

Simplicity Fund and Vanguard Ethically Conscious International Shares Index Fund – Are They Ethical?

Dr Robert Howell
June 2021

1 Introduction

Simplicity is a New Zealand non-profit fund manager owned by the Simplicity Charitable Trust. Are the Simplicity Funds¹ ethical? Simplicity states that they invest with a conscience. They will not make money from companies that cause harm. They will not invest in significant exposure to fossil fuel extraction, tobacco, weapons (including civilian firearms, nuclear and military weapons), landmines, alcohol, nuclear energy, adult entertainment, and gambling. Nor will they invest in companies breaching The UN Global Compact².

The Simplicity Growth Fund is chosen for examination. Because the top investment (31%) of the Fund is Vanguard Ethically Conscious International Shares Index Fund, NZD hedged, and the second largest (17%) is Vanguard Ethically Conscious International Shares Index Fund, AUD, to answer the question, *Is the Simplicity Growth Fund ethical?* requires another question: *Are the Vanguard Ethically Conscious International Shares Index Funds ethical?*

To answer these questions about Simplicity and Vanguard, the question then needs to be asked: are the measures they use, valid? Establishing the validity of a measure means showing the measure actually measures what it claims to measure. There are two steps to take to establish the validity of a measure: content and construct. To be a valid measure, both tests need to be passed. Content validity requires consideration at a conceptual level: does the measure make sense? Construct validity requires empirical considerations: is the application of the measure consistent with other empirical evidence?

To pass the test of content validity, it needs to be shown that the concept of harm, and the UN Global Compact, are comprehensive in covering the human-human and human-Earth moral domain. In addition to comprehensiveness, the concept of harm needs to be rich enough to generate the secondary concepts, schema and sets of obligations to be able to define a relationship that guides behaviour.

To pass the construct test of validity, it needs to be shown that in applying the concept of harm in the selection of companies, that it conforms with other empirical evidence.

In addition to the validity tests, Simplicity needs to follow the four steps that are used by funds that follow best practice:

- 1 a definition of the Fund's values;
- 2 a description of the types of investment that are to be excluded from selection;
- 3 a description of the engagement taken with the companies selected for investment;
- 4 a report on the results of that engagement.

Funds can exclude many types of companies or just a few. The latter choice is because the Fund wants to engage with companies to help reform them. Step 2 is tactical and hence there is not one right way of deciding what to exclude. But it makes Steps 3 (engaging) and Step 4 (reporting) important.

2 The Content Validity Assessment of Harm

What is the moral domain for describing the proper behaviour towards and relationships with human-humans and human-Earth?

2.1 Human-Human Behaviour

New Zealand strongly supported the establishment of the United Nations' Universal Declaration of Human Rights (UDHR). In 1977, New Zealand set up the Human Rights Commission, working under the Human Rights Act (1993). Its purpose is to promote and protect the human rights of all people in Aotearoa New Zealand.

New Zealand was a founding member of the International Labour Organisation (ILO), joining in 1919. It has a unique record on issues of labour and social justice. In 1893 New Zealand became the first country in the world to give women the vote. It was also the first to legislate for an eight hour working day, so paving the way for the ILO's Hours of Work (Industry) Convention in 1919. New Zealand has consistently maintained an active and visible presence in the ILO, and its representatives have attended the annual ILO conferences since 1935. The New Zealand Government served as a deputy member of the ILO Governing Body (GB) between 1990-96 and 1999-2005, and the Government and employers' organization representatives were elected as regular members of the GB for the 2014-17 term³.

In addition to these two sets of obligations, human-human relationships in the context of companies involve its stakeholders. These include the board, management, workers, contractors, suppliers, distributors, and the communities in which the company operates. Are there any other ethical rules that should be included, not captured by UDHR and the ILO? Does harm cover just and favourable conditions of work and just and favourable remuneration? Article 23 in the UDHR, and the ILO conventions cover this and when it is not recognised, harm is being done.

But what about excessive payment to senior management? When these payments significantly contribute to inequality, harm is being done to the community. There is plenty of evidence to show that countries with greater ranges of wealth distribution are worse off in health, wellbeing and happiness indicators⁴. A 2013 study by Bloomberg found that large public company CEOs were paid an average of 204 times the compensation of rank-and-file workers in their industries. By comparison, it is estimated that the average CEO was paid about 20 times the typical worker's pay in the 1950s, with that multiple rising to 42-to-1 in 1980, and to 120-to-1 in 2000⁵.

According to a study by Mishel and Wolfe⁶ growth of CEO compensation 1978 to 2018, inflation-adjusted compensation based on realized stock options of the top CEOs increased 940.3%. The increase was more than 25–33% greater than stock market growth (depending on which stock market index is used) and substantially greater than the painfully slow 11.9% growth in a typical worker's annual compensation over the same period. Measured using the value of stock options granted, CEO compensation rose 1,007.5% from 1978 to 2018.

There is no internationally agreed measure, although the management consultant and writer Peter Drucker, suggested a ratio of 1:20 or 1:25⁷. In 2018 in the USA, it became a requirement under the 2010 Dodd-Frank act to report on the CEO package against the earnings of its median worker's payment, so executive and workers payment ratios should not be a demanding requirement⁸. At the very least the ration should be reported in company reports so that a company is transparent. Can we say that excessive payments to senior executives, contributing to higher levels of inequality, does harm to communities? Yes, but I think that a better concept is one of fairness when it comes executive remuneration. If the notion of harm can be understood as incorporating the notion of fairness on this issue then the notion of harm can be content validated.

The Universal Declaration of Human Rights, Article 21 (3) states: *The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and*

genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures. In observing this right, an ethical organisation will in its lobbying, donations and gifting avoid those organisations and activities which do not observe this right. This right can be derived from the notion of harm.

In regard to the governance of the organisation, an ethical company will need to act with integrity and transparency. In its decision-making, its promotional, marketing and reporting activities it will have statements of its purpose, governance and operational policies, codes of conduct, grievance and complaint procedures, strategies, risk analysis and robust audit procedures involving financial and non-financial behaviour and impacts. In choosing these statements, the company will base these on modern science and validated standards of human-human and human Earth responsibilities. Do these concepts of integrity and transparency follow from the notion of harm? Yes, but it is helpful to say so.

Does the notion of harm capture the moral responsibilities defined in the UDHR and the conventions of the ILO? The short answer is Yes ⁹, but with the provisos that harm is understood so that the principles of fairness, integrity and transparency can be derived and applied from the notion of harm.

2.2 Human-Earth Behaviour

In New Zealand the moral domain includes many aspects of human-animal and human-environment relationships. It is illegal to abuse domestic and farm animals. There is a Wildlife Act regulating the behaviour towards animals, birds, and aquatic life. It is recognised that there is a need for the protection of a number of non-domestic animals and birds, and plants: the Department of Conservation has active programmes to these ends. New Zealand has recognised the interests of trees, such as kauri, and other trees that we give protection from opossums. There is recognition given to endangered species, such as the Maūi Dolphin. New Zealand has acknowledged the need for protection of wilderness locations, such as national parks.

On the Department of Conservation website is a list of the international and multinational Conventions and Agreements that New Zealand has signed up to. These include the

- Antarctic Treaty System,
- the Convention on Biological Diversity,
- the Convention in International Trade in Endangered Species,
- International Union for Conservation of Nature,
- The Convention on the Conservation of Migratory Species,
- Pacific Regional Environmental Programme,
- Ramsar Convention on Wetlands,
- the International Whaling Commission,
- the World Heritage Convention,
- Basel Convention,
- London Convention,
- MARPOL,
- UN Convention on the Law of the Seas,
- UNFCCC,
- Vienna Convention on the Protection of the Ozone Layer ¹⁰.

These practices and Conventions and Agreements provide the content validation for deriving the measures to be used to assess the ethical nature of the human-Earth relationship, and whether the notion of harm includes all the human-Earth moral domain.

From the human-Earth perspective the analysis can be divided into

- a) human-Earth relations overall;
- b) human-animal relations (eg, cattle, fish, birds);
- c) human-other life forms relations;

- c1) plants and forests;
- c2) rivers, lakes, and oceans;
- c3) atmosphere.

2.2a) Overall – ecological footprints

Currently humans are not living within the means of our planet's resources. The world's ecological footprint currently is 1.7 global hectares. The New Zealand footprint is 4.3 global hectares so we are living 2.5 times beyond our ecological footprint. Does the notion of harm cover that aspect of the human-Earth relationship? Yes - living beyond the capacity of the Earth to support human life harms both the Earth and humanity.

2.2b) Animals, fish, and birds

When we eat animals and fish and birds, do we harm them? Peter Singer, in his book *Animal Liberation* ¹¹ argues on utilitarian grounds against eating meat. He states that the boundary between species is arbitrary when one considers the great apes who surpass some humans in their capacities. (Some philosophers add dolphins and call them both living nonhuman persons.) Singer showed that the widespread agricultural industrial practices at that time took no account of animal suffering, and that much of animal experimentation caused unnecessary pain and in a number of cases contributed little to advancing scientific knowledge.

Regarding fish, Culum Brown from MacQuarie University ¹² states that fish are more intelligent than they appear. Their cognitive powers match or exceed those of higher vertebrates including non-human primates. Singer quotes a 1976 inquiry by the British Royal Society for the Prevention of Cruelty to Animals: they concluded that the evidence for pain in fish is as strong as the evidence for pain in other vertebrate animals. For other forms of marine life, the evidence that they have a capacity for pain is less clear. Singer suggests drawing the line between a shrimp and an oyster, although he continued to occasionally eat oysters, scallops, and mussels after he became a vegetarian.

Singer and other individuals and organisations advocating for animals have been successful in moving the public to accept that animals experience pain and are therefore entitled to proper care. This has led to a reduction of animal experimentation, but not in industrial agriculture with its continued harmful living conditions and treatment of animals. The main arguments used by Singer are based on animal abuse. He acknowledges that this does not, logically, prohibit animals who have lived free of all suffering and have been instantly and painlessly slaughtered. But he states that practically and psychologically it is impossible to be consistent in one's concern for nonhuman animals while continuing to dine on them.

The notion of harm of animals does cover making abuse of them immoral. But if a Fund does not include in its exclusions the eating of animals, is it unethical? I would say that being a flexitarian (people who have a primarily vegetarian diet but occasionally eat meat or fish) in New Zealand's current moral climate is most probably acceptable, recognizing the trend towards a greater number of New Zealanders becoming vegetarian. A choice for a Fund is to provide the option of not excluding companies involved in the sale of meat (including fish and bird meat) and the option of excluding them.

2.2c1) Plants and forests

In regard to human-other life forms, eating plants and cutting trees for homes, can be said to causing them harm, but it is not unethical to treat plants and trees like this. We can harm plants but usually the reason is due to wastefulness, or carelessness. However when it comes to endangered species, and biological diversity, New Zealand has signed up to international conventions where species survival is threatened: CITES (the Convention on International Trade in Endangered Species of Wild Fauna and Flora), and the Convention on

Biological Diversity. Where survival of animals and plants is concerned the moral principle of harm can be used to justify protection of them.

We do place value on particular trees, such as *Tane Mahuta*, and other trees that are special for cultural or historic reasons. We give priority to indigenous as opposed to introduced trees and plants. But it is stretching the notion too much say that eating plants and cutting trees for making homes harms them and is hence immoral. The notion of harm needs to be qualified to include permitting the use of plants and trees for human utility, but exclude individual trees and tree types on grounds that incorporate cultural and historical factors and preference is given to indigenous species.

We can say, however, that using the term to include plant and forest ecosystems (like harming the Amazon forests by chopping them down for replacement by palm trees) is causing harm.

According to Ruis and Sotirov et al ¹³ many existing international treaties contain provisions that aim to regulate certain activities related to forests. However, there is no global legal instrument in which forests are the main subject; there is no international treaty in which all environmental, social and economic aspects of forest ecosystems are included, and political trends suggest that such a treaty will not be created in the foreseeable future.

The Forest Stewardship Council claims that its certification is internationally recognised as the most rigorous environmental and social standard for responsible forest management ¹⁴. But FSC-Watch was formed because of the unreliability of the certification ¹⁵. The founders of FSC-Watch include Chris Lang who looked critically at the FSC certification process in Thailand, Laos, Brazil, USA, New Zealand, South Africa and Uganda, and found serious problems in each case. They assert that the governance and control of the FSC has been increasingly captured by vested commercial interest.

However the standards themselves are not under question. In particular, Principle 3 (Indigenous People's Rights); Principle 4 (Community Relations); Principle 5 (Benefits from the forest); and Principle 6 (environmental Values and Impacts), are appropriate for giving the richness to the notion of harm.

Standards New Zealand have published the New Zealand Standard Sustainable Forest Management ¹⁶. The Standards say that their report is intended to be compatible with relevant international and national policy instruments, and has been developed with national and international audiences in mind, as well as for implementation by forest managers in a local or regional setting.

Does the notion of harm capture the moral responsibilities towards forest and plants defined in the? The short answer is a qualified, Yes¹⁷. At an individual level it is ethical to use plants and trees for human utility, except where individual trees and tree types are protected on grounds that incorporate cultural and historical factors and preference is given to indigenous species. At a collective level, if forest behaviour does not accord with the standards of the Forest Stewardship Council, and in particular Principles 3, 4, 5 and 6 (leaving aside the issues of monitoring and auditing those standards), or an equivalent or better set of standards, then the forests are being harmed.

So from the aspect of human-other life forms relations, the notion of harm can be content validated if Simplicity recognises that the notion of harm is understood at least as incorporating reference to CITES, the Convention on Biological Diversity, and to the key principles of human-forest behaviour of the Forest Stewardship Council, or an equivalent or better set of standards, and recognising the need to protect plants and trees on cultural and historical factors, and preference given to indigenous species.

2.2c2) Rivers, lakes and oceans

There is plenty of harm done to many if not most of the world's rivers, lakes and oceans, according to Oceana¹⁸. They identify the following major problems.

- 1 We are taking too many fish out of the water;
- 2 We are polluting our oceans with mercury, oil, and climate changing gases;
- 3 We are trashing marine wild life and special places;
- 4 Destructive and wasteful fishing practices threaten animals and damage the sea floor.

We know that our waters are in poor shape – threatened by pollution including damage from plastics, over fishing and destructive fishing practices, and sediment erosion.

The Global Biodiversity Outlook 5 reported on progress to the 20 Aichi biodiversity Targets agreed in 2010. The Global Biodiversity Outlook 5 found that despite progress in some areas, natural habitats have continued to disappear, vast numbers of species remain threatened by extinction from human activities, and \$500bn (£388bn) of environmentally damaging government subsidies have not been eliminated¹⁹. The targets were based on the Convention on Biological Diversity, which New Zealand has adopted, and describes the standards and processes that each country should adopt in the conservation and protection of biodiversity²⁰. Fresh water and oceans are included²¹. The Convention on Biological Diversity relies on individual countries for the implementation of its standards.

However, according to Dr Mike Joy²²

there is no one measure that will cover everything. (Most developed countries use some forms of biomonitoring to assess health, but these are by necessity regional. There are many limits for chemicals, thousands of them and they vary hugely and are often based on guesses because they likely interact with each other. The only thing close to an international measure is nitrate concentration. There is an international drinking water limit of around 11 ppm, (but China has less than 1ppm standard) but the ecosystem health protection level is around 1 ppm and many countries work on that EU, some US states etc. In NZ the Science technical advisory group said 1ppm and the minister chose 2.4 ppm. The required steps depend on the drivers and vary everywhere.

Professor Simon Thrush states that standards do

exist for specific contaminants but some of the major stressors in our ecosystems do not have adequate standards, Standards are not currently designed to deal with cumulative effects and they work poorly when dealing with non-linear change... These (well almost all) ecosystems are connected and yet we currently manage them in a disconnected way. Our Fresh Water standards do not deal well with our estuaries and coasts. ...There are EU frameworks such as the Water Framework Directive and the Marine strategy, but these are all implemented slightly differently by the member states²³.

Despite the absence of international standards, an ethical company will measure and report on its ecological impact on rivers, lakes and oceans, and waste that it puts into them, using the best available regional standards available based on modern science, and take into account international reports, such as those based on the Convention of Biodiversity. It will also account for any production and use of chemicals, to ensure that they are not harmful. When appropriate the precautionary principle will be followed²⁴.

2.2c3) Atmosphere

The World Health Organisation (WHO) states that the 2005 WHO Air Quality Guidelines offer global guidance on thresholds and limits for key air pollutants that pose health risks. The Guidelines indicate that by reducing particulate matter (PM₁₀) pollution from

70 to 20 micrograms per cubic metre ($\mu\text{g}/\text{m}^3$), we can cut air pollution-related deaths by around 15%. The Guidelines apply worldwide and are based on expert evaluation of current scientific evidence for particulate matter (PM); ozone (O_3); nitrogen dioxide (NO_2); and sulphur dioxide (SO_2). (Please note that the *WHO Air quality guidelines* are currently under revision) ²⁵.

In addition to WHO Air Quality Guidelines, needs to be added the matter of climate warming. The evidence that the climate is warming is overwhelming accepted by the scientific community that no further justification is required here. The Task Force on Climate-related Financial Disclosures is the best practice internationally for disclosure on climate-related financial information ²⁶.

2.3 Checklist

Using the above information a checklist can be established to guide the assessment of whether Simplicity meets the matter of content validity for itself and the companies it invests in.

2.3.1 Does a company's Code of Conduct, or the statement of its values include both human-human and human-Earth responsibilities, and do they include concepts such as harm or its equivalent(s) ?

2.3.2 In its Code or in social impact reports, does the human-human dimension include reference to the UDHR and the Conventions of the ILO? And in particular

2.3.2a Does the company have a policy manual or its equivalent that describes how it describes its obligations under the UDHR and ILO conventions?

2.3.2b Does the company pay a living wage?

2.3.2c Does it report on its lowest to highest employee payment ratio?

2.3.2d Does it have adequate health and safety policies and practices?

2.3.2e Does it require its contractors, suppliers and distributors to meet its own ethical standards?

2.3.2f Does it have adequate internal and external complaint procedures?

2.3.2g Does an organisation, in its lobbying, donations and gifting, avoid those organisations and activities which do not support the authority of government, and in particular the expression in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures?

2.3.2g Are its decision-making, its promotional, marketing and reporting activities based on the concepts of integrity and transparency? In particular does it have statements of its purpose, governance and operational policies, codes of conduct, grievance and complaint procedures, strategies, risk analysis and robust audit procedures involving financial and non-financial behaviour and impacts?

2.3.3 Does the human-Earth dimension include reporting on its ecological footprint, and efforts to reduce it?

2.3.4 Does the human-Earth dimension include abuse of animals? Does it recognise the moral arguments for vegan and vegetarian diets, and give investors choices for the exclusion of companies associated with the killing and production of animal based food?

2.3.5 Does the company adhere to CITES, and the Convention on Biological Diversity?

2.3.6 Does the company adhere to the Forestry Stewardship Council's

Principle 3 (Indigenous People's Rights);

Principle 4 (Community Relations);

Principle 5 (Benefits from the forest); and

Principle 6 (environmental Values and Impacts)?

Does it protect individual trees and tree types on grounds that incorporate cultural and historical factors and where preference is given to indigenous species? Does it protect rivers, lakes and oceans from any discharge from its forests?

2.3.7 Does it measure and report on its ecological impact on rivers, lakes and oceans, and waste that it puts into them, using the best available regional standards available based on modern science, and taking into account international reports, such as those based on the Convention of Biodiversity.

2.3.8 Does it account for any production and use of chemicals, to ensure that they are not harmful. When appropriate, does it follow the precautionary principle?

2.3.9 Does it adhere to the World Health Organisation's most up to date Air Quality Guidelines?

2.3.10 Does it report on its Greenhouse Gas Emissions, and its plans to reduce them?

2.4 UN Global Compact

The Labour Principles (3-6) do not include paying a living wage. Principle 10 dealing with corruption is covered by the concepts of integrity and transparency (above page 2).

The environmental principles are

Principle 7: Businesses should support a precautionary approach to environmental challenges;

Principle 8: undertake initiatives to promote greater environmental responsibility; and

Principle 9: encourage the development and diffusion of environmentally friendly technologies ²⁷.

Principle 7 is a principle that is worth adopting because it is a prudent response to unknown risks. Principles 8 and 9 are however, are weak and do not meet the moral criteria of harm.

The UN Global Compact is not a valid set of principles.

3 The Construct Validity Assessment of Harm

The Simplicity Growth Fund is substantially invested in Vanguard's Ethically Conscious International Shares Index Fund which provides exposure to many of the world's largest companies listed in major developed countries. It excludes companies with significant business activities involving fossil fuels, nuclear power, alcohol, tobacco, gambling, weapons, adult entertainment and a conduct related screen based on severe controversies ²⁸. It has around 1600 companies that it invests in and 69% of those are USA companies. Technology companies make up 26% of the Fund; 17% are consumer discretionary; 14% financials; 13% health care; and 11% industrials. Of the financials, the largest investment is in JP Morgan Chase.

In Vanguard's annual Report of their 2020 activities ²⁹, they state they voted on more than 176,000 individual matters and engaged with 655 portfolio companies around the globe. Of the 655 companies, 426 dealt with Board composition, 354 with oversight of strategy and risk, 401 with executive compensation, and 101 with shareholder rights.

There were 25 case reports: Marks & Spenser; Honeywell, 3M, Johnson & Johnson, LabCorp, CVS Health, Walgreens, Duke Energy, Cheniere Energy, Aena, ANZ and NAB

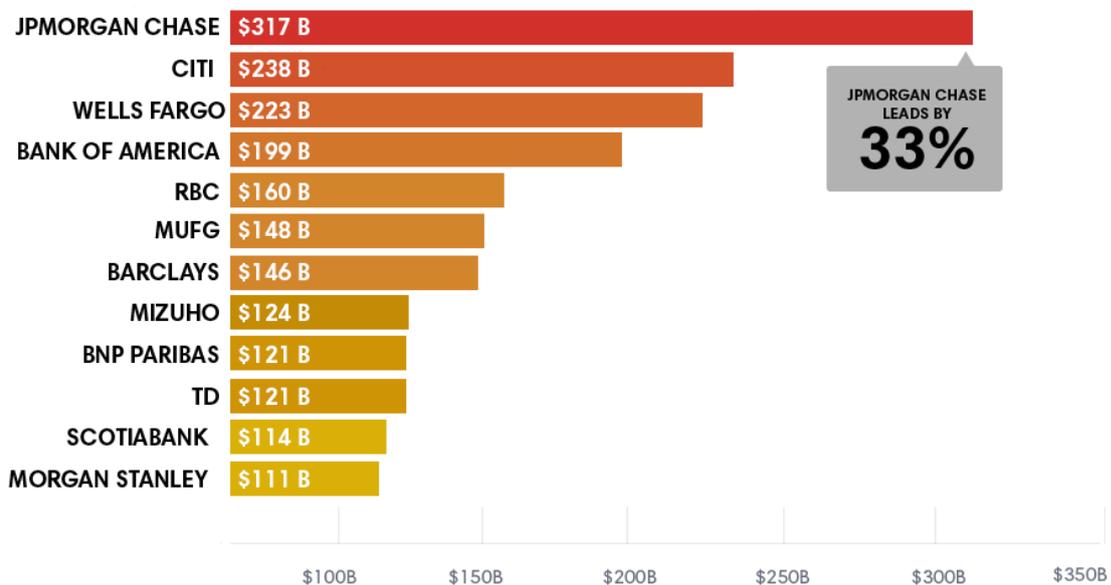
banks, Siemens, Apple, Empire State Realty, Procter & Gamble, Schwab, Oracle, Informa, Webjet, Advanced Micro Devices, Nike, CoreCivic, GEO Group.

The Report contained a table with the company name (eg *Abbott Laboratories*); the ballot item (eg *adopt simple-majority*); How they Voted (eg *For*), Vote Rationale (eg *Aligned with proxy voting policy—support proposals that empower shareholders*).

There was a further table which showed the 655 companies they engaged with and on what topic - board composition, oversight of strategy and risk, executive compensation, and shareholder rights.

3.1 JPMorgan Chase

A group comprising Rainforest Action Network, BankTrack, Indigenous Environmental Network, Sierra Club and Oil Change International have identified bank investments in fossil fuels since the Paris Agreement ³⁰. In those 5 years the world’s 60 biggest banks have invested \$3.8 trillion in fossil fuels. JPMorgan Chase was the worst of those with a total of \$316.74 billion.



Vanguard engaged with JPMorgan Chase but only on board composition and executive compensation matters.

3.2 Domini Assessments 2010 and 2021 of JPMorgan Chase

2010

In 2010 I asked Domini why they invested in JP Morgan Chase Bank. The response of Adam Kanzer was as follows.

Approval of a company for our funds, particularly a company of the size and importance of JP Morgan Chase, is never an easy decision. These firms often present a mix of positive and negative characteristics. The financial sector is particularly difficult – no major financial institution is without controversy.

JP Morgan Chase has a complicated story. The company is the largest small business lender in the U.S. In 2010, we understand that the company extended \$10 billion to small businesses, about \$800 million in financing to nonprofits, and \$100 million to community development organizations, and it provides lower interest rates to businesses that are creating new jobs.

The company has also contributed billions in financing for renewable energy companies. In these areas, the bank is far ahead of its peers.

However, the bank also has serious problems with foreclosures. While the company has processed over a million loan modifications in the last two years, it has been repeatedly criticized for mishandling foreclosures. On balance, we've felt that JP Morgan Chase has been willing to help homeowners to stay in their homes, but we do have concerns.

We have approved a substantial number of Canadian banks because they were more conservatively managed and have avoided many of the risks and questionable practices of their U.S. counterparts. We have excluded a significant number of the very largest U.S. banks and financial companies for these very reasons, including Bank of America, Citigroup and Wells Fargo, along with a host of others.

JPMorgan Chase and American Express are among the few U.S. banks that have survived our scrutiny. We continue to monitor these, and balance their negatives and positives. In general, companies are reviewed for major developments and generally undergo a full review at least once every 18 months.

Several years ago, Domini was part of a small coalition of shareholders that convinced the bank to hire its first Director of Environmental Affairs, and adopt a comprehensive set of environmental policies, with a very strong focus on climate change ... We have also discussed human rights issues with the bank, and were pleased to see their adoption of a human rights policy...

We are currently in dialogue with JP Morgan Chase about its political activity. We are seeking to convince the bank to publicly disclose all of its political contributions, including payments to trade associations used for political purposes. We are also questioning the bank's role as a board member of the U.S. Chamber of Commerce. Our shareholder proposal went to a vote at the bank's annual meeting this year and received a very strong vote of 37 per cent" (personal communication, 2010).

2021

In 2021 I asked Domini if they invested in JPMorgan Chase and why and what other major banks they were invested in. Douglas Lowe replied as follows.

At Domini we incorporate environmental and social standards into our investment process with a focus on our two overarching goals of Universal Human Dignity and Ecological Sustainability. We evaluate companies on two levels: the degree to which their businesses are aligned with our goals of universal human dignity and ecological sustainability, and the strength of their stakeholder relations (https://www.domini.com/uploads/files/Domini_Impact_Investment_Standards.pdf). To guide our decision-making, we developed Key Performance Indicators (KPIs) for each of our subindustry categories. The KPIs help us focus our analysis on the most important sustainability challenges and opportunities each company faces, within the context of its business model and its industry. We plan to examine other issues as they arise, but our KPIs will generally take precedence in our decision-making.

For the banking industry our positive indicators include community-based and affordable housing lending, microfinance, and small and medium enterprises lending, products and services for the unbanked and underbanked. Some of our issues of concern include discrimination, predatory lending, controversies related to excessive risks in the financial markets, inappropriate marketing of excessively risky products to investors, and controversies related to foreclosure or loan recovery.

We deem companies investment eligible when we feel that, on balance, progress is being made toward long-term sustainability. We evaluate companies on a case-by-case basis, looking for signs of improvement and positive trends. Not all companies we hold perform well in all areas. A mixed track record does not necessarily mean that progress has stalled, but it does require thoughtful assessment.

JPMorgan Chase is currently not approved for investment due to customer concerns including overcharging, quality, antitrust and privacy, and lack of counterbalancing positives.

We now deem as investment eligible several large U.S. banks including Bank of America and Citigroup.

Bank of America

- Launched a 5-year \$5 billion affordable homeownership initiative for low-to-moderate income and multicultural homebuyers and communities across the U.S. The project will help more than 20,000 individuals and families to acquire homes.*
- Extended \$38 billion worth of credit to small and medium enterprises (SMEs) and during the pandemic. It submitted 250,000 applications totaling \$28 billion worth of paycheck protection program for SMEs with an average loan size of \$100,000 with 75% of applications from businesses with less than 10 employees.*
- Stopped financing private prisons and immigration detention centers.*
- Loaned \$8 billion worth of mortgages to first-time homeowners and low-and-moderate income clients.*
- Between 2007 and 2019, a total of \$158 billion were invested by the bank for environmental sustainability (including: energy efficiency, sustainable transportation, renewables, biomass etc.).*
- Continues to present concerns regarding its relationship with its customers including discrimination against African American customers and overcharging.*
- Merrill Lynch was fined for engaging in excessive buying and selling of securities for the purpose of generating commissions.*

Citigroup

- Consistently ranks as the leading financier of affordable housing in the U.S.*
- Committed \$100 billion to environmental finance.*
- Only U.S. bank in the top 20 lead arrangers for solar and wind developments with \$2.5 billion in transactions.*
- Concerns regarding money laundering, violation in the management of foreclosed properties and customer discrimination, among others.*

As these banks reveal, assessing a company's strengths and weaknesses is often a balancing act, especially when investing in mid to large companies. However, we believe that our proprietary research and framework guide us to investing in companies that on balance are addressing their key sustainability challenges.

4 Conclusion: Investing With a Conscience / Not Causing Harm

Simplicity states that they invest with a conscience. They will not make money from companies that cause harm. They will not invest in significant exposure to fossil fuel extraction. They are however, invested in the bank that has invested in more fossil fuel operations than any other bank in the world. The assessment by Domini also is evidence that JPMorgan Chase is not an ethical bank.

Clearly the engagement step is not adequate and Vanguard and Simplicity fail the construct validity test.

Do Simplicity meet their ethical standards to do no harm? No.

¹ In this article moral means the same as ethical. This article does not deal with whether investment in a fund should be made on financial grounds.

² Simplicity Funds Retrieved from <https://simplicity.kiwi/about-us/ethical-investments/>

³ International Labour Organization. Retrieved from https://www.ilo.org/asia/WCMS_399591/lang-en/index.htm.

⁴ Wilkinson, R and Pickett, K. 2010. The Spirit Level. Why Equality is Better for Everyone. Penguin.

⁵ Wikipedia. Wage Ratio. Retrieved from https://en.wikipedia.org/wiki/Wage_ratio#:~:text=ln%20economics%2C%20the%20wage%20ratio,steadily%20been%20on%20the%20rise.

⁶ Mishel, L and Wolfe, J. 2019. CEO compensation has grown 940% since 1978. Economic Policy Institute. Retrieved from <https://www.epi.org/publication/ceo-compensation-2018/>

⁷ Drucker Institute. Retrieved from <https://www.sec.gov/comments/df-title-ix/executive-compensation/executivecompensation-60.pdf>

⁸ Bloomberg Briefs Feb 28, 2018. Retrieved from https://newsletters.briefs.bloomberg.com/document/oJCWCUBqRdePK8eh9uu0SQ--_9ez2lrsx4i8z10390v2/investing

⁹ It should be noted that individual rights are not absolute. Example:

Article 13: *Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.*

Article 29: *Everyone has duties to the community in which alone the free and full development of his personality is possible. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.*

¹⁰ Ministry for the Environment. New Zealand's international obligations. Retrieved from <https://www.mfe.govt.nz/publications/environmental-reporting/state-new-zealand%E2%80%99s-environment-1997-chapter-four-environment-0>

¹¹ Singer, P. 1975 Animal Liberation: A New Ethics for our Treatment of Animals, New York Review/Random House, New York.

¹² Macquarie University. Retrieved from <https://researchers.mq.edu.au/en/persons/culum-brown>

¹³ Part of the problem for the human-other life regarding forests is the lack of adequate international treaties. Barbara Ruis states that Retrieved from <http://www.fao.org/3/y1237e/y1237e03.htm>
A paper, International Forest Governance and Policy: Institutional Architecture and Pathways of Influence, in Global Sustainability by Sotirov et al (Sustainability 2020, 12, 7010; doi:10.3390/su12177010) supports Ruis.

¹⁴ Forest Stewardship Council. Retrieved from <https://fsc.org/en/document-centre/documents/resource/392>

¹⁵ FSC-Watch. Retrieved from <https://fsc-watch.com/about/>

¹⁶ Standards New Zealand. NZS AS 4708:2014

¹⁷ It should be noted that individual rights are not absolute. Example:

Article 13: *Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.*

Article 29: *Everyone has duties to the community in which alone the free and full development of his personality is possible. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.*

¹⁸ Oceana. Retrieved from <https://oceana.org/what-we-do>

¹⁹ Global Biodiversity Outlook 5. Retrieved from <https://www.cbd.int/gbo5>

²⁰ Convention on Biological Diversity. Retrieved from <https://www.cbd.int/convention/text/>

²¹ Also included are land and forests, fisheries and oceans, and sustainable agriculture. References are also made to Convention on the Conservation of Migratory Species of Wild Animals, Convention on International Trade in Endangered Species of Wild Fauna and Flora, Convention concerning the

Protection of the World Cultural and Natural Heritage, International Plant Protection Convention, United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification.

²² Personal Communication. Senior Research Fellow, School of Government, Victoria University.

²³ Personal Communication. Head of Institute of Marine Science, Auckland University.

²⁴ Precautionary Principle. Retrieved from <https://www.sciencedirect.com/topics/earth-and-planetary-sciences/precautionary-principle>

²⁵ World Health Organisation. Retrieved from [https://www.who.int/news-room/fact-sheets/detail/ambient-\(outdoor\)-air-quality-and-health](https://www.who.int/news-room/fact-sheets/detail/ambient-(outdoor)-air-quality-and-health)

²⁶ Task Force on Climate-related Financial Disclosures. Retrieved from <https://assets.bbhub.io/company/sites/60/2020/10/FINAL-2017-TCFD-Report-11052018.pdf>

²⁷ UN Global Compact. Retrieved from <https://www.unglobalcompact.org/what-is-gc/mission/principles>

²⁸ Vanguard Retrieved from <https://www.vanguard.com.au/institutional/products/en/detail/wholesale/8161/equity>

²⁹ Vanguard Annual Report. Retrieved from https://about.vanguard.com/investment-stewardship/perspectives-and-commentary/2021_investment_stewardship_annual_report.pdf

³⁰ Banking on Climate Chaos. Retrieved from <https://www.ran.org/bankingonclimatechaos2021/#score-panel>