

Dr Christian Leitz
Head, Corporate Responsibility
UBS Switzerland AG
CH-8098 Zurich
+41 44 234 2957

28 February 2017

Dear Ryan

Thank you for the Open Letter, which you sent, on behalf of BankTrack and others, to the Thun Group of Banks and OECD representatives on 14 February. I am replying on behalf of the Thun Group.

Our Discussion Paper aims to support the ongoing debate generated by the OECD's Responsible Business Conduct project and, more broadly, on how the UN Guiding Principles on Business and Human Rights pertain to the banking sector.

We believe that it is our responsibility to provide insight and detail on how the UN Guiding Principles and human rights due diligence applies within a banking context in order to provide an industry perspective. Naturally, all stakeholders, including non-governmental organizations such as BankTrack, are welcome to provide their views on the topic. It is the purpose of such a dialogue to bring together various diverse and often contrary opinions and interpretations to ideally come to a shared and robust understanding of a complex matter.

We would like to respond individually to a few of the points made in your letter and would welcome the opportunity to discuss them further within existing multi-stakeholder forums such as the Thun Group's annual meeting, which you have previously attended along with other groups.

- You base your Open Letter on the premise that the conceptual approach outlined in our paper - that banks would generally not be considered to be causing or contributing to adverse human rights impacts arising from client activities, but may be directly linked to those impacts - is not appropriate. However, such an approach is also echoed by other respected groups. For example, the OECD RBC project on institutional investing concurs with our interpretation of the importance of "directly linked" with regards to due diligence, leverage and other areas.
- You refer to the December 2013 letter sent by the UN OHCHR to the OECD Working Party which advises that financing can contribute to a human rights impact. We respect and appreciate the UN OHCHR's attempts to develop scenarios to try and illustrate the UN Guiding Principles concepts as they relate to banks. However, we do not agree that the examples within the 2013 letter's "contribute to" section undermine the definitions, analyses and conclusions set out in our Paper. The situation described in the first example, while admittedly posing a high degree of proximity to the adverse impact, falls, in our analysis, within the definition of "directly linked." The remaining examples are not in scope of our Paper as they do not refer to Corporate and Investment banking client scenarios.
- The examples you cite from the UNEP-FI report and the UN's Interpretive Guide to the Corporate Responsibility to Respect Human Rights are referring to impacts arising as a result of an enterprise's own activities rather than that of its clients – so these references fall outside the scope of our Paper.
- Your letter implies that categorizing a business relationship as "directly linked" exonerates a bank from considering and acting upon potential human rights impacts associated with the client in that relationship. That is not the position of the Thun Group. We believe instead that being "directly linked" to an impact, of itself requires a bank to take significant steps, All Thun banks are committed to seeking to prevent and mitigate negative impacts of our client's activities, depending on the level of influence and leverage we have in individual scenarios.

28 February 2017

In conclusion, we believe that our Paper supports the ongoing process of interpreting the application of the UN Guiding Principles to banks. We considered and debated the contents of our Discussion Paper over a long period of time to arrive at a careful and detailed analysis, including illustrative case studies. We look forward to discussing our findings and other pertinent aspects of the debate in ongoing and forthcoming multi-stakeholder forums, including the aforementioned OECD RBC project (of which you are, like some Thun Group banks, a participant) and the annual Thun Group meeting. The Thun Group's approach has always been to encourage stakeholder responses to our views on these complex topics and we would be happy to continue this discussion during 2017, ideally in person to facilitate a dialogue. We would therefore like to reiterate the invitation we extended to you when we sent you the Discussion Paper, i.e. to attend the forthcoming meeting in Thun on 19 June to participate in a multi stakeholder debate on these issues.

Kind regards,

A handwritten signature in black ink, appearing to read 'Christian', with a stylized flourish at the end.

Christian

Convener of the Thun Group of Banks