



**Towards Responsible
Banking**
Summary

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Panellists:

- Ruben Zandvliet: Advisor Environmental, Social, and Ethical Risk & Policies at ABN Amro
- Benjamin Thompson: Program Officer, Business and Human Rights at PAX
- Tessel van Westen: Senior Policy Officer International CSR Unit, Dutch Ministry of Foreign Affairs
- Maryse Hazelzet: Advisory Sustainability at NVB
- Ryan Brightwell: Researcher and Editor at BankTrack

Summary of discussion:

On Thursday (2 November), the T.M.C. Asser Instituut hosted a roundtable on the role of financial institutions in ensuring responsible business conduct and, in particular, fostering respect for human rights. The discussion focused on the [Dutch Banking Sector Agreement on international responsible business conduct regarding human rights](#) (DBSA or Agreement), including details of its key features and the practicalities of its implementation, alongside the theme of responsible banking more generally.

Our panellists explored the background to the DBSA, negotiated and agreed under the auspices of the Social and Economic Council of the Netherlands (SER). The speakers emphasised the cooperative multi-stakeholder approach to decision making (known as the Polder model) under the SER that led to the adoption of the Agreement by its signatories, including the Dutch government, the Dutch Banking Association (NVB), leading Dutch banks, trade union federations and certain international civil society organisations. Each panellist gave their organisation's perspective on the hurdles apparent prior to and since conclusion of the DBSA (such as action on sustainability that appeared to be at odds with competition law constraints), their views of the aims and expectations of the DBSA (including better transparency, due diligence processes and complaints mechanisms) as well as their organisation's role in the DBSA's implementation once agreed.

The speakers discussed the prospects for and challenges in respect of the implementation of the DBSA. While private codes of conduct may be precise and verifiable in terms of the expected conduct, they are often set below the requirements of international law. Further dialogue is required between the parties to ascertain what conduct on the part of the banks is consistent with international obligations. The panellists expressly recognised the advantages of referencing international standards applicable to banking (such as more stringent applicable human rights standards), however in need of implementing provisions they may be. Among other objectives, the Agreement aims at solving the interpretative ambiguities inherent in the UNGPs. There are however many challenges. The speakers explored some of these difficulties, for example relating to the nature of the relationships between banks and their clients, or pertaining to the specificities of the financial industry such as in the case of syndicated loans. Further difficulties discussed included banks' lack of visibility of the value chain in any given transaction and the ethical and compliance issues arising in respect of financing activity affecting certain industries including, for example, the arms trade and sex work.

The discussion also touched on the next steps and specific ongoing processes in implementing the DBSA in order to achieve positive human rights-consistent outcomes. At this point, the panellists stressed the 'work in progress' status of the DBSA and agreed that it would be premature to speculate at this point whether the DBSA will achieve tangible, positive outcomes. There was, however, a general consensus on the need for a continuation of the collaborative multi-stakeholder approach leading to the adoption of the DBSA – a novel approach in the banking industry that was largely seen to be “working”, at least in respect of helping different stakeholders understand one another's concerns. The panellists generally agreed that multi-stakeholder dialogue should permeate the way forward *vis-à-vis* the implementation of the DBSA; ways should be found to further integrate (particularly civil society and local) stakeholders into the monitoring and decision-making processes of banks as well as when deciphering new ways to increase leverage in relation to borrowing companies in order to increase human rights compliance “on the ground”. The suggestion that clear guidelines for banks and companies should be set in respect of their human rights responsibilities was welcomed, and particular tools (including a working group) being set up to this end were noted in the discussion. The speakers emphasised the importance of (and the need to improve) the banking sector's own internal due diligence and client engagement processes.

The roundtable concluded with a lively and thought-provoking discussion in the Q&A section between the speakers and audience touching on a number of topics including (*inter alia* and in addition to some of the themes mentioned above): the desirability, nature and potential functionality of binding due diligence legislation for banks; human rights-related arbitration and applicable law clauses in contracts; and how new digital technologies (such as blockchain) could help address problems and difficulties faced by banks carrying out human rights due diligence.

The panellists viewed the path ahead as undeniably challenging given certain practical questions that need answering and the further work required with respect to the implementation of the Agreement – yet they ultimately agreed that this approach could have the potential to improve banks' human rights performance. The speakers now continue to be engaged in the operationalization of the Agreement, which incorporates a timeframe for evaluating its impact and effectiveness.