

# RESPONSIBLE BUSINESS PRACTICE BY INSTITUTIONAL INVESTORS AS THE BASIC MEANS OF PREVENTING VIOLATIONS OF PUBLIC INTEREST OF CITIZEN INVESTORS

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**Abstract.** The article is devoted to the analysis of the concept of "responsible business conduct" from the point of view of public interest. It is noted that responsible corporate governance has its origins in the concept of "corporate social responsibility", which became widespread in the 1970s in the US and the UK as a result of increased public and consumer attention to the overall image of companies. At the international level, many documents have been adopted to regulate corporate social responsibility. However, not enough has been done in Ukraine to introduce this category into economic activity. The *purpose* of the research is to analyse the legal grounds and theoretical approaches to the formation of the concept of "responsible business conduct" and to present the author's approach to the essence of the concept of "responsible business conduct of institutional investors" from the point of view of the protection of the public interest. According to the purpose of the article, several scientific methods of modern epistemology were used in the scientific research. The methodological basis of the study was the theory of legal cognition developed by prominent experts in the field of investment law. In addition, special research *methods* were used, in particular: comparative – to compare the rules of international and national law; historical and legal – for retrospective analysis of the concept of social responsibility; special legal – for in-depth analysis of the regulations governing the procedure of investment; systematic approach and logical-legal method – to analyse the impact of some factors on the investment activity of individuals and some elements of the formation of logical and specific theoretical and applied conclusions. In *conclusion*, the authors define responsible business as a set of generally accepted norms, rules and principles that are voluntarily implemented by companies in order to achieve the goals of sustainable development of society; they are not part of the national legislation of Ukraine, but their observance indicates a certain business reputation of the business entity. For institutional investors, responsible corporate governance includes two main groups of activities of an institutional investor: "responsible attraction" of funds and "responsible investment" of funds of individual investors. The authors proposed to divide the responsible business conduct of an institutional investor to manifest its social responsibility into "responsible attraction" of funds and "responsible investment" of funds.

**Keywords:** institutional investor, investment, social responsibility, public interest, citizen investor.

**JEL Classification:** G23, E22, M14

## 1. Introduction

Responsible business management originates from the concept of "social responsibility of business". The term "social responsibility" became widespread in the 1970s in the United States and Great Britain due to the public's and consumers' increased attention to the

company's general image. However, various aspects of social responsibility were the subject of activities of organizations and governments as early as the end of the 19th century and, in some respects, even before.

On the territory of Ukraine, magnates and philanthropists of the late 19th century M. Teresh-

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chenko, L. Brodskyi, M. Degterev, B. Khanenko, E. Chikalenko, V. Simyrenko, I. Cherevatenko, G. Galagan, V. Tarnovskyi, H. Alchevska and others significantly contributed to raising the social standard of living of the population of Ukraine: they revived educational institutions, introduced land lending, created the first banks, financed the activities of churches that gave different support to the poor people, etc.

In legal administrative science, this issue is still insufficiently researched. However, in the conditions of the transition to the concept of new administrative law, the attention of administrative scientists is focused on issues of social good, social values, and interests, which prompts them, among other things, to consider the issue of social responsibility of certain spheres of activity, which, among other things, are regulated by the norms of administrative law.

Corporate social responsibility of business (Corporate Social Responsibility) today is the concept of involving social and environmental aspects in business activities based on voluntariness and interaction between various interested parties (groups of influence); it is the contribution of business to achieving the goals of sustainable development, which involves the balancing of economic, social and environmental goals of society, their integration into mutually beneficial prescriptions and approaches; it is a way to improve the company's performance in both the short and long term (Korol, 2016).

Today, the social responsibility of business is considered in three directions. Namely: 1) social responsibility of business is, first of all, a responsible attitude of the company to the goods or services it provides to consumers, employees, or partners; 2) social responsibility is an active position of business in relation to interaction with society, in relation to solving acute social problems; 3) social responsibility is also considered a concept that motivates companies to take into account the interests of society, taking into account the impact of the company's activities on consumers, employees, communities and the environment in all aspects of its activities (Malinovska, Sebastianovich, 2019).

## 2. Theoretical Framework

In independent Ukraine, the first mentions of corporate social responsibility appeared only at the beginning of the 21st century (Zinchenko, Saprykina, 2017). Nowadays, the study of the problems of corporate social responsibility attracts the attention of many scientists. Among the domestic economists, it is possible to distinguish, first of all, the works of the following economists: T. Vasylieva, O. Vasylyk, V. Vorobey, V. Geits, O. Grishnova, M. Dolishnyi,

O. Dudkin, A. Yepifanov, A. Zinchenko, M. Karlina, A. Kolota, S. Korol, S. Litovchenko, N. Nagornoii, V. Osetskyi, L. Petrashka, A. Chukhna, S. Yuriy and others.

The issues of investment activity receive considerable attention in the sciences of public administration, economics and finance. In particular, it is worth noting the works of such scholars as: V. Antonov, N. Bereznichenko, I. Brailovskyi, S. Buryak, O. Verchenko, T. Vitort, V. Volkodav, I. Galii, O. Humenyuk, O. Drugov, S. Zakharin, V. Ivanova, V. Kafarskyi, O. Kakhovych, V. Kirylenko, K. Komarova, O. Krivoruchko, A. Kulikov, T. Kushnir, A. Merzlyak, N. Moskalyuk, R. Novikova, T. Panchyshyn, A. Peresada, V. Pidlisnyuk, N. Savina, G. Skyba, S. Stepanenko, N. Sukurova, O. Sukhii, S. Tereshchenko, O. Khotnyanska, V. Chornobaev and many others.

The problems of international legal regulation of investment relations were addressed by R. Boychuk, O. Bogatyreva, M. Boguslavskyi, O. Vinnyk, S. Voytovych, S. Hlibko, L. Entin, M. Yevteeva, D. Zadykhailo, D. Labin, M. Lukinska, D. Lukyanenko, V. Mamutov, R. Masters, Ya. Paulson, O. Podtserkovny, O. Rybiy, I. Farkhutdinov, M. Sornaraj, V. A. Ustyomenko, V. Shcherbina, etc.; the works of R. Boichuk, Yu. Honcharuk, S. Danko, A. Muzychenka, T. Razina, Yu. Svitlichna, O. Slobodyan, S. Telenyk, G. Fedorov, O. Fesenko dealt with issues of administrative and legal regulation of investment activity; M. Blihar considered investment relations from the point of view of financial law.

The concept of responsible business conduct was borrowed in Ukraine from international legal acts and foreign scientific doctrine. This also marked a change in approaches to the very concept of administrative law in Ukraine. Thus, the term "public administration" was introduced into administrative law doctrine in 2003 by V. Kolpakov. Today it is actively developing in the works of V. Averyanov, V. Bakumenk, O. Bandurka, V. Bevenk, V. Bodrov, V. Galunko, I. Holosnichenko, O. Zabuzhko, Y. Kovbasyuk, A. Kolodiy, T. Kolomoyets, A. Komzyuk, I. Kresina, R. Melnyk, O. Obolenskyi, M. Pasichnyk, H. Petrovy, I. Petrova, N. Pisarenko, O. Pravotorova, Yu. Rymarenko, I. Rozputenko, I. Skvirskyi, S. Stetsenko, V. Troshchynskyi, Z. Toporetska, Yu. Sharov and others.

Consequently, Ukraine is currently experiencing an increased focus on the orientation of economic activity towards the promotion of social values and the strengthening of social responsibility of business.

## 3. Results and Discussion

At the international level, documents have been adopted that substantiate the philosophy of corporate social responsibility (CSR): Agreement

on Social Policy (1991); Rio Declaration on Environment and Development (1992); UN Global Compact (2000); Millenium Development Goals (United Nations Millenium Declaration, 2000); ISO 26000:2010 Guidance on social responsibility (ISO 26000:2010, 2010) and many others.

The UN Global Compact (2000) sets out ten principles to guide business activities in a socially responsible direction. According to its thematic focus, the parties that have ratified the agreement must comply with four principles: human rights, labour, anti-corruption and the environment.

Much has been done in Ukraine to implement these approaches. In particular, the Centre for Corporate Social Responsibility Development and the Community of Socially Responsible Businesses have been established, and the first meeting of the Advisory Council for the Elaboration of the National Concept for the Development of Social Responsibility in Ukraine was held in February 2010.

On 15 March 2017, the Government of Ukraine and the Organisation for Economic Co-operation and Development (OECD) signed an Agreement (in the form of an exchange of letters) on accession to the Declaration on International Investment and Multinational Enterprises, the Relevant Recommendations and Procedural Decisions of the Council of the Organisation for Economic Co-operation and Development. In 2018, an Interagency Working Group was established to ensure the functioning of the National Contact Point. Today, the Ministry of Economy of Ukraine performs the functions of the National Contact Point, whose main goal is to promote the OECD Guidelines for Multinational Enterprises and to consider complaints about violations of the Guidelines by enterprises in Ukraine.

Unfortunately, this document is still awaiting ratification by the Verkhovna Rada of Ukraine (Draft Law No. 0049, 2020). Ukraine's accession to the Declaration on International Investment and Multinational Enterprises, the Relevant Recommendations and Procedural Decisions of the Council of the Organisation for Economic Co-operation and Development (hereinafter referred to as the OECD Declaration) and membership in the OECD Investment Committee will provide significant benefits for the country, namely: this will indicate that Ukraine has introduced international standards of investment activity; it will facilitate the attraction of foreign direct investment by lifting restrictions on industries where foreign investment is prohibited and ensuring national treatment for multinational enterprises in accordance with the system of development of international standards for regulating relations between multinational enterprises and investment recipient countries; it will improve

the competitive environment and influence the introduction and diffusion of innovations; it will promote the implementation of principles and standards of social responsibility of business in accordance with the OECD guidelines for responsible business.

In addition to the Declaration, it is planned to accede to the following documents: C(84)92 – Council Decision on International Investment Incentives and Disincentives; C(86)55/FINAL – the Recommendation of the Council of 16 July 1986 on Member country measures concerning National Treatment of foreign-controlled enterprises in OECD Member countries and based on considerations of public order and essential security interests; C(87)76/FINAL – the Recommendation of the Council of 10 July 1987 on Member country exceptions to National Treatment and National Treatment related measures concerning investment by established foreign-controlled enterprises; C(88)41/FINAL – the Recommendation of the Council on exemptions from national treatment of Member country and related National Treatment measures for the services sector; C(88)131/FINAL – the Recommendation of the Council on exemptions from National Treatment of Member countries and measures related to National Treatment in the field of Official Assistance and Subsidies; C(89)76/FINAL – the Recommendation of the Council on exemptions from National Treatment of Member country and measures related to National Treatment for access to local bank credit and capital markets; C(91)73 – Decision of the Council on Conflicting Requirements being imposed on Multinational Enterprises; C(91)147/FINAL – Third Revised Decision of the Council concerning National Treatment; C(2000)96/FINAL – the Decision on the OECD Guidelines for Multinational Enterprises; C/MIN(2011)12/FINAL – the Recommendation of the Council on Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and HighRisk Areas; C(2013)86 – Resolution of the Council Renewing and Revising the Mandate of the Investment; DAF/INV(2013)15/REV1 – Working Party on Responsible Business Conduct; C(2012)100/REV1/FINAL – Revised Resolution of the Council on Partnerships in OECD Bodies; C(2009)63 – Guidelines for Recipient Country Investment Policies Relating to National Security; DAF/INV/RBC(2015)11/FINAL – Implementation of the Action Plan on Strengthening the Role of National Contact Points.

In addition, on January 24, 2020, the Decree of the Cabinet of Ministers of Ukraine No. 66-p "On Approval of the Concept of Implementation of the State Policy in the Field of Promoting the

Development of Socially Responsible Business in Ukraine for the Period up to 2030" was adopted (Decree of the Cabinet of Ministers of Ukraine No. 66-p.). This document states that socially responsible business defines the responsible behaviour of business entities for the impact of their decisions and actions on society, the natural environment, which contributes to the sustainable development of society, in particular, ensuring the well-being of the population; takes into account the expectations of business entities and society; complies with legislation and international standards of conduct; is integrated into the activities of the subject of economic activity. In Ukraine, socially responsible business is considered in a broader sense. It includes ensuring the well-being of the population through business, provided that other requirements are met (in terms of environmental protection, health protection, etc.).

As part of the action plan for the implementation of the Concept for the Implementation of the State Policy in the Field of Promoting the Development of Socially Responsible Business in Ukraine for the Period up to 2030, approved by the Decree of the Cabinet of Ministers of Ukraine No. 853-r dated 1 July 2020, a document on responsible business conduct for institutional investors was developed (Decree of the Cabinet of Ministers of Ukraine No. 853-p.).

The category of public welfare is closely related to issues of human and social needs that need to be met. Every person's activity is related to the satisfaction of various needs that reflect his spiritual level, social status, place and social role. These needs are mainly created and satisfied through economic activity, the aim of which is to satisfy the material (economic) needs of a person that he cannot satisfy himself. At the same time, it is precisely when people unite for common interests that there is a need for the activities of institutional investors, who are called upon to unite the economic needs of each person and transform them into a single economic interest. In this way, a private person realises his subjective public right to freedom of association, and the private interest becomes collective and later public.

The activities of institutional investors should be aimed at satisfying the economic interests of citizen-investors. This is precisely the essence of responsible business conduct, where the primary concern is not the private interests of an individual, but the public interest of private investors who have entrusted their funds to an institutional investor, relying on its knowledge, experience, business reputation and responsibility.

G. Klimko, V. Nesterenko, L. Kanishchenko and A. Chuhno rightly draw attention to the connection between economic interests and the principle

of economic utility, arguing that this principle determines economic interests and, as a result, is a motive and incentive for social actions aimed at satisfying dynamic systems of individual needs of business entities (Klimko, 2004). Given that the principle of economic benefit reflects their constant desire to multiply profits, there is a high probability of conflict of interests when trying to satisfy the economic needs of various interested parties.

In the following, the economic interests will be considered as a conscious desire of people to obtain economic benefits, which prompts them to take certain actions. The association of people with similar interests within the framework of one institutional investor is the investor's social activity. In the context of administrative law, this text explores the legal relationship between institutional investors and private investors. It examines how institutional investors can ensure compliance with the public interest in their activities through legal means and what legal measures should be taken in case of a potential or actual conflict between the public interest and private economic interests of an institutional investor.

Interaction between institutional investors and individual investors is governed by a set of formal and informal rules. Informal rules are the most responsible way of doing business by an institutional investor.

The analysis of literary sources (Budz, 2012; Butynets, 2015; Kyselytsya, 2013) on social responsibility as a philosophical category allows the following conclusions:

- The responsibility of an entity has a specific dual moral and legal nature, which is expressed in the need to comply with applicable legal norms and fulfil its moral duty;
- the responsibility of an entity reflects its dependence on society and individual stakeholders, which is perceived by it as a determining motive or basis for making decisions and taking certain actions;
- liability implies a balance between the subject's inclination (desire) and ability to make decisions independently, as well as his or her ability to make the right choice and achieve certain results;
- the liability of an entity has two modalities: (1) "liability to" and (2) "liability for".

In today's environment, legal, moral and economic responsibility is inextricably linked to the responsibility of a business entity for the economic, social and environmental impact of its activities on society.

Compliance by a business entity with the principles of the UN Global Compact on human rights, labour relations, environmental protection, and anti-corruption cannot be considered social measures or social investments. Instead, these principles are the basis of socially responsible business.

In practice, the development and implementation of CSR concepts forces companies to be guided by national legal documents and international norms, to take into account new ways of doing business in the global market, as well as modern changes in managerial competences and management approaches. In addition to general instruments of "soft influence" on corporate behaviour, such as the ILO Tripartite Declaration, the UN Global Compact and the OECD Guidelines for Multinational Enterprises, corporate social responsibility is promoted by many other international and intergovernmental organisations.

In a broad sense, CSR implies ethical behaviour of business entities towards society. This means that managers should constantly consider the needs of other stakeholders who have a legitimate interest in the business, not just shareholders.

The United Nations Industrial Development Organisation (UNIDO) provides a multifaceted definition. It states that CSR is "a concept of corporate governance based on the integration of social and environmental issues into business practices and interactions with stakeholders (a way of achieving a balance between economic, environmental and social imperatives – the triple bottom line), while taking into account the expectations of shareholders and stakeholders" (UNIDO).

To facilitate effective compliance with the OECD Guidelines for Multinational Enterprises, the OECD has developed sector-specific guidelines to help companies identify and address the risks of adverse impacts related to the industries in which they operate. The OECD has developed several industry guidelines, for example, responsible business conduct for institutional investors (OECD, 2017).

This document helps implement the due diligence recommendations of the OECD Guidelines for Multinational Enterprises to prevent or eliminate adverse impacts on human and labour rights, the environment and corruption in their investment portfolios. The document identifies key actions for asset managers and asset owners at each stage of the due diligence process, including a discussion of relevant issues such as material issues, existing practices, or guidelines specific to the investment sector that may influence the due diligence approach (OECD, 2017).

So far, responsible business behaviour is voluntary and is implemented in the areas of environmental protection, employment of the population and development of labour relations. Such measures include, for example, the development of social responsibility strategies of business entities, taking into account the interests of the community and society; the creation of a list of social guarantees in terms of medical insurance for employees in order to stimulate labour activity. The above-mentioned

document should be supplemented with measures to create conditions for the accumulation of capital by employees in order to ensure a decent standard of living in old age (accumulation of capital for retirement).

Corporate social responsibility is usually applied to socially important investment projects (health care, environmental protection, etc.) or to projects or business areas that may be harmful to society (production and sale of alcohol, tobacco, gambling, sale of soft drugs). It is an additional instrument for the protection of the public interest, as it allows the public interest to be taken into account at the stage of the creation of a business and to be ensured on an ongoing basis. This makes it possible to minimise the coercive influence of the state instead of ensuring the social responsibility of subjects towards society.

By conducting comprehensive due diligence in line with the OECD Guidelines, investors can not only avoid negative social and environmental impacts of their investments, but also avoid financial and reputational risks, meet the expectations of their clients and beneficiaries, and contribute to global climate change and sustainable development goals.

According to the OECD Guidelines, "comprehensive due diligence" is a process that identifies, prevents, mitigates and considers the so-called "adverse impacts" of the issues covered by the OECD Guidelines (e.g., human rights, labour, environment, bribery and other anti-corruption impacts, etc.). Conducting due diligence under the OECD Guidelines should be a continuous and consistent process aimed at avoiding and eliminating risks related to the issues covered by the OECD Guidelines. However, in the investment context, due diligence is generally considered to be a process undertaken prior to making a particular investment or appointing an asset manager to identify and assess legal and financial risks.

Payment of taxes by business entities to local and state budgets is related to the legal responsibility of business. The use of these funds to finance the social sphere and infrastructure shows the social responsibility not of business, but of the state (Okhrimenko, Ivanova, 2015).

In authors opinion, a responsible business integrates social responsibility into all its processes. Consider the activities of institutional investors. The authors believe that the social responsibility of an institutional investor includes "responsible fundraising" and "responsible investment" of funds:

1) Responsible fundraising means a responsible attitude to the services provided by an institutional investor to individual investors; it means transparency of fundraising processes from individuals and transparency of its investment

processes, public reporting to individual investors on the areas of investment, profitability of each financial instrument and overall profitability of investments, risks arising in the course of the institutional investor's activities, rejection of high-risk but high-return investments, and rejection of high-risk but high-return investments.

2) Responsible investment is the institutional investor's approach to the direction in which funds are invested, taking into account the interests of society, the impact of the company's activities on consumers, employees, communities and the environment in all aspects of its activities. For example, it will be profitable to invest funds in the shares of gambling operators, alcohol and tobacco companies, arms manufacturers and mining companies, but investing in such activities will also mean supporting socially harmful or dangerous activities or activities that cause significant damage to the environment. In Europe and the United States, responsible investment by institutional investors is part of public policy, which individual investors can also learn about. At the same time, a citizen has the right to know about it and decide whether to support socially harmful activities (even in other countries) through an institutional investor.

For example, the Ontario Teachers' Pension Plan is one of the largest private pension funds, investing in various instruments around the world. It has become particularly active in the lottery business and lottery operators in Europe, for example, it owns the Camelot Group lottery operator in the UK and has stakes in lottery operators in a number of other countries. In contrast to the gambling business, the lottery activity has always been socially useful and socially necessary, as a significant part of the lottery operator's profit is invested in social projects due to high business profitability (Toporetska, 2022; Pogoretskyi, Toporetska, 2014).

In light of the OECD recommendations, it is therefore appropriate to speak of a comprehensive review of the activities of institutional investors in terms of responsible fundraising and responsible investment of funds. An institutional investor's policies are often the deciding factor for retail investors in choosing a particular institutional investor to invest their money with.

This information is usually obtained from the institutional investor's due diligence. According to the OECD Guidelines, due diligence includes: 1) identifying actual and potential adverse effects; 2) preventing or mitigating adverse effects; and 3) reporting on how adverse effects are being addressed by (a) tracking performance and (b) communicating results.

Although embedding responsible business practices in an investment institution's policies and management

systems is not a formal component of due diligence under the OECD Guidelines, it helps to ensure the effectiveness and reliability of due diligence activities as identified in the OECD Guidelines.

Conversely, irresponsible business practices worsen the overall quality of the business environment and the competitiveness of companies in international markets and may reduce the ability of enterprises to attract foreign investment. At the same time, the introduction of new investment standards by companies will allow them to become competitive in global markets and attract additional financial resources. Irresponsible business conduct occurs when the economic interests of a business entity do not coincide with the economic interests of its investors.

In a generalised review of 127 studies published between 1972 and 2002 that examined the relationship between socially responsible corporate behaviour and performance, almost half found a positive relationship between corporate social performance and financial performance. Only 7 studies found a negative relationship; 28 studies reported a weak relationship and 20 reported mixed results (Margolis, Walsh, 2003).

Some governments (such as Canada and South Africa) have clarified and made it clear that investors must consider social and environmental issues in these circumstances. In the US, guidance from the Department of Labour states that for plans covered by the Employee Retirement Income Security Act (ERISA), where ESS issues are material to the economic value of the investment, these issues have become part of the fiduciary analysis (Fiduciary duty in the 21st century, 2015).

Recent research by the UNEP Financial Initiative, the UN Global Compact and the Principles for Responsible Investment, the UNEP Sustainable Financial Framework Study, analysed fiduciary duty in Australia, Brazil, Canada, Germany, Japan, South Africa and the UK and concluded that failure to consider long-term drivers of investment value, including environmental, social and governance issues in investment practice, is considered a breach of fiduciary duty (UNEP, 2015).

The OECD Guidelines recognise that the primary responsibility of all companies is to comply with domestic law. Therefore, where the recommendations of the OECD Guidelines conflict with local laws and regulations, they must make reasonable efforts to comply with the recommendations of the OECD Guidelines to the extent that doing so does not violate domestic law.

Investors are challenged by the lack of information about VBB's risk. Out of approximately 80,000 multinational companies in the world, only about 5-10,000 publish reports on environmental and social performance (Report, 2015). In addition,

the effectiveness and investor value of existing non-financial reporting rules and regulations, as well as regulatory oversight and enforcement of these reporting rules, have been questioned (Shorter, 2013). As disclosure on VSE issues remains limited in many cases, investors may have difficulty fully understanding the severity of the VSE risks faced by the companies in their investment portfolio and whether they are responding appropriately.

With regard to responsible investment in general, responsible governance in the context of institutional investment means deep involvement and ongoing monitoring of investee companies by investors. The concept of responsible investor management emerged after the 2008 financial crisis and, in the case of the UK, was first documented with the development of the UK Corporate Governance Code in 2012. In accordance with this code, investors make promises:

- To publicly disclose their policies on how they will fulfil their responsibilities for responsible governance;
- to have a robust policy for managing conflicts of interest related to responsible governance, which should be open to the public;
- to control their investment companies;
- to establish clear guidelines for when and how they will expand their responsible governance activities;
- to cooperate with other investors, if possible;
- to have a clear policy on voting and disclosure of voting information;
- to periodically report on their responsible management and participation in voting (UK Corporate Governance Code, 2012).

Many investors implement exclusion or withdrawal policies related to specific consequences or standards. For example, some investors apply exclusion mechanisms to companies producing cluster weapons, anti-personnel (land) mines, chemical and biological weapons, or coal production. Investors can also review the performance of companies in their portfolios against certain standards, such as the OECD Guidelines or the principles of the UN Global Compact. If companies that violate these standards do not respond to this impact and improve their operations, they may be subject to divestment.

For example, in 2015, the Dutch NPC received a case involving the pharmaceutical company Mylan, whose activities affected human rights. It was related to the sale of its product, which was used for lethal injections in US prisons. In its final statement on the case, the NCP noted that "dialogue as well as disengagement by some appear to have contributed to improvements in Mylan's conduct" (Mylan, 2015).

One of the most high-profile cases referred to the UK NCP was that of oil exploration company Soco, which committed to cease exploration in Virunga National Park, a World Heritage Site in the Democratic Republic of Congo. A large part of this successful

outcome can be attributed to Soco's intensive investor engagement in parallel with the mediation process at the UK National Bank (Soco, 2014).

Currently, the term "responsible investment" is not defined in Ukrainian legislation. The absence of a legislative framework that would regulate these relations is the reason for the diversity of terminology: the name of investments often depends on how investment funds position themselves in the market, for example, "green investments", "sustainable investments", "environmental investments" (Umweltanlagen), "ESG factors"; in the United States, the name "socially responsible investment" is common, a type of investment that largely combines the above-mentioned investment areas.

In the world, the concept of ethical investments is used for this term, i.e., investments in the securities of such joint-stock companies whose activities are not aimed at maximising profit but at achieving social, moral or ethical goals, the implementation of which is carried out in the form of charitable activities, or the principle of whose activity is based on a careful attitude towards nature, for example, the development of energy-saving technologies, water treatment facilities, waste processing, and so forth (Merk, 2014). A separate type of ethical investment is environmental investment, which is considered to be an economic tool used by entities in the field of environmental protection that enter into relationships with each other regarding investment activities in order to limit or eliminate a negative environmental impact and achieve a positive environmental impact (Khopchan, 2009).

It is reasonable to assume that the return on ethical investments may be low, but high returns are not the main goal of investing; the investor receives a subjective sense of satisfaction from the fact that his or her investments bring positive externalities to society. Ethical investing is a manifestation of a high economic culture of investors, so the presence or absence of ethical investments indicates the degree of development of a society and its economic culture.

Ethical investing involves not only investing in certain companies or industries whose activities should generate positive externalities, but also refusing to invest in those companies whose activities generate high negative externalities. The emergence of ethical investing is associated, for example, with the refusal of American investors to invest in military industrial facilities in the mid-19th century (Möhrle, 2016).

For example, according to the Global Sustainable Investment Alliance, 2019, more than 30 trillion USD was managed globally in accordance with responsible investment principles in 2018. According to the latest data, ESG investing is more common in Europe, but in recent years it has developed rapidly in the US.

The US SIF Foundation's 2018 biennial report estimates that 12 trillion USD (38% more than in 2016) is invested in assets subject to ESG strategies (Matos, 2022).

Due to the prevalence of a bank-centric model of financial system development in continental Europe, ethical capital investment was not widely spread, so the first financial and environmental products began to appear in Europe only in the mid-1980s. A characteristic feature of these products was also a bank-centric orientation, as it was the banks that pioneered the niche of ecological products, e.g., Ökobank in Germany, Alternative Bank in Switzerland. The first investment fund "Luxinvest Securarent" was founded in 1989, followed by "Z-Umweltfonds", "Raiffeisen-Umweltfonds", "HCM Eco Tech-Aktienfonds", "CS Oeko-Protect", "Focus Umwelttechnologie Fonds Euroinvest" and others (Möhrle, 2016).

It is reasonable to expect that business entities engaged in the production, promotion and sale of anti-commodities will not be recipients of investments from ethical investors, as anti-commodities (or junk goods) are goods or services that are not useful to consumers. Anti-commodities include alcoholic beverages; tobacco products; narcotic substances; printed materials, audio and video materials promoting violence, racial intolerance, as well as erotic and pornographic materials; computer and gambling games; market services of the entertainment industry, and so on (Petrushtchak, 2008).

#### 4. Conclusions

Responsible business conduct is a set of generally accepted norms, rules and principles that are voluntarily implemented by businesses to achieve

the goals of sustainable development of society; they are not part of the national legislation of Ukraine, but their consideration indicates a certain business reputation of the business entity.

For institutional investors, responsible business conduct includes two main groups of institutional investor activities: "responsible fundraising" and "responsible investment" of individual investors' funds. Responsible business management of an institutional investor is confirmed by the results of a comprehensive audit in accordance with the OECD Guidelines for Multinational Enterprises.

Responsible fundraising implies transparency of accounting and public reporting by an institutional investor to individual investors, when an individual has access to all information related to the institutional investor's activities with the funds raised.

Responsible investment of funds also involves taking into account the public interest in refusing to invest in high-risk projects; diversification of investments; publicly available information on investment areas with an indication of the scope of activities of these projects, or a direct indication of whether an institutional investor invests in projects that may harm society. And vice versa, is it profitable for an institutional investor to invest in socially significant projects?

The responsible conduct of business by an institutional investor should also include risk management business standards that always put the interests of investors (society) first, and only then the interests of the institutional investor itself (for example, with regard to the receipt of bonuses, commissions, payments or other material benefits by the management of the institutional investor for certain investments).

#### References:

- Agreement on Social Policy (1991). Available at: <https://ec.europa.eu/social/main.jsp?catId=521&langId=en&agreementId=1136>
- Budz, G. (2012). Conceptual approaches to the correlation of sensual and rational knowledge of truth in the philosophy and science of antiquity. *Philosophy and political science in the context of modern culture*, Vol. 4(2), p. 64–70.
- Butynets, F., Petrenko, N., & Myroniuk, M. (2015). Dialectical laws of philosophy in accounting. *Problems of the theory and methodology of accounting, control and analysis*, Vol. 3 (24), p. 19–25.
- Camelot Group (2023). Available at: <https://www.camelotgroup.co.uk/>
- Center for the Development of Corporate Social Responsibility (2023). Available at: <https://csr-ukraine.org/#philosoph>
- Community Socially Responsible Business (2023). Available at: <https://uk-ua.facebook.com/SpilnotaSVB/>
- Decree of the Cabinet of Ministers of Ukraine No. 66-p. (2020). On Approval of the Concept of Implementation of the State Policy in the Field of Promoting the Development of Socially Responsible Business in Ukraine for the Period up to 2030. Available at: <https://zakon.rada.gov.ua/laws/show/66-2020-%D1%80#Text>
- Decree of the Cabinet of Ministers of Ukraine No. 853-p. (2020). On Approval of the Action Plan for the Implementation of the Concept of the State Policy in the Field of Promoting the Development of Socially Responsible Business in Ukraine for the Period up to 2030. Available at: <https://zakon.rada.gov.ua/laws/show/853-2020-%D1%80#Text>



- Draft Law No. 0049 (2020). On Ratification of the Agreement (in the form of an exchange of letters) between the Government of Ukraine and the Organisation for Economic Co-operation and Development on Accession to the Declaration on International Investment and Multinational Enterprises, the relevant Recommendations and procedural decisions of the Council of the Organisation for Economic Co-operation and Development. Available at: <https://itd.rada.gov.ua/billInfo/Bills/Card/3041>
- Fiduciary duty in the 21st century (2015). Available at: [www.unepfi.org/fileadmin/documents/fiduciary\\_duty\\_21st\\_century.pdf](http://www.unepfi.org/fileadmin/documents/fiduciary_duty_21st_century.pdf)
- Final Statement by the UK NCP (2014). WWF International complaint to UK NCP about Soco International Plc. Available at: [www.gov.uk/government/publications/uk-ncp-final-statement-wwf-international-and-soco-international-plc-agreement-reached](http://www.gov.uk/government/publications/uk-ncp-final-statement-wwf-international-and-soco-international-plc-agreement-reached)
- Financial Reporting Council (2012). UK Corporate Governance Code. Available at: [www.frc.org.uk/getattachment/e2db042e-120b-4e4e-bdc7-d540923533a6/UK-Stewardship-Code-September2012.aspx](http://www.frc.org.uk/getattachment/e2db042e-120b-4e4e-bdc7-d540923533a6/UK-Stewardship-Code-September2012.aspx)
- Initiative to ensure the stability of stock exchanges (2014). Progress report. Available at: [www.sseinitiative.org/wp-content/uploads/2012/03/SSE-2014-ROP.pdf](http://www.sseinitiative.org/wp-content/uploads/2012/03/SSE-2014-ROP.pdf)
- ISO 26000:2010. Guidance on social responsibility (2010). Available at: <https://www.iso.org/standard/42546.html>
- Khopchan, V. (2009). Consequences of the implementation of investments of environmental importance. *Halytskyi Economic Gazette*, Vol. 2, p. 171–176.
- Klymko, G. (2004). Basics of economic theory: political economic aspect: textbook. Kyiv: Znannia-Press.
- Korol, S. (2016). Social responsibility of business: theory and methodology of accounting: monograph. Kyiv: Kyiv National Trade and Economy University.
- Kyselytsya, S. (2013). Knowledge and faith in the context of the individual's moral choice. *Journal of Kyiv National Language University Ser.: History, Economy, Philosophy*, Vol. 18, p. 91–99.
- Margolis, J., & Walsh, J. (2003). Loves Companies: Rethinking Social Initiatives by Business. *Administrative Science Quarterly*, Vol. 48 (2), p. 268–305.
- Malinovska, O., & Sebastianovich, I. (2019). Corporate social responsibility of business as a factor of sustainable development of socio-economic systems of various levels. *Young Scientist*, Vol. 11 (75), p. 542–545. DOI: <https://doi.org/10.32839/2304-5809/2019-11-75-116>
- Matos, P. (2020). ESG-principles and responsible institutional investing in the world: A critical review of research; trans. from English. Lviv: Publishing House of Lviv Polytechnic.
- Merk, H. (2010). Begriffserläuterungen aus der Finanzwelt. Available at: [www.uni-siegen.de/~merk/downloads/finanzbegriffe.pdf](http://www.uni-siegen.de/~merk/downloads/finanzbegriffe.pdf)
- Möhrle, Ph. Erfolgreiche Vermarktung von Öko-Fonds jenseits der Nische: theoretisch-konzeptionelle Grundlagen und Gestaltungsempfehlungen auf Basis einer vergleichenden Fallstudienanalyse. *IWÖ-Diskussionsbeitrag*, Vol. 98, p. 1–72.
- NCB Netherlands (2016). Closing Statement of Bart Stapert, Advocate, vs. Mylan. Available at: [www.oecdguidelines.nl/documents/publication/2016/4/11/bart-stapert-attorney-vs-mylan](http://www.oecdguidelines.nl/documents/publication/2016/4/11/bart-stapert-attorney-vs-mylan)
- OECD (2017). Responsible business conduct for institutional investors: Key considerations for due diligence under the OECD Guidelines for Multinational Enterprises. Available at: <https://mneguidelines.oecd.org/RBC-for-Institutional-Investors.pdf>
- Okhrimenko, O., & Ivanova, T. (2015). Social responsibility: Education. Manual.
- Ontario Teachers' Pension Plan (2023). Available at: <https://www.otpp.com/>
- Petrushtchak, B. (2008). Theoretical aspects of the "anti-good" category. *Bulletin of Lviv University. The series is economical*, Vol. 40, p. 210–214.
- Pogoretskyi, M., & Toporetska, Z. (2014). Gambling business: history and legal regulation. Kyiv: PH "Dakor".
- Rio Declaration on Environment and Development (1992). Available at: [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_CONF.151\\_26\\_Vol.I\\_Declaration.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_CONF.151_26_Vol.I_Declaration.pdf)
- Shorter, G. (2013). SEC Climate Change Disclosure Guidance: An Overview and Congressional Concerns. Available at: [www.fas.org/sgp/crs/misc/R42544.pdf](http://www.fas.org/sgp/crs/misc/R42544.pdf)
- Toporetska, Z. (2022). State management of gambling and lottery activities and combating crimes related to them: theory and practice: monograph. Kyiv: Alerta.
- UN Global Compact (2022). Available at: <https://www.unglobalcompact.org/news/5005-12-28-2022>
- United Nations Millennium Declaration (2000). Available at: [https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_55\\_2.pdf](https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_55_2.pdf)
- US Department of Labor (2015). Interpretative Bulletin (IB 2015-01) on Economically Targeted Investments (ECI) and Investment Strategies That Consider Environmental, Social, and Governance Factors. Available at: <https://www.dol.gov/sites/dolgov/files/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/etis-and-investment-strategies-that-consider-esg-factors.pdf>

What is CSR? (2023). United Nations Industrial Development Organization (UNIDO). Available at: <https://www.unido.org/our-focus/advancing-economic-competitiveness/competitive-trade-capacities-and-corporate-responsibility/corporate-social-responsibility-market-integration/unido-csr-assistance/integration-ethics-curricula-business-schools/establishing-csr-platforms/>

Zinchenko, A., & Saprykina, M. (2017). Development of CSR in Ukraine: 2010–2018. Kyiv: Yuston Publishing House.

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