



**VAN LANSCHOT  
KEMPEN**

# Exclusion and Avoidance Policy

March 2022



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## 1. Introduction

Van Lanschot Kempen wants to preserve and create wealth, in a sustainable way, for its clients and the society it serves. The minimum standard is “to do no harm”. As part of its sustainability approach, Van Lanschot Kempen does not want to invest in companies and countries involved in activities with severe negative impact on people and/or environment. The activities can be product / services based or related to conduct.

Van Lanschot Kempen adheres to international guidelines and standards and support the OECD Guidelines for Multinational Enterprises, United Nations Global Compact, UN Guiding Principles on Business and Human Rights and the Principles for Responsible Investment. These key norms form the foundation of Van Lanschot Kempen’s ‘Convention Library’, which includes over 100 conventions, treaties and initiatives. Furthermore, Van Lanschot Kempen follows a principle- based framework where relevant.

As the exclusions may be part of other Van Lanschot Kempen policies, e.g., on climate change and government bonds, the exclusion texts in this policy are derived from these policies and reference to the specific policy is given. Moreover, this Exclusion & Avoidance policy relates to all fund managers where Van Lanschot Kempen has influence. Additional exclusions may be applied in Van Lanschot Kempen’s solutions but are outside the scope of this policy.

The remainder of this policy is organised into three sections: Exclusions, Avoidance and Governance & Reporting. The exclusions are predominately based on products and services, whereas the avoidance list is based on business conduct. Furthermore, the (sub)sections elaborate on both the why (reason) and the how behind the exclusions and avoidance. The final section consists of the governance and reporting of this policy.



## 2. Exclusions

### 2.1 Weapons

#### **A. Why exclude**

Van Lanschot Kempen wants to preserve and create wealth, in a sustainable way, for its clients and the society it serves. The minimum standard is “to do no harm”. In addition, Van Lanschot Kempen aims to ensure transparency in its investment. Van Lanschot Kempen has therefore formulated a weapon policy outlining in which situations it will not invest in companies with weapon related activities<sup>1</sup>.

#### **Weapon Policy**

Van Lanschot Kempen will not consider weapon related companies for investment unless:

1. these companies comply with the international weapon related conventions / treaties as mentioned in the Convention Library and
2. these companies operate in compliance with local laws and regulations with regard to the production, storage, trading and use of weapons and
3. the weapons involved are not *controversial* weapons and
4. the weapons are not being provided to countries (or non-state actors) in the EU and/or on the UN sanction list, government violence against citizens (in fragile or failing states, countries in civil war), terrorist organisations and (organised) crime.

#### **1. International weapon-related conventions and treaties**

Van Lanschot Kempen has incorporated specific international weapon related conventions and treaties (see the Convention Library). As a policy, Van Lanschot Kempen will only consider investments in companies that comply with these conventions and treaties. For further guidance, Van Lanschot Kempen can also use other relevant (international) regulations such as, e.g., the Charter of the United Nations, the Common Military List of the European Union and the European sanction list regarding weapons.

#### **2. Local laws and regulations**

Van Lanschot Kempen only invests in companies that operate in compliance with local laws and regulations with regard to the production, storage, trading and use of weapons. Production of weapons is defined as the production and assemblage of final products, semi-manufactured products or weapon systems, ammunition, weapon guidance systems and ammunition carriers. Trading of weapons means direct trading between producer and final user of (parts of) weapons, as well as any form of intermediate trade in these (parts of) weapons.

Furthermore, Van Lanschot Kempen complies with the Dutch Besluit marktmisbruik Wft article 21a<sup>2</sup> (since January 1, 2013). This local law forbids Dutch financial institutions of any direct or indirect support of (foreign) companies (or their majority shareholder) if these companies are producing, selling or distributing cluster ammunition.

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<sup>1</sup> Please note that index related derivatives can be used for portfolio management purposes and they are out of scope for our exclusion policy.

<sup>2</sup> Source in Dutch only: <https://wetten.overheid.nl/BWBR0020417/2017-07-12>

### 3. Controversial weapons

In line with international human right law, Van Lanschot Kempen cannot condone *controversial weapons*. Controversial weapons are weapons of which the effects are disproportional and do not (cannot) distinguish between military and civil targets. Van Lanschot Kempen considers anti-personnel mines, cluster bombs, nuclear, biological and chemical weapons as controversial weapons. Van Lanschot Kempen does not invest in companies that are involved in developing, producing, testing, storing, trading and/or maintaining such weapons and ammunition.

#### Dual use criterion

In relation to controversial weapons, Van Lanschot Kempen applies a *dual use criterion*. This criterion is developed to prevent that companies that only develop, produce, test, store, maintain or trade *generic* parts that can be used in controversial weapons (e.g., steel, electronics, engines, fuel), are considered as being involved in controversial weapons. At the same time the *dual use* criterion guarantees that companies active in developing, producing, testing, storing, maintain and/or trading *essential*<sup>3</sup> parts, are flagged as being involved in controversial weapons.

On cluster munitions and ammunition carriers, Van Lanschot Kempen follows a tertiary involvement approach. This means that Van Lanschot Kempen does not invest in ammunition carriers which are involved in cluster munitions, where Van Lanschot Kempen does not make a distinction between carriers specifically versus not specifically built as delivery platform for cluster munitions. However, the ammunition carrier needs to fulfil the following criteria: (1) Van Lanschot Kempen 's data provider has evidence ('documented examples') that the aircraft/ship can be used as a delivery platform for these weapons; and/or (2) the carrier has been tested and certified for the use of these weapons.

### 4. Weapon trade

As a policy, Van Lanschot Kempen will exclude investments in companies that trade weapons and ammunition (both *conventional* and *controversial*) if there is a substantial risk that the weapons will be used for violence against civilians (in fragile or failing states, countries that are in civil war), terrorist organisations and (organised) crime. Van Lanschot Kempen follows the EU and/or UN sanction list (via weapon embargos) and data from our data provider regarding countries involved in violence against its citizens.

#### B. How to exclude

Van Lanschot Kempen uses data from external data providers for screening of the weapon policy. For the controversial weapons the following screening criteria are being used.

#### **Screening criteria controversial weapons**

- *Anti-personnel landmines*: companies involved in the production of anti-personnel landmines are excluded.
- *Chemical and biological weapons*: companies involved in the production of chemical and biological weapons are excluded.
- *Nuclear weapons*: companies with direct involvement in nuclear weapon production are excluded. Direct involvement is established if the company is involved in the production and/or storage of

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<sup>3</sup> Essential parts are parts that are specifically made for controversial weapons and don't have other – generic – applications.



fissile materials used in/for nuclear weapons. It includes companies with contracts to operate/manage facilities involved in the manufacture of fissile materials for nuclear weapons. This 'nuclear fissile material production' demonstrates that the company involved has a direct link with the actual nuclear weapon.

- *Cluster Munitions*: companies involved in the production of cluster munitions are excluded. The screening criteria for cluster munitions also exclude companies that are screened on the "ownership by/ownership of" criteria.

- Exceptions for exclusion: financial institutions that screen on involvement are not excluded.

### Screening for weapon trade

For the screening for weapon trade Van Lanschot Kempen uses an external data provider. The companies excluded are involved in weapon trade transactions to countries involved in violence against its citizens.

### Removal of companies from the exclusion list

Companies that are no longer involved in the production of controversial weapons nor in weapon trade to certain countries (as mentioned in part 4 above), based on the evidence provided to our data providers, will be reviewed by the Sustainability Centre. The decision to remove the companies from the exclusion list rests with the Sustainability Investment Council of Van Lanschot Kempen.

## 2.2 Tobacco

### A. Why exclude

As Van Lanschot Kempen wants to preserve and create wealth, in a sustainable way, for its clients and the society it serves, the minimum standard is "to do no harm". Next to following international guidelines and standards, Van Lanschot Kempen follows a principles-based framework, which is explained in the next paragraphs. Based on that framework, Van Lanschot Kempen is committed to not investing in companies involved in tobacco products. Overall, tobacco has severe negative impacts on people (deaths and diseases), which are reflected in the first worldwide (legally binding) health treaty for tobacco use reduction and is not essential. In the next section the framework and assessment is being described in more detail.

### B. How to exclude

#### Process

Van Lanschot Kempen used a framework with objective criteria to come to tobacco exclusions. This framework consists of five criteria. The product / service needs to be answered positively (1a-5) - in consecutive order - and the product/service has a high negative impact (criteria 1b). For tobacco, the exclusion criteria have been met through to our assessment. The criteria have been formulated below, followed by the assessment for tobacco, leading to an overall conclusion to exclude tobacco.

1. The product / service has (a) to be, by definition, harmful to people and/or nature / environment; and (b) have a high negative impact on people and/or nature/environment when used as intended.  
*Tobacco: yes, tobacco products are by definition harmful to people and cause severe negative impact on people due to a high number of deaths (more than 8 million people each year according to the*



*WHO<sup>4</sup>), and diseases (tobacco use is one of the main risk factors for a number of chronic diseases, including cancer, lung diseases, and cardiovascular diseases).*

If the product / service is by definition harmful for people and/or nature / environment and has a high or very high negative impact when used as intended, (1) then the following additional criteria (2-5) need to be also answered with 'yes' to be considered for exclusion.

2. The product or service is not essential (no harmful effect if the product would no longer be there).  
*Tobacco: yes, the product is not essential.*

3. There are international treaties / conventions that prohibit the use of the product / service or aim to significantly reduce the use of it.

*Tobacco: yes, there is the first worldwide (legally binding) health treaty for tobacco use reduction, called the WHO Framework Convention on Tobacco Control (WHO FCTC, 2005).*

4. Engagement with the company cannot change the situation towards the equivalent of non-harmful product/service (also considering innovation towards non-harmful products) - if used as intended.

*Tobacco: yes, no engagement possible on the product towards non-harmful (if used as intended).*

5. The company is directly involved in the product or service via production / manufacturing (>0% revenues) or is significantly (>20% revenues) indirectly involved in the product or service from or via the distribution and/or sale (retailers, suppliers).

*Tobacco: yes for companies directly involved and indirectly involved (meeting the thresholds).*

## 2.3 Climate related exclusions: coal mining and tar sands

### **A. Why exclude**

As Van Lanschot Kempen is committed to preserving and create wealth, in a sustainable way, for its clients and the society it serves, the minimum standard is “to do no harm”. Van Lanschot Kempen has assessed several activities which are likely to be detrimental to the transition towards a low-carbon economy and to meeting the Paris Agreement goals. Within the transition, Van Lanschot Kempen believes that coal mining and tar sands have the most adverse impact on climate change and environment and can be substituted (oil and gas are still needed in the transition, albeit ideally in diminishing quantities). As part of its climate change policy, Van Lanschot Kempen is therefore committed to not investing in companies with most of their revenues coming from coal mining and/or tar sands. In the paragraphs below, Van Lanschot Kempen refers to these exclusions. The full climate change policy can be found on Van Lanschot Kempen’s website.

### **B. How to exclude**

#### **Climate related exclusions**

Van Lanschot Kempen has formulated objectives for 2022 for all fund managers where it has influence. It will monitor the progress made and will annually review these objectives – as part of the climate change policy review – to assess if these objectives will need to be updated.

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<sup>4</sup> Tobacco (who.int).

**Coal exclusion**

By end 2022, Van Lanschot Kempen will not invest in pure coal players which obtain the majority of revenues from coal mining. Furthermore, Van Lanschot Kempen sees it as a positive approach if funds have policies to reduce their exposure to coal power generation.

**Tar sands exclusion**

By end 2022, Van Lanschot Kempen will not invest in companies which obtain the majority of revenues from tar sands. Furthermore, Van Lanschot Kempen sees it as a positive approach if funds have policies to reduce their Arctic oil/gas and/or shale oil/gas extraction.

## 2.4 Government bond exclusions

**Why and how to exclude**

Van Lanschot Kempen wants to preserve and create wealth in a sustainable manner, for its clients and society. The minimum standard is “to do no harm”. As a minimum, Van Lanschot Kempen does not want to be involved in countries that violate this, as indicated by sanctions. Additionally, countries which are involved in severe adverse human rights issues and not captured by sanctions will be avoided. As climate change is one of Van Lanschot Kempen’s focus areas, it further only considers government bonds of countries which have ratified the Paris Agreement for investments. For the more sustainable investments, Van Lanschot Kempen only invests in governments bonds of countries which do not have adverse environmental impact (including climate change), do not have adverse human and labour rights issues and do not have weak governance/institutions.



## 3. Avoidance

### 3.1 Why avoid

There are a number of companies that pose a significant reputational, financial or other risk for Van Lanschot Kempen's investments. This risk can be either from a reputational perspective or from an investment perspective. These are companies that structurally violate international conventions and standards and have demonstrated no improvement over the last years. The reason to include them on an Avoidance list is that investment in these companies pose a serious concern and Van Lanschot Kempen would like to raise awareness and to inform our fund managers, both internally and externally, about the possible material, financial and reputational risks of investing in these companies. Next to raising awareness, the aim of the Avoidance list is to avoid investment in these companies where possible.

The difference between exclusion and avoidance is that the exclusion list is *predominately based on products and services (sector level)*, whereas the avoidance list is *largely based on business conduct (company level)*.

### 3.2 How to avoid

Van Lanschot Kempen's starting point is to perform due diligence and identify companies which have the most severe impact on society or environment, and which can be eligible for the Avoidance list. To do that, Van Lanschot Kempen assesses companies with the most severe and widespread controversies. The assessment is done in the following way.

All companies which have controversies with the highest negative impact (called 'MSCI ESG Red Flags' or 'Sustainalytics Controversy level 5') are identified. Van Lanschot Kempen performs the assessment using external data providers (MSCI ESG and Sustainalytics, as these are our main ESG research providers). Van Lanschot Kempen may additionally assess in more detail if the company is willing and able to solve the issue(s) and to prevent future issue(s). The criteria are set up in such a way that they cover both the ability and willingness of the company to change its negative impact. Furthermore, the criteria cover different aspects of the willingness of a company: its commitment, policies, implementation and reporting on the issue. The criteria are summarised below.

#### **Criteria**

1. **Leverage:** is Van Lanschot Kempen invested in a company and can it uses its leverage via engagement?
2. **Company involvement in controversy (ability):** how is the company involved (causing, contributing or linked to); and can the company resolve/remediate the controversy? Finally, is the company able to take measures to prevent similar controversies from happening in the future?
3. **Company willingness**
  - 3.1 **Governance:** is there a Board commitment to resolve the controversy? Has there been Board or management changes or other leadership changes since the incident?
  - 3.2 **Mitigation efforts:** policy setting: did the company create / update policies, targets, etc. regarding the issue, and what is the quality of these policies?



**3.3 Mitigation efforts:** what is the implementation of policies mentioned in 3.2?

Furthermore, we consider other indicators such as controversy outlook (positive, negative, neutral) and company ESG rating in this step.

**3.4 Disclosure / transparency:** does the company provide disclosures about the issue(s) and the progress on resolving it, and what is the quality of these disclosures?

**4. Controversy development:** history and remediation of the issue(s).

**5. Remediation:** status of the remediation of the controversy.

To reach a conclusion, for each (sub)-criteria in criteria 2-5, Van Lanschot Kempen assesses if the direction is positive, negative or neutral. Depending on the overall scoring, the company will or will not be added to the Avoidance list.

Companies are reassessed annually, and depending on the progress made, companies can be added or removed from the Avoidance list. Decision to remove or add companies rests with the Sustainability Investment Council of Van Lanschot Kempen.



## 4. Governance & Reporting

### 4.1 Governance

The Sustainability Centre sets the Exclusion and Avoidance lists. Van Lanschot Kempen's Sustainability Investment Council ("Council") approves the lists. The Council meets on a quarterly basis. The policy will be reviewed annually.

### 4.2 Reporting

After the lists are approved by the Council, the lists are publicly disclosed on the website.

The most recent exclusion and avoidance lists can be found here:

[Responsible investment policies & publications | Kempen](#)



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## OVERIGE INFORMATIE

Van Lanschot Kempen NV is statutair gevestigd aan de Hooge Steenweg 29, 5211 JN te 's-Hertogenbosch, KvK 's-Hertogenbosch nr. 16038212 met btw-identificatienummer NL0011.45.770.B01, is als bank geregistreerd in het Wft-register en staat onder toezicht van De Nederlandsche Bank NV (DNB), Postbus 98, 1000 AB Amsterdam, en de Autoriteit Financiële Markten (AFM), Postbus 11723, 1001 GS Amsterdam.

Eventuele klachten kunt u richten aan Van Lanschot Kempen NV of de afdeling Klachtenmanagement van het hoofdkantoor, Postbus 1021, 5200 HC 's-Hertogenbosch.