that NN Group systematically tries to use its leverage to influence investee companies to enable remediation in case of human rights abuses. Indeed, NN Group provided evidence only for a limited number of cases: Freeport, Shell and Vale.

For instance, one of the objectives of the engagement with Vale was to adopt remediation plan that includes the consultation of all affected stakeholders following the Brumadinho dam failure. For Freeport, one of the objectives of the engagement process is to require the company to demonstrate that it is managing tailings at Grasberg responsibly and is committed to remediating environmental damage.

NN does not appear to have participated directly in dialogue or mediation processes regarding the adverse impacts described in the selected cases, however one example is provided as part of a collective engagement with Vale. Indeed, NN provided evidence that the collective engagement coordinated by the PRI with Vale, following the tailings dam failure in Brumadinho, included group calls with the company, as well as hearing from community representatives in Brazil affected by incidents.

In general, the evidence provided by NN group regarding its engagements with five of the selected companies shows efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. For the cases related to PetroChina, Freeport-McMoRan, Rio Tinto, Shell and Vale, NN Group provided sufficient evidence that engagement is or has taken place and that it has tried to take mitigating steps. Nevertheless, NN Group is expected to encourage these investee companies to provide remediation for their adverse impacts.

As regards the three companies for which NN Group decided to not engage on the selected cases, namely Total, Lundin Energy and Newmont Corporation, the insurance company should take into consideration that by not engaging with the companies and keeping them in portfolio, it runs the risk to be in fact facilitating the lack of steps taken by the three companies to remedy the human rights abuses they are causing.

3.8.8 Conclusion

NN Group achieved a total score of 5.0 out of 10, and is ranked as fourth among the insurance companies assessed in this study.

NN Group has investments in eight out of the eleven selected companies: PetroChina, Lundin Energy, Newmont Corporation, Freeport-McMoRan, Rio Tinto, Shell, Total and Vale. One company covered by the scope of this study, namely Coal India, is excluded by NN Group for sustainability reasons, which was not the case in the 2018 report. In addition, it is interesting to note that NN Group does not have financial relationships with Glencore and Vedanta anymore, while in the 2018 report respectively €16 million of investments in share and bonds (Glencore), and €3 million of investments in bonds (Vedanta) were found.

NN Group screens its entire investment portfolio on a regular basis on human rights issues. The screening is conducted both internally and with the support of ESG research providers.

Overall, NN Group provided evidence of a formal decision taken to engage with five out of the eight companies it is financially linked with. These companies are PetroChina, Freeport-McMoRan, Rio Tinto, Shell and Vale. Of note, this is a progress since the 2018 report, as NN Group did not provide evidence for engagement with Rio Tinto at that time. For the three remaining cases related to Total, Lundin Energy and Newmont Corporation, NN group decided to not engage as the outcome of the screening by its research provider did not conclude to a breach of international human rights standards.

While NN Group explains in its public documentation that its engagement usually lasts for a three-year period and that progress is evaluated after 1.5 years, or sooner if necessary, limited information was provided on the implementation of this approach on the selected cases. In addition, NN Group disclosed evidence related to intermediary steps set up as part of the engagement process only for Shell and Freeport Mac-Moran.

It is interesting to note that the issues tackled during engagement with Shell on the selected case in Nigeria were considered by Sustainalytics as resolved in 2020, after the company showed progress against 75% of the UNEP recommendations. The threshold to consider an engagement as successful could be questioned, as the company is still involved in legal proceedings and controversial activities impacting the environment of local communities are still ongoing in Nigeria.

NN Group reports that it tracks and evaluates progress in its engagement with investee companies however, public reporting with detailed information by company is done only on a limited number of cases.

As regards remediation, NN Group provides evidence that it has tried to use its leverage to influence companies to enable remediation for three selected cases, Freeport, Shell and Vale. In addition, collective engagement coordinated by the PRI with Vale, included hearings with community representatives affected by the tailing dam failures in Brazil.

Overall, for the five selected case on which NN has decided to engage, the insurance company evidenced that it has deployed some efforts to engage and take mitigating steps. Consequently, it can be concluded that NN Group did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts. However, NN Group should continue to exert his leverage to influence companies to provide remediation. Regarding the case related to Total, Lundin Energy and Newmont Corporation, by choosing to not engage with the companies and keeping them in portfolio, NN Group runs the risk to be in fact facilitating the lack of steps taken by the three companies to remedy the human rights abuses they are causing.

The decrease in scores compared to the 2018 report can be explained by the fact that in 2018, NN Group provided evidence of engagement on six other cases of human rights abuses that were not selected for the case study, but that were proactively proposed by the insurance company and integrated into the scoring. In this research, the insurance companies were given the opportunity to propose up to two other cases of human rights abuses in the extractive industry, before the start of the research project. NN Group did not submit additional cases, neither did it provide sufficient evidence for all the selected cases, which negatively impacted the total score.

3.9 VGZ

3.9.1 Profile

Coöperatie VGZ U.A. (VGZ) is a health insurance group based in the Netherlands.²¹⁰ VGZ provides health insurance through different labels including VGZ, Bewuzt, United Consumers and Univé to clients in the Netherlands. The insurance company holds a 22% share in the health insurance market.²¹¹ Insurance premiums and contributions amounted to € 11.886 million in 2020.²¹² Assets are internally managed.²¹³

3.9.2 Financial relationships with selected companies

As of the most recent filing date, VGZ held shares with a total value of € 16 million and/or bonds with a total value of € 11 million, in five of the eleven selected companies for this research, namely:

- PetroChina (CNPC)
- Glencore
- Rio Tinto

- Shell
- Total
- Vale

The insurance company's largest shareholding is in Total, with € 6.0 million, while its largest bondholding is in PetroChina (€ 4.9 million). These amounts of share- and bondholdings were provided by VGZ. Table 29 provide an overview of VGZ's shareholdings and bondholdings as of the most recent filing date.

Table 29 Overview of VGZ's share and bondholdings in the selected companies

Group	Group country	Holding type	Holding value (in € mln)	Filing date
Glencore	Switzerland	Bondholdings	1.6	Mar-21
PetroChina (CNPC)	China	Shareholdings	0.3	Mar-21
Rio Tinto	United Kingdom	Shareholdings	3.8	Mar-21
Shell	Netherlands	Shareholdings	4.0	Mar-21
Shell	Netherlands	Bondholdings	4.5	Mar-21
Total	France	Shareholdings	6.0	Mar-21
Total	France	Bondholdings	4.9	Mar-21
Vale	Brazil	Shareholdings	1.9	Mar-21
Total			27.0	

Source: VGZ's response to Profundo's questionnaire, 24 March 2021.

3.9.3 Assessment and score overview

VGZ achieved a total score of 1.9 out of 10, which is the second lowest performance (after Allianz) among the insurance companies covered in this study. Within the scope of this research, VGZ had financial links with six out of eleven selected companies for this case study.

It important to note that as of 2020, none of the eleven selected companies for this study are on the exclusion list of VGZ.²¹⁴

VGZ shared information, including confidential documents, with the researchers, which provided insight into the details of the engagement processes with part of the companies it is financially linked with. Based on the answers provided by VGZ and the supporting evidence, Table 30 presents the scores per section (A, B, C, D) as well as the consolidated score of the insurance company. Detailed explanations related to the evaluation of each section are provided in the following paragraphs.

Table 30 Overview of VGZ's scores

Section	Score (/10)	Weight
A Identification, qualification and prioritisation of human rights issue(s) and risk(s)	4.4	20%
B Using leverage to influence investee companies	0.6	40%
C Tracking progress and outcome by the Insurance company	3.9	20%
D Providing for or cooperating in remediation	0.0	20%
Total	1.9	

3.9.4 Section A: Identification, qualification and prioritization of human rights issues and risks

VGZ screens its investment portfolio on human rights issues, by applying the UN Global Compact, UN Guiding Principles and OECD guidelines for multinational enterprises. Screening is conducted by an external research provider, which screens VGZ's full investment portfolio (both internally and externally managed assets).²¹⁵ VGZ explains that companies are monitored on a regular basis on human rights issues, through daily assessments of controversies. At the highest controversy level, further action is initiated. Variables taken into consideration in the screening process include the sector, countries and companies itself.

VGZ indicates that it uses the services of an external research provider to conduct research into the allegations, and provides evidence that PetroChina and Vale have been investigated based on non-compliance with human rights standards. The insurance company demonstrates that this research includes an investigation of the severity and makes a qualification of how the investee company is involved. Furthermore, engagement letters were sent to the companies in order to obtain further information. VGZ reports that investigations have also been performed for the other companies and cases, but no evidence was provided on such research. The insurer does not assess its own relationship, as an insurance company, to the human rights impacts.

3.9.5 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

As part of its due diligence process, VGZ decides on the selection of companies that it will start engagements with. Currently, such engagements are initiated when a company receives the highest controversy score from the external research provider. Out of the six companies it has financial links with, VGZ provided evidence for engagements regarding the selected cases with two of the relevant companies selected for this study, namely PetroChina and Vale.

For PetroChina, VGZ demonstrated engagement since February 2020, related to the incidents at the company's operations and implication in human rights violations, including the specific case in South Sudan. Engagement with Vale also started beginning of 2020 and relates to VGZ's findings that the company has been linked to human rights violations after two of its dams collapsed as well as prior community conflicts. The evidence shows that VGZ asks for a response to the findings on human rights violations and what measures the companies intend to take. However, no specific goals, timeline or intermediate steps were formulated to be achieved by the companies. When asked about the further steps taken, the insurance company indicated that no such steps have been taken yet, because they are currently redesigning their engagement process. Therefore, VGZ took the decision to wait until this process is being finalized, before taking further steps.

For engagements with PetroChina and Vale, VGZ indicates that it does not require that the companies follow a multi-stakeholder approach before finalising the action plan, nor did it take additional steps yet, since engagement is ongoing and currently paused. However, since there were no written goals formulated, this raises questions on how it is assessed whether engagement has been successful and further steps are needed, and whether the monitoring process is sufficiently assessing progress and results. Moreover, none of the selected companies are on VGZ's exclusion list.²¹⁶

3.9.6 Section C: Tracking progress and outcome and communicating about the results

VGZ confirms that it monitors the outcomes of engagement activities, of which the results are published in its Active Ownership report. However, in this report very limited information is provided. For both PetroChina and Vale, it is reported that their expectation is "neutral" and the explanation provided states that they are "in dialogue".²¹⁷

VGZ discloses a Strategic Investment Policy, in which it explains how sustainability issues including human rights are integrated in its due diligence, engagement and voting processes.²¹⁸ In addition, VGZ publishes an annual Active Ownership Report.²¹⁹ In the 2020 report, it publishes all running engagements including names of companies, and for some engagement cases results and progress. VGZ reports open engagements with a total number of 19 companies.²²⁰

VGZ indicates that it does not encourage companies to ensure transparency on the human rights abuses related to the specific cases included in this study.

3.9.7 Section D: Providing for or cooperating in remediation

Regarding remediation, VGZ reports that it has not attempted to use its leverage to influence the selected companies to provide for remediation, for example through the establishment of participation in effective operational-level grievance mechanisms, nor has the insurance companies itself participated in remediation processes regarding the adverse impacts.

In general, the evidence provided by VGZ regarding its engagements with two out of the six relevant companies shows some efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders: for the cases related to PetroChina and Vale, VGZ provided evidence that engagement is taking place. Consequently, VGZ did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts, at these two companies. VGZ is directly linked to these selected cases through its business relationships and is not responsible for remediation, but it should continue to encourage the investee companies to do so by taking additional steps.

Regarding the cases related to Glencore, Rio Tinto, Shell and Total, VGZ indicated that it decided not to engage with the company because of prioritization based on a controversy score. Although the OECD Guidelines expect financial institutions to indeed prioritize in their due diligence, the eleven selected cases have been evaluated by the Dutch Fair Insurance Guide as relevant cases of human rights abuses in conflict affected/high risk areas, and therefore deserve prioritisation. Since VGZ was not part of the insurance companies assessed in the 2018 study, it cannot be determined for which period the financial relationships have been continuing and to what extent the insurer is possibly facilitating the human rights harms. However, by not engaging, VGZ runs the risk to in fact facilitate the lack of steps taken by the companies to remedy the human rights harms in the future.

3.9.8 Conclusion

VGZ achieved a total score of 1.9 out of 10, which is the second lowest performance (after Allianz) among the insurance companies covered in this study.

VGZ has investments in six of the eleven selected companies, namely PetroChina (CNPC), Glencore, Rio Tinto, Shell, Total and Vale. None of the companies covered by the scope of this study are excluded by VGZ.

VGZ uses an external research provider to screen its investments on potential human rights violations and investigate controversies. Evidence was provided showing that two out of the six relevant cases were investigated PetroChina and Vale, determining the severity of controversies and making a qualification of how the investee company is involved in the abuse(s).

VGZ provided evidence for engagements with two of the relevant companies selected for this study, namely PetroChina and Vale. These engagements focused on the companies' implications in human rights violations, including the specific cases included for this study. However, the insurance company indicated that no further steps have been taken yet, because it is currently redesigning the engagement process. Because of prioritization, VGZ decided to not engage with the other selected companies they have financial links with.

Since no written goals were formulated for the respective engagements, this raises questions on how it is assessed whether engagement has been successful and further steps are needed, and whether the monitoring process is sufficiently assessing progress and results.

VGZ indicates that it does not encourage companies to ensure transparency on the human rights abuses related to the specific cases included in this study, nor has it attempted to use its leverage to influence the selected companies to provide for remediation.

The insurance company publishes all running engagements including names of companies, and for some engagement cases results and progress.

In general, the evidence provided by VGZ regarding its engagements with two out of the six relevant companies shows some efforts to influence the companies to improve their responsible conduct and respect human rights of their stakeholders. Consequently, VGZ did not incentivise human rights harm and is not considered to have contributed to the human rights adverse impacts, at these two companies. VGZ is directly linked to these selected cases through its business relationships and is not responsible for remediation, but it should continue to encourage the investee companies to do so by taking additional steps.

Regarding the cases related to Glencore, Rio Tinto, Shell and Total, VGZ indicated that it decided not to engage with the company because of prioritization based on a controversy score. Since VGZ was not included in the 2018 study, it cannot be determined for which period the financial relationships have been continuing and to what extent the insurer is possibly facilitating the human rights harms. However, by not engaging, VGZ runs the risk to in fact facilitate the lack of steps taken by the companies to remedy the human rights harms in the future.

4

Main findings and conclusion

This chapter presents an analysis of each evaluation section of this case study. The insurance companies participated in this research to varying degrees:

- All insurance companies, except Allianz, commented on the existence of investment links identified with the selected companies during the financial research conducted by Profundo;
- ASR stated that the investment data found were not correct, but did not provide further information on the investment links with the selected companies, while NN Group confirmed that the investment links identified were correct but did not confirm the amounts of the investments;
- Achmea, Athora NL, CZ, Menzis and VGZ confirmed or made adjustments to the amounts of the investments found during the financial research, which have been integrated in this report; and
- Aegon commented on the existence of financial links with the selected companies, but did not confirm or adjust the amounts found during the financial research;
- All insurance companies provided feedback to the questionnaire, except for Allianz.

All insurance companies, except Allianz, showed willingness to provide feedback on the questionnaire. However, ASR and VGZ, provided limited disclosure on their internal due diligence processes to respond to the human rights abuses. More specifically, only two insurance companies, CZ and Athora NL, provided evidence for all selected cases they are financially linked with. Such limited disclosure, or evidence of action, has impacted the extent to which actions of the insurers could be evaluated, which is reflected in the scores, where appropriate.

The following sections discuss and compare the insurance groups on their approach towards issue and risk qualification, their engagement processes, their monitoring and transparency, and their attention to remediation. Section 4.6 presents the overall total scores of the insurance companies and summarises the findings.

4.1 Cases presented

The insurance groups were expected to provide evidence of investigation, engagement, and monitoring of engagement for the selected cases they have financial links with. Table 31 provides an overview of number of cases the insurance groups are linked with through their investments in shares and bonds in the eleven companies. In addition, the table indicates the number of companies, out of the eleven selected, which are included in the insurance companies' exclusion list.

Table 31 Number of relevant cases and excluded companies per insurance company

Insurance company	Number of cases financially linked with	Number of selected companies excluded*
Achmea	5	3
Aegon	9	2
Allianz	10	Not assessed
ASR	6	2
Athora NL	3	6
CZ	2	5
Menzis	5	2
NN Group	7	1
VGZ	6	0

* Based on insurance companies' public exclusion lists

4.2 Section A: Identification, qualification and prioritization of human rights issues and risks

This section aims to assess the processes of insurance companies to identify potential or actual human rights issues associated with their investments and the extent to which the selected cases were screened and a risk-based approach to further investigate facts and their human rights impacts was applied.

Table 32 shows the scores per insurance company on Section A on a scale of 0 to 10.

Table 32 Scores for Section A: Identification, qualification and prioritization of human rights issue(s) and risk(s)

Section		Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ	Weight
A	Identification, qualification and prioritisation of human rights issue(s) and risk(s)	8.3	7.2	-	6.7	8.3	6.7	3.9	8.3	4.4	20%

The insurance companies received relatively high scores for Section A compared to other sections. All insurance companies assessed have processes in place to screen their investment portfolios on human rights controversies, typically applying relevant human rights standards including the UNGPs, the UN Global Compact principles and the OECD Guidelines for Multinational Enterprises.

The screening of investee companies is generally done at regular intervals, most often on a quarterly basis, and takes into account relevant high-risk variables such as geography, sector, product, or governance context (including weak rule of law).

All insurance companies assessed use external service providers to screen their investment portfolios and identify controversies. The extent to which insurance companies rely on data and research provided by external parties varies considerably. Some insurance companies (CZ, VGZ, Menzis and Achmea) rely exclusively on a single external research provider to carry out the screening and investigations of controversies. Other insurance companies choose to use multiple research providers, own internal analysts, and/or input by stakeholders and CSOs (NN, Athora NL, ASR, Aegon NL). For instance, NN Group has set up an internal Controversy & Engagement Council which screens investee companies on high controversies and breaches of international standards on a continuous basis.

Overall, reliance on a single source carries the risks that controversies are overlooked if the ESG data provider misses the case, or if the methodology used to determine the severity of a case does not consider stakeholder concerns sufficiently. For instance, regarding the case of Total in Uganda and Tanzania, none of the external research providers adequately flagged the case as a severe human rights controversy, despite a high number of NGO reports raising concerns on serious human rights abuses and high media coverage. Only Athora NL, after being notified through stakeholder input, challenged its external research provider on the case and started an internal investigation.

For most cases, insurance companies provided evidence that they assess the level of involvement of their investee companies in the human rights abuses, however none of the insurance companies assessed their own relationship to the human rights impacts for any of the cases. Some insurance companies like Achmea or NN Group report that their general approach is to consider that, as an insurance company, they are “directly linked” to (potential or actual) negative impacts through their investments in companies. While the OECD Guidelines for institutional investors state that “investors will in most instances not cause or contribute to, but only be directly linked to the adverse impact”²²¹, it also mentions that “in some instances, investors may be contributing to impacts caused by their investee companies and may be responsible for remediation”. More particularly, the Principles for Responsible Investment highlight that an investor’s connection to an actual or potential outcome will change over time, and identifies three factors that will determine whether an investor can be said to have “contributed to” or be “directly linked to” a negative outcome: the extent to which an investor facilitated or incentivised human rights harm by another; the extent to which it could or should have known about such harm; the quality of any mitigating steps it has taken to address it.

Consequently, the fact that insurance companies do not make a qualification of their own relationship to the human rights impacts as part of their investigations on specific cases can be seen as a shortcoming in their due diligence.

4.3 Section B: Using leverage to influence investee companies to prevent and mitigate adverse human rights impacts

This section assesses the features of the engagement conducted by the insurance companies on the selected cases, following the identification of actual and potential human rights adverse impacts associated with the eleven selected companies.

Table 33 shows the scores per insurance company on Section B on a scale of 0 to 10.

Table 33 Scores for Section B: Using leverage to influence investee companies

Section	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ	Weight
B Using leverage to influence investee companies	5.6	3.9	-	2.2	10.6 ^{viii}	9.4	3.3	4.4	0.6	40%

All eight of the insurance companies that responded to the survey provided information regarding engagement activities targeting the companies they have investment links with. However, only Athora NL provided evidence for all of the relevant selected cases, while CZ demonstrated engagements with all relevant companies on human rights issues (although not always related directly to the cases concerned).

Five of the insurance companies provided examples for half or more, and one (VGZ) for less than half of the relevant cases it is financially linked with.

In order to take a decision to engage, eight insurance companies evaluate the controversy based on their own policy, international standards and the research provided by external rating agencies. Therefore, the reason behind not engaging with these companies on the selected cases, or on human rights issues more generally, was often based on prioritization of the companies with the highest risk rating or controversy score. For instance, Aegon NL and NN Group decided not to engage with Lundin Energy and Total based on the selected case in Uganda and Tanzania. Even though the controversies were identified and analysed, they were not flagged by the research provider as a breach of international human rights standards, and the case did not result in an adjustment of the company's ESG rating. Consequently, the insurance companies did not take the decision to engage. It is therefore important that research providers are being challenged by insurance companies to take controversies more seriously. Aegon NL, as well as Athora NL, indicated that they are increasingly doing so.

As part of their engagement process, only two of the insurance companies report that they had formulated written engagement goals to be achieved for all relevant companies (Athora NL and CZ), while six of the insurers did this only for a part of the relevant engagements or none at all. The objectives vary widely in the level of detail; some objectives set clear expectations from a company on a list of specific issues, while in some cases insurance companies report only very general goals for the companies such as "taking measures" to deal with the human rights controversies.

^{viii} Score superior to 10 is due to the bonus points Athora received for excluding a significant number of selected companies for human rights reasons.

Seven of the insurance companies explain for at least half of the relevant engagements their engagement strategy, which is common to be a combination of collaborative (through PRI collaboration platform for instance) and bilateral engagements, through calls, meetings and letters.

Regarding a timeline set for engagement activities to be achieved, three of the insurance companies (Achmea, Athora NL and CZ) demonstrate such timelines for at least half of the relevant engagements. All other insurers (five) only provided a general approach to engagement. For example, Menzis indicates that the timeline depends on whether goals are achieved. Only two of the insurance companies provided details of concrete intermediate steps required from the companies, for more than half of the relevant engagements. NN did this for less than half of the relevant engagements, while the other five insurance companies did not demonstrate this at all.

It is interesting to note that although some insurance companies report in detail about the features of their engagement activities and results, information related to clear goals, timelines and intermediate steps remains limited. Even though this may allow for flexibility during the engagement process, it brings about the risk that the engagement process becomes unguided, unrealistic, not measurable and unbound in time (See 1.3.3).

ASR and VGZ provided very limited evidence on engagement activities. While VGZ indicated that there is no more evidence because it is currently redesigning its engagement process, ASR reported it did engage with the companies but did not provide further details on this. This level of transparency is lower than reported for the 2018 study.

Regarding the threshold for success of an engagement, the information provided raises the question whether the indicator chosen for “engagement success” is sufficiently ambitious. In this way, an engagement process might be closed because it is considered as “successful” while the company has not taken sufficient steps to mitigate and remediate the human rights abuse(s). This concern was also raised in the 2018 report of the Dutch Fair Insurance Guide on the same topic.²²²

Athora NL is the only company in the panel which decided to start engaging with Total on its activities in Uganda and Tanzania. The insurance company explained that this is an example of engagement decision that has been triggered by concerns raised by stakeholders, including NGOs. Also, Aegon NL indicated verbally during a call with the researchers that they are discussing engagement on the case internally.

Multi-stakeholder engagement is considered an important means of implementing due diligence. The insurance companies report to a varying extent that they require the respective companies to follow a multi-stakeholder approach, which is for example done through consultation of local communities. Four of the insurers (Achmea, Aegon NL, ASR and Menzis) show evidence they have required this for less than half of the relevant cases, VGZ for none, while CZ, NN and Athora NL did this for at least half.

Four insurance companies (Achmea, Aegon NL, Athora NL and CZ) showed evidence that they have taken additional steps to increase their leverage, when the engagement goals are not met or when companies are not showing any willingness to improve their practices. The insurers take such steps through increased intensity of engagement actions with a selected company (such as Achmea), through divesting from a relevant company (for example Aegon NL and Athora NL), or through voting against management and collaborating with other investors (CZ). Furthermore, seven of the insurance companies excluded one or more of the selected companies based on sustainability issues before the period of the financial research conducted for this study (prior to 2019).

4.4 Section C: Tracking progress and outcome and communicating about the results

Section C assesses how insurance companies track progress and results of their engagement, and publicly report about it. It also assesses to what extent insurance companies require their investee companies to be accountable and transparent on the way they are coping with the selected cases of human rights abuses.

Table 34 shows the scores per insurance company on Section C on a scale of 0 to 10.

Table 34 Scores for Section C: Tracking progress and outcome by the insurance company

Section	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ	Weight
C Tracking progress and outcome by the insurance company	5.0	3.9	-	3.9	6.7	5.6	4.4	4.4	3.9	20%

Most insurance companies confirmed that they monitor and measure the results of the engagement, including the concrete steps the investee company has committed itself to and the extent to which these goals have been achieved. Most insurance companies provided evidence of this type of monitoring for about half or more of the relevant selected human rights cases. Only Athora NL provided evidence of extensive monitoring for all relevant human rights violations. VGZ indicated in the questionnaire, that monitoring of engagement progress is done, however no further evidence was found or provided in this regard.

All insurance companies have published their policies on human rights, as well as their human rights due diligence processes. The insurance companies disclose the names of companies they have engaged with to varying degrees. Only Achmea and VGZ disclose all the names of companies they engage with. Athora NL discloses the full list of companies targeted by its "responsive engagements"²²³, which correspond to engagements initiated in response to unacceptable behaviour or specific incidents committed by a company, however does not do it for its "pro-active engagements", which correspond to engagements aiming to propose solutions with which the companies can move upwards.

In addition, all insurance companies also publicly disclosed more in-depth information about a small number of engagement cases (most often different cases than those selected for this research), for instance regarding formal decisions to continue or discontinue the engagement, or about the results of the engagement. However, this information is limited to 'interesting' or 'example' cases rather than a comprehensive overview. None of the insurance companies provides such in-depth information on engagement for all the relevant selected human rights violations.

Very few of the insurance companies had clear transparency requirements for the companies they engaged with. Only Athora requires all the selected companies they engage with to be transparent on the circumstances of the human rights abuses with relevant stakeholders, and on the concrete steps taken to address the human rights abuses. CZ and Menzis did provide evidence that some of the engaged companies were required to report on the circumstances of the human rights violations. CZ and NN Group provided evidence that some of the engaged companies were required to also report on the steps they had taken to address the human rights violation.

4.5 Section D: Providing for or cooperating in remediation

This section assesses how the topic of remediation was addressed by the insurance companies as part of their engagement on the selected cases of human rights abuses.

Table 35 shows the scores per insurance company on section D on a scale of 0 to 10.

Table 35 Scores for Section D: Providing for or cooperating in remediation

Section	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ	Weight
D Providing for or cooperating in remediation	1.7	3.3	-	0.0	3.3	3.3	1.7	3.3	0.0	20%

None of the insurance companies were successful in addressing the topic of remediation as part of their engagement on the selected cases of human rights abuses. Indeed, for all insurance companies, Section D is the section where they achieved their lowest scores. Two insurance companies, ASR and VGZ achieved a score of zero. VGZ reported in its feedback to the questionnaire that it does not use its leverage to encourage the investee company to provide remedy. ASR indicated that attention to grievance mechanism is integrated in its screening process, but did not provide evidence it has used its leverage to enabling remediation on the selected cases, which explains the score of zero.

Achmea, Aegon, Menzis and NN Group provided evidence that they have tried to use their influence on investee companies to encourage them to provide remediation for less than half of the relevant selected cases they are financially linked with, while Athora NL and CZ demonstrated they did it for half or more of the relevant selected cases. In addition, Athora NL explained that it is currently revising its policy to integrate the topic of remediation in a structural manner.

None of the insurance companies showed evidence that it has participated directly in dialogues with affected stakeholders or mediation processes to address the topic of remediation for the selected cases. However, NN Group and Aegon provided evidence that dialogue with affected communities in Brazil was conducted on their behalf, as part of their collaborative engagement with Vale following the Brumadinho dam collapse.

Overall, evidence provided by the insurance companies has not enabled Profundo to conclude that insurance companies are or were “contributing” to the human rights abuses in any of the researched cases. There are four different reasons for these conclusions, and different reasons can apply to the same insurance company depending on the case under review.

The first one is when the insurance company provided evidence that it has deployed significant efforts to engage with the selected companies and take mitigating steps as part of its human rights due diligence (for instance Athora NL with Shell and Newmont Corporation). In these cases, it can be concluded that insurance company did not incentivise human rights harm and is not considered to have “contributed to” the human rights adverse impacts, but only as “directly linked” to the adverse impacts.

The second reason applies when insurance companies stated that they had engaged on the selected cases, but provided too limited information or no information at all on their engagement. In this case, Profundo was unable to qualify whether the insurance company's relationship to these abuses is one of “contributing to” or if it is merely “directly linked”.

The third option applies when Profundo was not able to conduct a proper evaluation of the cases and draw a conclusion when the insurance company did not participate to the research. This is the case for Allianz.

Finally, the fourth reason regards the selected cases where the insurance companies decided to not engage following the outcomes of the screening process. This applies to the case of Total in Uganda and Tanzania for instance, where the research showed that all the insurance companies which invest in Total, except Athora NL (following stakeholders' concerns), decided to not engage on the ongoing controversies because it was not flagged as a breach of international human rights standards by their research providers. In this type of cases, it is important to highlight that by not engaging with the companies and keeping them in their portfolio, insurance companies run the risk to be in fact facilitating the lack of steps taken by the companies to remedy the human rights abuses they are causing.

4.6 Conclusion

Table 36 provides an overview of all the scores granted for each specific section, including the total score per insurance company.

Table 36 Scores per insurance group

	Weight (%)	Achmea	Aegon	Allianz	ASR	Athora NL	CZ	Menzis	NN Group	VGZ
A: Identification, qualification and prioritisation of human rights issue(s) and risk(s)	20	8.3	7.2	-	6.7	8.3	6.7	5.0	8.3	4.4
B: Using leverage to influence investee companies	40	5.6	3.9	-	2.2	10.6	9.4	3.3	4.4	0.6
C: Tracking progress and outcome by the insurance company	20	5.0	3.9	-	3.9	6.7	5.6	4.4	4.4	3.9
D: Providing for or cooperating in remediation	20	1.7	3.3	-	0.0	3.3	3.3	1.7	3.3	0.0
Total	100	5.2	4.4	1.0	3.0	7.9	6.9	3.6	5.0	1.9

Based on the scores presented in Table 36, the following points stand out:

- Achmea, Athora NL, and NN Group achieved highest scores (8.3 out of 10) for section A: *Identification, qualification and prioritisation of human rights issue(s) and risk(s)*.
- Athora NL and CZ scores highest for section B: *Using leverage to influence investee companies*, this can be explained by the fact that they engage with all the selected companies they have financial links with and shared evidence about goals and timeline defined as part of their engagements.
- Athora NL and CZ scores highest on section C: *Tracking progress and outcome by the insurance company*.
- All insurance companies achieved low scores in section D: *providing for or cooperating in remediation*, highest scores are displayed by Aegon, Athora NL, CZ and NN Group (3.3 out of 10).
- Overall, Athora NL achieved the highest score with a total score of 7.9 out of 10, followed by CZ with a total score of 6.9. These two insurers are therefore the only insurers to score satisfactory.

5

Recommendations

Based on the findings in this research project, recommendations are made by the Fair Insurance Guide to insurance companies and the Dutch government.

5.1 Recommendations Fair Insurance Guide to insurance companies

Insurance companies with investments in the extractive sector are given the following recommendations, to better manage and address the human rights' risks linked to these investments.

1. **Commit to implementing the UNGPs and the OECD Guidelines and carry out human rights due diligence**

All insurance companies should commit to implementing the UN Guiding Principles on Business and Human Rights and the OECD Guidelines for Multinational Enterprises throughout their entire investment portfolio, as well as with regard to their own operations.

According to these standards, companies, including insurance companies, have the responsibility to cease, prevent and mitigate human rights abuse by conducting human rights due diligence.

Regarding business activities in conflict zones, insurers should carry out 'heightened due diligence', in accordance with the recommendations of the UN Working Group on this issue.^{ix}

2. **Adopt "SMART" goals to pressure companies to halt human rights abuses**

It is crucial that insurance companies set up "SMART" (interim) goals to be achieved by investee companies involved in human rights abuses and consider divestment where these goals are not achieved on time. An objective is SMART if it is specific, measurable, achievable, relevant and time-bound. Overall, the insurance companies shared only limited evidence related to clear goals, timelines and intermediate steps on the selected cases. By not defining such variables in its engagement with investee companies, an insurance company runs the risk that the engagement becomes unguided, unrealistic, not measurable and unbound in time. Goals, timelines and intermediate steps are essential parameters which need to be monitored to ensure the credibility and success of an engagement process. The outcomes of this monitoring will determine if an insurance company should consider to try additional options to increase its leverage on the investee company, if objectives need to be adjusted or renewed or if exclusion or divestment need to be considered.

^{ix} <https://undocs.org/en/A/75/212>

3. **Increase feedback and dialogue with ESG service providers**

The research shows that insurance companies strongly rely on external ESG research providers to conduct portfolio screening and research on controversies. As the outcome of this screening is, most often, the main variable that will trigger the decision of insurance companies to start engaging or not on a specific controversy, it is essential that insurance companies show ability to be critical on the research of their ESG service providers where relevant. This means that insurance companies should be proactive in raising questions and asking explanations to their ESG service providers when they notice strong stakeholders concerns or high media coverage on a controversy which was not flagged by them.

4. **Enhance the integration of stakeholder concerns in the decisions whether or not to engage and to consider engagement as successful**

Insurance companies use a risk-based approach to prioritise cases for engagement. This research shows that their prioritization processes insufficiently consider stakeholder concerns and are therefore not meeting required quality standards. The OECD Guidelines for Institutional Investors highlight the importance to consult several sources to identify severe adverse impacts including: reports from national authorities, credible international organisations, NGOs, media coverage, industry literature, statements from National Contact Points.²²⁴ Missing out on some of these sources, clearly hampers the quality of the prioritization process.

The fact that only one of the insurance companies (Athora NL) has decided to engage with Total on the ongoing controversy related to Total's activities in Uganda and Tanzania, although many concerns were raised by stakeholders and there was high media coverage on this case, is evidence that there is still room for insurance companies to better integrate stakeholders' views in their decisions whether or not to engage. Organising regular stakeholder consultations with civil society organisations demonstrating expertise on the risks associated with the extractive sector, or setting up a grievance mechanism to enable stakeholders to raise their concerns represent interesting options in this regard. Insurance companies should also consider stakeholders' opinions on the progress achieved by investee companies in dealing with the case, before considering to close an engagement.

5. **Ensure the integration of remediation in a more structural manner into the engagement approach**

Adequate remedy is critical for human rights engagements with extractive companies. The low scores achieved by insurance companies on this topic show that there is significant room to better integrate remediation in their engagement approaches. The first step to achieve this could be to ensure that the topic of remediation is tackled in the general engagement policy and strategy of insurance companies. Then, it is fundamental that insurance company ensure an adequate implementation of their engagement strategy by assessing the topic of remediation in a case-specific context.

This assessment requires a prior qualification of the insurance company's own relationship to the human rights' impacts. Indeed, this research shows that insurance companies do not make this qualification or just assume that they are always *directly linked to* human rights abuses while that is also dependent on their own engagement efforts.

In addition, the report shows that insurance companies' participation in dialogue or mediation processes regarding specific cases of human rights abuses remains a very little shared practice which deserves further attention.

6. Raise engagement success threshold

The analysis of selected cases shows that sometimes engagement is considered successful and then closed while not all the recommendations have been implemented by the company and stakeholders keep raising concerns about inadequate remediation to affected communities. By closing an engagement process based on a success threshold that is too low, investors risk moving from being *directly linked to* towards *contributing to* the abuses, by facilitating an environment for the negative impact to continue. It is recommended that insurance companies raise the engagement success threshold and systematically consult affected stakeholders on the status and adequacy of remediation measures implemented by the companies responsible of the human rights abuses.

7. Enhance transparency

Transparency increases accountability of both insurance companies and investee companies towards their stakeholders and society. Therefore, it is important that the insurers and the investee companies are transparent about salient issues c.q. human rights cases they are linked to and their responses to them. The insurers could improve transparency by publishing the details of each engagement with the companies, like the (interim) goals formulated, and the (interim) goals achieved. Transparency about prioritization is also important. If an insurer decides to take no action on the basis of a prioritization, it should indicate how it prioritized, what other controversies outweighed this one, and what it will do with the non-prioritised case. Insurance companies should also commit to always cooperate with legitimate research projects assessing their engagement efforts.

Insurance companies can further promote transparency by the investee companies by requiring the companies to publish a human rights policy and to report on how the policy is implemented, the state of affairs at the sites, actions taken by the company, and progress made on remediation, in case of reported human rights' breaches. Encouraging investee companies to use the UN Guiding Principles Reporting Framework can significantly contribute to increase transparency and accountability on how they respect human rights.

5.2 Recommendations Fair Insurance Guide to the Dutch government and other organisations

5.2.1 Recommendation to the Dutch government

Governments need to show strong leadership to contribute to a better integration of human rights issues in the due diligence processes of investors. The following recommendations can be done in this regard to the Dutch government:

1. **Adopt national human rights due diligence legislation for companies**, including financial institutions, that will set binding requirements for companies to respect human rights in compliance with the UNGPs and OECD Guidelines.
A new law should cover all companies and its subsidiaries in all sectors, requiring due diligence over the entire value chain including its business relationships. It should require the involvement of stakeholder consultation, civil liability, and ensure access to justice and remedy for the victims of adverse impact of business operations, and it should include transparency requirements.
2. Support the adoption of similar, ambitious **human rights due diligence legislation** for companies in the European Union, providing the possibility of (i) civil liability and (ii) to imposing sanctions/financial penalties in the event of non-compliance.

5.2.2 Recommendation to the Parties of the IRBC agreement on international responsible investment in the insurance sector

In the Netherlands, organisations in the insurance sector, civil-society organisations and the Dutch government have signed the IRBC agreement on international responsible investment in the insurance sector. The agreement concerns the pursuance of responsible investment policy by Insurers, including the way they are preventing, mitigating and if necessary, remediating any adverse impact on people, human rights, animals and the environment. The following recommendation can be done in this regard to the different Parties:

1. **Set up a grievance mechanism at sector level as part of the IRBC agreement on international responsible investment in the insurance sector.** The topic of “Access to Remedy” was discussed in 2020²²⁵ as part of the IRBC agreement, and all parties recognised that there is still room for progress to understand how investors can play in this regard. It is essential that stakeholders can access channel to raise concerns, and the creation of a common grievance mechanisms to insurance companies as part of the IRBC would be a good practice to further understand the adverse impacts caused, and understand what is expected from affected stakeholders as remedial actions. In addition, it would enable insurance companies to further develop collectively their knowledge and expertise on this topic.

5.2.3 Recommendation to the Principles for Responsible Investment

Last year, The PRI recently announced that it was setting out a multi-year agenda for its work towards respect for human rights being implemented in the financial system²²⁶. The following recommendation can be done in this regard to the PRI.

1. **Strongly encourage institutional investors to cooperate with legitimate research projects** assessing their engagement efforts to implement the UNGPs.

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Eerlijke Verzekeringswijzer

The Eerlijke Verzekeringswijzer (Fair Insurance Guide Netherlands) is a coalition of the following organisations:

Amnesty International

Milieudefensie

Oxfam Novib

PAX

World Animal Protection

