



Indigenous Peoples' Rights and Participation in 2023 AGM Proposals

1. Overview

When financial institutions support projects that do not have the consent of Indigenous Peoples, they often face public opposition, reputational risk, and financial risk. This opposition and attendant lack of social license to operate is rarely telegraphed to shareholders by companies in the initial instance. Thus, Indigenous leaders have gathered significant investor support to bring their concerns directly to shareholders.

In 2023, Indigenous Peoples attended the annual general meeting (AGM) of shareholders at numerous companies to discuss a range of business practices that impact their lands, territories, and resources. Shareholder proposals that forwarded Indigenous priorities took many forms: they addressed Indigenous Peoples' right to free, prior and informed consent (FPIC) as enumerated in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP); Indigenous Rights Risk as part of a human rights framework; racial equity audits that include impact on Indigenous Peoples; and, in Canada, corporate plans for Indigenous reconciliation in alignment with the Truth and Reconciliation Commission's Call to Action 92, which calls upon Canadian corporations to adopt policies and practices in alignment with the UNDRIP. **Many of the proposals are part of years-long efforts by Indigenous Peoples advocating for banks, insurers, and other financial services companies to withdraw their support for projects that proceed without their FPIC.**

This report analyzes one dozen shareholder proposals related to the rights of Indigenous Peoples filed at financial institutions in the U.S. and Canada in 2023. Half of the proposals went to a vote of shareholders, while the other half were withdrawn. Several proposals were withdrawn after discussions with Indigenous Peoples and investors, leading to commitments to change corporate policy or practice. Of the twelve shareholder proposals, seven proposals focused on FPIC, four proposals covered racial equity audits that include the company's impact on Indigenous Peoples, three proposals were filed by Indigenous Peoples, and one proposal addressed an Indigenous Reconciliation Action Plan. Some proposals put forward at 2022 AGMs in the U.S. experienced a decline in voting shares in 2023. This same phenomenon occurred with other environmental, social, and governance (ESG)-related proposals. An anti-ESG campaign in the U.S. may have had an impact on votes, a trend that may continue in 2024 with the U.S. presidential election.

These proposals demonstrate that Indigenous Rights Risk is of increasing concern to shareholders and that solutions can be found when companies meet with Indigenous Peoples. While most proposals and engagements resulted from impacts from fossil fuel development and insurance underwriting, there is growing shareholder attention to other sectors, particularly from agriculture and mineral mining for renewable energy technologies, and appropriation of Indigenous language and culture without clear community ties.

Indigenous Peoples' voices, stories, and the business case for their rights were heard by allies, companies, policymakers, and the media. Companies that do not respect Indigenous rights can expect to hear from Indigenous leaders again at AGMs in 2024 and into the future. The number of shareholder proposals in 2023 indicates increasing investor attention and expectations regarding Indigenous rights, which is likely to continue.

Table 1. 2023 Annual General Meeting proposals in support of the rights of Indigenous Peoples

Company	Industry	Location	Ticker	Impacted Indigenous Community	Filer	Topic	2023 result	2022 result
Bank of Montreal (BMO)	Bank	Canada	TSX: BMO	Many communities impacted	SHARE, BCGEU, Atkinson Foundation	Racial equity audit	37%	N/A
Bank of Montreal (BMO)	Bank	Canada	TSX: BMO	Many communities impacted	BCGEU, UBCIC	FPIC	With-drawn	N/A
Chubb	Insurance	Switzerland	NYSE: CB	Gwich'in Steering Committee	Domini Impact Investments	Human rights risk & FPIC	16.53%	N/A
Canadian Imperial Bank of Commerce (CIBC)	Bank	Canada	NYSE: CM	Many communities impacted	SHARE, IVBM Foundation	Racial equity audit	With-drawn	N/A
Citigroup	Bank	U.S.	NYSE: C	Many communities impacted	Sisters of St. Joseph of Peace; Investor Advocates for Social Justice	FPIC	31.06%	34.3%
Power Corporation of Canada	Financial Services	Canada	TSX: POW	Many communities impacted	SHARE	Indigenous reconciliation plan	With-drawn	N/A
Royal Bank of Canada (RBC)	Bank	Canada	TSX: RY	Many communities impacted	SHARE, BCGEU, Atkinson Foundation	Racial equity audit	44%	N/A
Royal Bank of Canada (RBC)	Bank	Canada	TSX: RY	Many communities impacted	BCGEU, UBCIC	FPIC	27%	N/A
The Hartford	Insurance	U.S.	NYSE: HIG	Gwich'in Steering Committee	Domini Impact Investments	Human rights risk & FPIC	With-drawn	N/A
Toronto-Dominion Bank (TD Bank)	Bank	Canada	TSX: TD	Many communities impacted	BCGEU, UBCIC	FPIC	With-drawn	N/A
Travelers	Insurance	U.S.	NYSE: TRV	Gwich'in Steering Committee	Trillium Asset Management	Racial equity audit	35%	47%*
Wells Fargo	Bank	U.S.	NYSE: WFC	Anishinaabe; Bad River Band of the Lake Superior Tribe of Chippewa Indians; Bay Mills Indian Community; Giniw Collective	American Baptist Home Mission Society; Investor Advocates for Social Justice	FPIC	With-drawn	26%

*Note: the 2022 racial equity audit proposal at Travelers did not mention Indigenous Peoples.

2. Banks

Bank of Montreal (BMO)

Several shareholder proposals regarding business practices impacting Indigenous Peoples received attention at BMO's AGM.

More than 37 percent of shareholders supported a shareholder proposal filed by the Shareholder Association for Research & Education (SHARE) – on behalf of the Atkinson Foundation – and the B.C. General Employees' Union (BCGEU) citing discriminatory banking practices impacting Indigenous Peoples and calling for a racial equity audit.¹

BCGEU and the Union of British Columbia Indian Chiefs (UBCIC) withdrew a shareholder proposal calling on BMO to operationalize FPIC. The withdrawal occurred after BMO agreed to several policy changes such as including UNDRIP in their Human Rights Statement, an enhanced FPIC due diligence process, and improving education about FPIC.² The proposal cited two high-profile projects funded by BMO where Indigenous communities have not given consent: the Coastal Gas Link in Wet'suwet'en territory and the Line 3 expansion on Anishinaabeg lands.

Canadian Imperial Bank of Commerce (CIBC)

A shareholder proposal³ requesting a racial equity audit at CIBC was withdrawn following a commitment from the company to conduct and disclose such an audit.⁴ The proposal cited research indicating that Indigenous customers are subject to discriminatory banking practices at CIBC and five other leading Canadian banks. SHARE filed the proposal on behalf of The IBVM Foundation of Canada (the Institute of the Blessed Virgin Mary, commonly known as the Loretto Sisters); the proposal is similar to the proposal filed at BMO.

Citigroup

For the second consecutive year, Anishinaabe water protectors partnered with investors to present a shareholder proposal regarding FPIC and the rights of Indigenous Peoples at the Citigroup AGM. According to the proposal, "Citigroup has a history of financing projects and companies that violate Indigenous rights, most notably as a lead financier of the Dakota Access Pipeline in 2016. Recently, Citigroup provided over \$5 billion to Enbridge, enabling the widely opposed Enbridge Line 3 and Line 5 tar sands pipeline reroutes."⁵ The proposal also cites Citigroup's financial support for oil and gas projects in the Amazon basin that do not have the consent of Indigenous Peoples.⁶

In 2022 34.3 percent of shareholders voted for the proposal. Support fell by a few percentage points in 2023 to 31.06 percent. Anti-ESG campaigns led by conservative politicians in the U.S. may have had an impact on the vote. Tara Houska, founder of the Giniw Collective, presented the proposal at the AGM and commented on the difference between the 2022 and 2023 AGM results: "While... Citi shareholders continue to support evaluating its policies and impacts on

¹ <https://share.ca/blog/bmo-shareholders-join-rbc-voters-in-support-for-racial-equity-audits/>

² https://www.ubcic.bc.ca/bcgeu_and_ubcic_announce_partnership_to_push_corporate_canada_to_operationalize_fpic

³ https://www.cibc.com/content/dam/about_cibc/investor_relations/pdfs/annual_meetings/management-proxy-circular-2023-en.pdf p. 103

⁴ <https://share.ca/blog/press-release-rbc-and-bmo-resist-racial-equity-shareholder-proposals-cibc-and-national-bank-commit-to-third-party-audits/>

⁵ <https://iasj.org/wp-content/uploads/Citigroup-2023-Proposal-FINAL.pdf>

⁶ <https://old.stand.earth/sites/stand/files/citiriskalert.pdf>

Indigenous peoples, it's saddening and maddening to see the numbers drop a few points as our homelands are destroyed across the globe.”⁷

Royal Bank of Canada (RBC)

BCGEU and UBCIC filed a shareholder proposal at RBC regarding the operationalization of FPIC. The proposal is similar to the FPIC proposals filed at BMO and TD Bank. BCGEU again joined with SHARE – on behalf of the Atkinson Foundation – to file a racial equity audit proposal at RBC, citing discriminatory banking practices impacting Indigenous Peoples. Unlike their peer Canadian banks, RBC did not come to similar agreements with impacted Indigenous Peoples. Instead, both proposals went to a vote of shareholders. RBC advised shareholders to vote against both proposals. Shareholders supported the FPIC proposal with 27 percent of the vote and 44 percent of shareholders supported the racial equity audit proposal.

RBC took an adversarial approach to attendees from Indigenous and Black communities impacted by RBC-funded projects. A delegation of Wet’suwet’en Hereditary Chiefs attempted to attend the AGM with valid proxies to discuss RBC’s financial support for the Coastal GasLink pipeline. Wet’suwet’en Hereditary Chiefs were ushered into a segregated reserve room, away from the main AGM and out of sight from RBC’s CEO, board, and other shareholders. Wet’suwet’en Hereditary Chiefs accused RBC of segregating Indigenous and Black AGM attendees and using a color pass system.⁸

This is the second year in a row that Wet’suwet’en Hereditary Chiefs were denied entry to RBC’s AGM. In-person attendance at the 2022 AGM was cancelled less than 24 hours before the meeting as Wet’suwet’en Hereditary Chiefs prepared to attend.⁹

In response to RBC’s actions at the AGM, Wet’suwet’en Hereditary Chief Na’Moks said, “CEO Dave McKay is personally responsible for the abuse Indigenous peoples received from RBC. This shows how Canada’s biggest bank has no interest in reconciliation or our human rights by implementing a two-tier rights system in separating Indigenous representatives from the main room.”¹⁰

Toronto-Dominion Bank (TD Bank)

BCGEU and the UBCIC withdrew a shareholder proposal calling on TD Bank to operationalize FPIC.¹¹ The withdrawal occurred after TD Bank agreed to review policy, procedures, and training regarding Indigenous Peoples and FPIC.¹² TD Bank committed to publish an update on their Indigenous Peoples and FPIC policy and training review by June 30, 2024.

Wells Fargo

In 2022, Anishinaabe water protectors partnered with investors, presented a shareholder proposal regarding FPIC and the rights of Indigenous Peoples at the Wells Fargo AGM. The proposal is similar to the resolution filed at Citigroup in 2022 and 2023. The proposal cites Wells Fargo’s financial support for projects that do not have the consent of impacted Indigenous

⁷ <https://www.commondreams.org/news/shareholder-activism-2659910795>

⁸ <https://www.cfnfm.ca/2023/04/05/wetsuweten-hereditary-chiefs-accuse-rbc-of-segregating-indigenous-attendees-into-secondary-room-at-annual-general-meeting/>

⁹ https://www.banktrack.org/article/at_royal_bank_of_canada_shareholder_meeting_wet_suwet_en_hereditary_chiefs_call_for_an_end_to_fossil_fuel_finance

¹⁰ <https://www.greenpeace.org/canada/en/press-release/58084/indigenous-land-defenders-climate-allies-bring-shareholder-showdown-to-rbcs-agm/>

¹¹ https://www.ubcic.bc.ca/bcgeu_and_ubcic_announce_partnership_to_push_corporate_canada_to_operationalize_fpic

¹² <https://www.td.com/content/dam/tdcom/canada/about-td/pdf/td-investor-2023-proxy-en.pdf> p. 91-92

Peoples such as Dakota Access Pipeline and the Line 3 pipeline.¹³ At the 2022 AGM, 26 percent of shareholders voted in favor of the proposal, meeting the SEC threshold for the proposal to return for the 2023 AGM.

Unfortunately, the proposal did not appear at the 2023 AGM due to a technicality in the filing process. The proposal requests that Wells Fargo submit a report to shareholders outlining how the company's general corporate and project finance policies and practices align with global standards regarding the rights of Indigenous Peoples such as the UNDRIP and International Labor Organization Convention 169.

3. Insurance

Chubb

In May 2023, Edson Krenak of the Krenak people in Brazil traveled to Zurich to present a shareholder proposal at the AGM of the insurance company Chubb. The proposal discusses Chubb's potential exposure to Indigenous Rights Risk and requests that Chubb submit a report to shareholders, "describing how human rights risks and impacts are evaluated and incorporated in the underwriting process", including "The extent to which Free, Prior and Informed Consent, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples, is considered or evaluated in the underwriting process."¹⁴

The proposal stemmed from an effort led by the Gwich'in Steering Committee to engage with insurance companies regarding the Indigenous Rights Risk of insuring oil and gas projects in the Arctic National Wildlife Refuge in Alaska. While Chubb announced a policy regarding the Arctic Refuge prior to the AGM,¹⁵ the company does not yet have a policy regarding FPIC or the rights of Indigenous Peoples. Bernadette Demientieff, Executive Director of the Gwich'in Steering Committee, called on Chubb to adopt an FPIC policy: "Companies cannot divide our people from this sacred place. We must be involved in all decisions where there are impacts to our land, animals, and communities. We call on Chubb and all companies to respect our rights, including our right to free, prior, and informed consent."¹⁶

Chubb has engaged with First Peoples Worldwide and Domini Impact Investments, the lead filer of the proposal regarding human rights risk, FPIC, and the rights of Indigenous Peoples, but does not yet have a stated policy.¹⁷ The shareholder vote of 16.5 percent meets the SEC threshold, so another proposal could be filed in 2024.

The Hartford

A similar proposal regarding human rights risk, FPIC, and the rights of Indigenous Peoples was also filed by Domini Impact Investments at The Hartford. The proposal was withdrawn before the AGM after engagement with Domini and a commitment to improve its forthcoming disclosure on how human rights and FPIC is evaluated in the underwriting process. Since 2020, the Gwich'in Steering Committee has asked on numerous occasions to meet with The Hartford,

¹³ <https://iasj.org/wp-content/uploads/Wells-Fargo-Proposal-2022-on-Indigenous-Rights-FINAL.pdf>

¹⁴ See Appendix A for the text of the FPIC proposal at Chubb

¹⁵ <https://ourarcticrefuge.org/chubb-becomes-the-first-american-insurance-company-with-explicit-policy-to-not-underwrite-oil-and-gas-development-in-the-arctic-refuge/>

¹⁶ <https://domini.com/insights/chubb-shareholders-support-comprehensive-reporting-on-indigenous-rights-risk-a-first-for-the-insurance-industry/>

¹⁷ For more on the engagement with Chubb see <https://domini.com/insights/working-in-solidarity-with-the-gwichin-steering-committee/>

including during a planned trip to Hartford, CT by Bernadette Demientieff. The Hartford has not yet agreed to meet with the Gwich'in Steering Committee to discuss the Arctic Refuge and has not met with First Peoples Worldwide to discuss FPIC and the rights of Indigenous Peoples.

Travelers

Bernadette Demientieff, Executive Director of the Gwich'in Steering Committee, traveled to Hartford to present a shareholder resolution¹⁸ regarding a racial equity audit at the Travelers AGM. For 2.5 years prior to the AGM, the Gwich'in Steering Committee had been asking major insurers of oil and gas projects to commit to never insuring oil and gas projects in the Arctic National Wildlife Refuge in Alaska. Research demonstrates that Travelers is one of the largest insurers of oil and gas projects worldwide.¹⁹ Prior to the AGM, Travelers had not made a clear commitment regarding the Arctic Refuge.

In 2022, a shareholder proposal from Trillium Asset Management asked Travelers to agree to a racial equity audit of company practices and 47 percent of shareholders voted in favor of the proposal. The 2023 version of the proposal added a reference to Travelers exposure to Indigenous Rights Risk in the Arctic Refuge. As Bernadette Demientieff stated at the AGM, "Travelers is associated with past and current controversies that have alleged racial impacts on stakeholders. We believe these controversies are under-addressed, which opens the company to potential legal, reputational, and regulatory risks."²⁰

This year, support for the racial equity audit proposal dropped to 35 percent.

At the AGM, Travelers CEO Alan D. Schnitzer stated that Travelers does not provide insurance for projects in the Arctic. The Gwich'in Steering Committee has asked Travelers for details regarding the companies Arctic policy to see how it compares to other insurance companies.²¹

4. Financial Services

Power Corporation of Canada

Through the work of the Reconciliation and Responsible Investment Initiative (RRII),²² Shareholder Association for Research & Education (SHARE) submitted a proposal to the financial services company Power Corporation of Canada regarding Indigenous reconciliation. RRII is a partnership between SHARE and the National Aboriginal Trust Officers Association (NATOA). RRII utilizes shareholder engagement to support the Truth and Reconciliation Commission of Canada's Call to Action 92, which states, "We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources."²³

¹⁸ <https://archive.trilliuminvest.com/shareholder-proposal/travelers-companies-inc-racial-justice-audit-2023/>

¹⁹ <https://us.insure-our-future.com/wp-content/uploads/sites/3/2020/06/InsureOurFutureOilandGasInsuranceBriefing0620.pdf>

²⁰ <https://ourarcticrefuge.org/gwichin-steering-committee-speaks-at-travelers-annual-meeting-requests-u-s-insurance-giant-not-support-oil-and-gas-projects-in-the-arctic-refuge/>

²¹ For an analysis of insurance company policies regarding the Arctic Refuge, see <https://ourarcticrefuge.org/insurance-industry-scorecard-update-reports-20-global-insurers-now-protect-land-sacred-to-alaska-natives-in-the-arctic-national-wildlife-refuge/>

²² <https://reconciliationandinvestment.ca/>

²³ https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/indigenous-people/aboriginal-peoples-documents/calls_to_action_english2.pdf

The proposal (see Appendix) requests a report to shareholders regarding Power Corporation's Indigenous reconciliation policies, plans, and practices compared to Indigenous-led standards such as the Progressive Aboriginal Relations (PAR) program of the Canadian Council for Aboriginal Business.

Following discussions between SHARE and Power Corporation of Canada, the proposal was withdrawn from the 2023 AGM.

Acknowledgements

Prepared by First Peoples Worldwide and published October 2023 with support from participants of the Investors & Indigenous Peoples Working Group. Thank you to Domini Impact Investments, Investor Advocates for Social Justice, SHARE, Trillium Asset Management, Union of British Columbia Indian Chiefs, and West Coast Environmental Law for reviewing this briefing paper.

Appendix A

1. Sample Resolutions - Banks

Topic: FPIC and Indigenous Peoples' rights – U.S.

Company: Citigroup

Notes: A similar resolution was submitted to Wells Fargo and was withdrawn.

RESOLVED: Shareholders request the Board of Directors provide a report to shareholders, at reasonable cost and omitting proprietary and confidential information, outlining the effectiveness of Citigroup's policies, practices, and performance indicators in respecting internationally-recognized human rights standards for Indigenous Peoples' rights in its existing and proposed general corporate and project financing.

The UN Declaration on the Rights of Indigenous Peoples and International Labour Organization Convention 169 concerning Indigenous and Tribal Peoples in Independent Countries are internationally-recognized standards for Indigenous Peoples' rights.¹ Violation of these rights presents risks for Citigroup that can adversely affect shareholder value, including reputational damage, project disruptions, and civil and criminal liability.² Citigroup has a history of financing projects and companies that violate Indigenous rights, most notably as a lead financier of the Dakota Access pipeline in 2016.³ Recently, Citigroup provided over \$5 billion to Enbridge, enabling the widely opposed Enbridge Line 3 and Line 5 tar sands pipeline reroutes.⁴

Indigenous leaders from the Great Lakes tribes have called Enbridge's Line 5 pipeline reroute "an act of cultural genocide."⁵ A 2022 ruling found that Line 5 was operating illegally on Bad River Band territory since 2013.⁶ Michigan Governor Whitmer canceled Enbridge's certification in 2020, citing "Enbridge's historic failures and current non-compliance" as jeopardizing the safety of Michigan residents and the environment.⁷ Michigan's twelve federally recognized Tribal Nations requested President Biden to decommission Line 5 in 2021,⁸ and the pipeline faces ongoing litigation from numerous plaintiffs.⁹ The severity of Indigenous opposition is reflected by the Bay Mills Indian Community formally banishing the pipeline from its reservation, noting Enbridge's deceptive tactics, poor environmental track record, and risk of "catastrophic damage" to Indigenous rights.¹⁰ Companies like Enbridge, financed by Citigroup, consistently fail to meet the international standard of free, prior, and informed consent (FPIC) with affected tribes.¹¹

¹ <https://www.un.org/development/desa/indigenouspeoples/declaration-on-the-rights-of-indigenous-peoples.html> ; https://www.ilo.org/dyn/normlex/en/f?p=NORMLEX_PUB:12100:0::NO::P12100_INSTRUMENT_ID:312314

² https://www.colorado.edu/program/fpw/sites/default/files/attached-files/social_cost_and_material_loss_0.pdf ; <https://amazonwatch.org/news/2022/0622-thebusiness-case-for-indigenous-rights>

³ <https://www.business-humanrights.org/en/latest-news/usa-citi-ceo-says-bank-approved-dakota-access-pipeline-loan-without-sufficient-regard-for-indigenous-peoples-concerns/>

⁴ https://www.ran.org/wp-content/uploads/2020/12/RAN-Briefing_Line3_KXL.pdf ; <https://sightline-wpengine.netdna-ssl.com/wp-content/uploads/2018/09/EnbridgeLine-3-Financing-Sightline-09-2018.pdf>

⁵ <https://www.stopline3.org/news/women-leaders-line5>

⁶ <https://michiganadvance.com/wp-content/uploads/2022/09/20515906551-1.pdf>

⁷ <https://www.michigan.gov/whitmer/news/press-releases/2020/11/13/governor-whitmer-takes-action-to-shut-down-the-line-5-dual-pipelines-through-the-straits-of-mackina>

⁸ https://www.baymills.org/_files/ugd/869f65_f8e5288d82084540a9f0e7d5d6c092r1f.pdf

⁹ <https://indiancountrytoday.com/news/enbridge-takes-the-gloves-off-in-line-5-battle>

¹⁰ https://narf.org/nill/documents/20210510BayMills_banish_Enbridge.pdf?_ga=2.239143744.2105983367.1624287541-1503385769.1619537483

¹¹ https://tbinternet.ohchr.org/Treaties/CERD/Shared%20Documents/USA/INT_CERD_ALE_USA_9448_E.pdf

Citigroup simultaneously faces calls from Indigenous leaders to stop financing oil and gas operations in the Amazon that pose “an existential threat” to Indigenous Peoples.¹² A 2022 Investor Risk Alert reported that Citigroup has the largest financial involvement of all foreign banks, an estimated \$43.8 billion, in oil and gas operations in the Amazon basin.¹³

Citigroup faces reputational risk if its “climate forward” commitments are discredited by its own financing activities.¹⁴ Citigroup’s human rights and risk management policies do not clearly define FPIC, nor include guidance on how Citigroup addresses companies with track records of violating Indigenous rights. Though Citigroup adheres to the Equator Principles to manage environmental and social risk, Indigenous experts have described them as “critically weak” and not aligned with international human rights standards.¹⁵ Effective policies that protect Indigenous rights are critical to managing material risk

¹² <https://www.stand.earth/latest/forest-conservation/amazon-fores-protection/citigroup-%E2%80%9Cclimate-forward%E2%80%9D-reputation-remains>

¹³ <https://www.stand.earth/sites/stand/files/citiriskalert.pdf>

¹⁴ <https://www.stand.earth/latest/forest-conservation/amazon-forest-protection/citigroup-%E2%80%9Cclimate-forward%E2%80%9D-reputation-remains>

¹⁵ <https://www.colorado.edu/program/fpw/2019/11/19/first-peoples-response-ep4-critically-weak-equator-principles-puts-global-development>

Topic: FPIC and Indigenous Peoples' rights – Canada

Company: Royal Bank of Canada (RBC)

Notes: Similar resolutions were submitted to Bank of Montreal (BMO) and Toronto-Dominion Bank (TD Bank) and were withdrawn after discussions with the companies.

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) stipulates that States shall consult in good faith with Indigenous peoples in order to obtain their free, prior and informed consent (FPIC) before implementing measures that may affect them.¹

The federal UNDRIP Act affirmed that UNDRIP has legal effect in Canada as an international human rights instrument.² The Truth and Reconciliation Commission's Call to Action #92 calls upon the corporate sector to adopt and implement UNDRIP "as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources."³

Foley Hoag LLP's report to banks which funded the controversial Dakota Access Pipeline Project recommended that international industry good practices on FPIC mean going beyond the minimum standards set by domestic law.⁴

Failing to consider FPIC also overlooks a material risk. Companies which only seek domestic legal minimums and fail to obtain FPIC routinely see project delays, conflict, and other significant legal, political, reputational and operational risks.

The Government of Canada has stated that FPIC is contextual and there is no "one size fits all" approach, and operationalizing FPIC may require different processes or new creative ways of working together.⁵

A 2019 paper prepared for the Union of BC Indian Chiefs (UBCIC) entitled Consent⁶ (Consent Paper) attempts to clear up misconceptions about FPIC, namely that:

- "consent" and "veto" are not the same; they have different meaning and uses; and
- FPIC is not an extension of consultation and accommodation, which are procedural in nature.

The Consent Paper outlines certain ways in which Canadian businesses can operationalize FPIC, including:

- seeking and confirming Indigenous consent prior to major Crown processes;
- outlining the conditions necessary for obtaining and maintaining a Nation's consent, as opposed to legal devices such as releases that are intended to limit Indigenous rights;
- using collaborative dispute resolution mechanisms and not limiting a Nation's ability to take legal action; and
- building a process for future decision-making and obtaining consent before any approvals are sought from the Crown.

¹ <https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=A/RES/61/295&Lang=E> (Articles 18-19)

² <https://www.canlii.org/en/ca/laws/stat/sc-2021-c-14/latest/sc-2021-c-14.html>

³ <https://www.rcaanc-cirnac.gc.ca/eng/1524506030545/1557513309443>

⁴ https://www.foleyhoag.com/news-and-insights/publications/ebooks-and-white-papers/2017/may/good_practices_social_impacts_oil_pipelines_united_states/

⁵ <https://www.justice.gc.ca/eng/declaration/bgnrcan-bgnrcan.html>

⁶ https://www.ubcic.bc.ca/consent_paper

RBC's Human Rights Position Statement invokes the United Nations Guiding Principles on Business and Human Rights (UNGPs) and states that RBC will take action to mitigate adverse human rights impacts, including by leveraging its business relationships. RBC has also disclosed ways in which it honours Call to Action #92.

Shareholders believe further action is required to operationalize FPIC and Call to Action #92 into RBC's corporate policies and activities. An explicit reference to operationalizing FPIC will help mitigate human rights risk while giving RBC additional leverage to effect meaningful and necessary change on the path towards reconciliation.

RESOLVED THAT RBC revise its Human Rights Position Statement to reflect that in taking action to mitigate adverse human rights impacts directly linked to its business relationships with clients (as outlined in the UNGPs), RBC will inform itself as to whether and how clients have operationalized FPIC of Indigenous peoples affected by such business relationships.

Topic: Racial equity audit & Indigenous Peoples - Canada

Company: Bank of Montreal (BMO)

Notes: Similar resolutions were submitted to Canadian Imperial Bank of Commerce (CIBC) and Royal Bank of Canada (RBC). The proposal at CIBC was withdrawn after discussions with the companies. The proposal at RBC received 44 percent of the vote.

RESOLVED, shareholders request the Bank of Montreal (“BMO”) to conduct and publish (at reasonable cost and omitting proprietary information) a third-party racial equity audit analyzing BMO’s adverse impacts on non-white stakeholders and communities of colour. Input from civil rights organizations, employees, and customers should be considered in determining the specific matters to be analyzed.

SUPPORTING STATEMENT: As critical intermediaries, financial institutions play a key role in the society as they allow businesses and individuals to access essential economic opportunities through a broad range of financial products and services, including facilitating transactions, providing credit and loan services, savings accounts, and investment management. Because of the important role that financial institutions play in our economy and society, such institutions have a responsibility to ensure that their business operations, practices, policies and products and services do not have adverse impacts on non-white stakeholders and communities of colour.

A report from the Financial Consumer Agency of Canada studying frontline practices of six Canadian banks, including BMO, suggests that racialized or Indigenous bank customers are subjected to discriminatory practices.¹ Compared to other customers, visible minorities and Indigenous customers were more likely recommended products that were not appropriate for their needs, were not presented information in a clear and simple manner and were offered optional products, such as overdraft protection and balance protection insurance.

A December 2020 academic review commissioned by the British Columbia Securities Commission found estimates of unbanked Canadians (no official relationship with a bank) ranged from 3%-6%, and underbanked Canadians (who rely on fringe financial institutions like payday lenders) ranged from 15%- 28%.² The review found that under/ unbanking has a disproportionate effect on Indigenous peoples, and that “financial access has been cited by researchers as an endemic problem in ‘low-income communities of color’.”

Canadian financial institutions, including BMO, have a responsibility to address financial discrimination and provide greater access to credit and other financial services to ensure all communities become economically resilient.

In recent years, BMO has been subject to negative media coverage on racial equity issues, including racial profiling and racial discrimination.^{3,4} Such controversies may be indicative of systemic racial equity issues in the Company’s operations.

BMO’s current diversity, equity, and inclusion (“DEI”) commitments are insufficient to identify or address potential and existing racial equity issues stemming from its practices, policies,

¹ <https://www.canada.ca/en/financial-consumer-agency/programs/research/mystery-shopping-domestic-retail-banks.html>

² https://bcbasicincomepanel.ca/wp-content/uploads/2021/01/Financial_Inclusion_in_British_Columbia_Evaluating_the_Role_of_Fintech.pdf

³ <https://yellowheadinstitute.org/2020/02/27/banking-while-brown-indigenous-people-and-structural-racism-in-canada/>

⁴ <https://www.cbc.ca/news/canada/british-columbia/bmo-human-rights-complaint-1.5812525>

products, and services. For example, BMO's Zero Barriers to Inclusion 2025 strategy does not address existing and/or potential racial equity issues stemming from the products and services it offers.

Racial equity issues present significant legal, financial, regulatory, and reputational business risks to the Company and its shareholders. A racial equity audit will help BMO identify, prioritize, remedy, and avoid adverse impacts on non-white stakeholders and communities of colour. Therefore, we urge BMO to assess its behaviour through a racial equity lens in order to obtain a complete picture of how it contributes to, and could help dismantle, systemic racism.

2. Sample Resolutions - Insurance

Topic: Indigenous Peoples' rights, Human Rights, and Underwriting

Company: Chubb

Notes: A similar resolution was submitted to The Hartford and was withdrawn.

Under the UN Guiding Principles on Business and Human Rights, companies are expected to conduct human rights due diligence to meet the corporate responsibility to respect human rights. The UN Declaration on the Rights of Indigenous Peoples recognizes the rights of Indigenous Peoples to self-determination, territories, and cultural practices, and establishes that entities must seek Free Prior and Informed Consent (FPIC) of Indigenous Peoples related to any projects that may impact their rights.

Chubb may be exposed to environmental and social risk through its underwriting and financing activities. The Principles for Sustainable Insurance, signed by 135 insurers representing \$15 trillion in assets,¹ serves as a framework to address environmental, social and governance (ESG) risks and opportunities. Chubb is not a signatory. Several companies incorporate ESG in their underwriting practice, including AIG,² Munich Re,³ and Zurich.⁴ Allianz,⁵ AXIS Capital,⁶ and Swiss Re⁷ assess FPIC. Seventeen insurers have committed not to insure oil and gas projects in the Arctic National Wildlife Refuge (Arctic Refuge) in Alaska, noting potential negative impacts on Indigenous Peoples, biodiversity, and caribou.⁸

Projects that may negatively impact the rights, culture, or territories of Indigenous Peoples may face public opposition and increase reputational risk. Chubb is facing public scrutiny over the potential risk associated with the Arctic Refuge. The Gwich'in Steering Committee has written to Chubb asking it to commit not to insure projects in the Arctic Refuge, to protect its communities, culture, and way of life.⁹ Investor expectations on Indigenous Rights are increasing, including that companies respect FPIC in business decisions that impact Indigenous Peoples.¹⁰

Identification and evaluation of all relevant data or risk factors, including exposure to potential human rights or biodiversity impacts or losses that are relevant in the context of an activity, are necessary to accurately assess the risk exposure and appropriately set pricing, coverage, and exclusions. While Chubb provides some information on its evaluation of environmental risks in underwriting and financing, Chubb lacks disclosure on how it evaluates human rights risks, in particular the rights of Indigenous Peoples, in underwriting. This may expose the company to mispricing of risk or failing to identify potential social and human rights risks associated with its

¹ <https://www.unepfi.org/insurance/insurance/signatory-companies/>

² <https://www.aig.com/esgreports/home/executive-summary>

³ <https://www.munichre.com/en/company/sustainability/human-rights.html>

⁴ <https://www.zurich.com/en/sustainability/responsible-investment/-/media/project/zurich/dotcom/sustainability/docs/mitigating-esg-risks-in-underwritingand-investment-management.pdf>

⁵ https://www.allianz.com/content/dam/onemarketing/azcom/Allianz_com/sustainability/documents/Allianz_ESG_Integration_Framework.pdf

⁶ <https://www.axiscapital.com/docs/default-source/about-axis/axis-capital-human-rights-policy.pdf?sfyrsn=f7dfcab82#:~:text=We%20expect%20insureds%20to%20respect.on%20indigenous%20territories%20without%20FPIC>

⁷ <https://www.swissre.com/dam/jcr:5863fbc4-b708-4e61-acc7-6ef685461abb/esg-risk-framework.pdf>

⁸ <https://ourarcticrefuge.org/corporate-commitment-to-protect-the-arctic-refuge/>

⁹ <https://ourarcticrefuge.org/gsc-and-240-allied-organizations-urge-u-s-insurance-companies-to-meet-the-moment-with-policy-to-protect-the-arctic-refuge/>

¹⁰ <https://www.blackrock.com/corporate/literature/publication/blk-commentary-engagement-on-human-rights.pdf>, <https://amazonwatch.org/news/2022/0622-thebusiness-case-for-indigenous-rights>

business activities, which may lead to increased costs, project cancelations, or negative human rights outcomes.

RESOLVED: Shareholders request that the Board of Directors publish a report, describing how human rights risks and impacts are evaluated and incorporated in the underwriting process. The report should be prepared at reasonable cost and omit proprietary information.

Supporting Statement: At company discretion, the proponents recommend the report include:

- The extent to which Free, Prior and Informed Consent, as articulated in the United Nations Declaration on the Rights of Indigenous Peoples, is considered or evaluated in the underwriting process; and
- The company's stakeholder engagement process, such as participating stakeholders, key recommendations made, and actions taken to address such recommendations.

Topic: Racial equity audit & Indigenous Peoples – U.S.

Company: Travelers

Notes: The proposal received 35 percent of the vote.

RESOLVED: Shareholders urge the board of directors to oversee a third-party audit (within a reasonable time and cost, and consistent with the law) which assesses and produces recommendations for improving the racial impacts of its policies, practices, products, and services. Input from stakeholders, including civil rights organizations, employees, and customers, should be considered in determining the specific matters to be assessed. A report on the audit, prepared at reasonable cost and omitting confidential/proprietary information, should be published on the company's website.

Travelers CEO Alan Schnitzer signed the Partnership for New York City pledge in June 2020, which reads “we are reasserting our commitments to diversity and inclusion among our boards, executive leadership, and our entire workforce” and “we commit to help address conditions” that lead to racial injustice.¹ However, we believe Travelers' policies and practices fall short of delivering on this pledge.

Travelers reports having made changes to its succession planning and talent management to identify people of color (POC) for hiring and promotion in 2020. Despite ranking 6th by premiums written out of 27 companies, Travelers ranked 20th in workforce race and ethnic diversity in 2021 according to the U.S. House Committee on Financial Services report on diversity and inclusion in America's largest insurance companies.² The report also concluded Black or African American employees are overrepresented in lower-level positions and underrepresented at higher-level positions, which is true at Travelers. Black people represent just 3 percent of senior leadership, but 18 percent of administrative support according to its 2021 EEO-1 data. Additionally, Travelers has a lower percentage of POC on boards compared to industry peers at 15.4 percent. The insurance industry average is 22.3 percent and within the top ten insurers, Travelers ranks last.³ Without transparent, public targets, it is unclear how Travelers will address the lack of diversity in its workforce.

The company may also face future legal risk. In 2018, Travelers settled a National Fair Housing Alliance lawsuit alleging it denied insurance to landlords renting to Section 8 voucher recipients, who are predominately Black women.⁴ We believe it is necessary to identify and remedy potential gaps between Travelers' non-discriminatory business practice policy and actual outcomes.

Additionally, Travelers' policies are implicated in an environmental justice controversy. Since 2020, Indigenous groups have asked the company to avoid insuring any oil and gas development in the Arctic National Wildlife Refuge, which is opposed by the Gwich'in people that live there.⁵ Several banks and insurance companies have already made such commitments, but Travelers has yet to join the growing list.⁶

We urge the company to conduct a full racial equity audit to examine its total impact and help dismantle systemic racism.

¹ <https://pfnyc.org/news/open-letter-from-leaders-of-the-partnership-for-new-york-city/>

² https://financialservices.house.gov/uploadedfiles/d.i_insurance_report_092022.pdf

³ https://financialservices.house.gov/uploadedfiles/d.i_insurance_report_092022.pdf

⁴ <https://nationalfairhousing.org/2018/02/23/travelers/>

⁵ <https://ourarcticrefuge.org/letter-to-insurance-companies/>

⁶ <https://ourarcticrefuge.org/corporate-commitment-to-protect-the-arctic-refuge/>

3. Sample Resolutions – Financial Services

Topic: Company Policy Compared to External Indigenous-led Standards of Practice

Company: Power Corporation of Canada

Notes: The proposal was withdrawn after discussions with the company.

RESOLVED THAT: The board of directors report to shareholders on the extent to which our company's policies, plans, and practices regarding Indigenous reconciliation (including Indigenous community relations, the recruitment and advancement of Indigenous employees, internal Indigenous cultural awareness education, and procurement from Indigenous-owned businesses) compare are certified by external Indigenous-led standards of practice.

ARGUMENTS To be responsive to the regulatory and reputational pressure related to Indigenous reconciliation, many companies have developed internal policies, plans, and programs on Indigenous relations, the recruitment and advancement of Indigenous employees, Indigenous cultural awareness training for employees, and procurement from Indigenous-owned businesses.

For investors, however, the breadth, depth, and content of these policies, plans, and programs is impossible to determine. Facing inconsistent disclosure, the extent to which a company has effectively incorporated and implemented steps to address Indigenous reconciliation and inclusion is impossible to measure.

There are, however, externally-verified options for corporations to demonstrate that their programs meet standards developed by qualified Indigenous organizations, such as the Progressive Aboriginal Relations (PAR) program of the Canadian Council for Aboriginal Business, which provides independent certification to corporations in Canada. Within Canada's financial sector, this is already an established best practice: BMO, Scotiabank, CIBC, Deloitte, EY, ATB Financial, and Accenture have all achieved certification under the PAR program, and others have committed to achieving certification.