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Wells Fargo's investments in companies with commercial ties to Myanmar's junta

Dear Mr Scharf,

We are writing on behalf of UNI Global Union, which represents 20 million workers in the skills and services sectors in 150 different countries, including finance and insurance workers as part of UNI Finance, and on behalf of the Committee for Better Banks, a coalition of frontline bank workers, consumer and community groups, and labour organizations, including the Communications Workers of America, uniting to raise standards in the finance industry.

We are writing to you to express our concern regarding Wells Fargo's investments in companies with commercial ties to Myanmar's junta, and request that the bank undertake necessary due diligence over these investments.

On 1 February 2021, the Myanmar military carried out a coup d'état against the country's democratically elected government. The military's increasingly repressive crackdown against pro-democracy protesters has led to hundreds of deaths, including summary executions, and thousands more detained, tortured, and injured. The UN General Assembly condemned the coup in a resolution passed on 18 June 2021 demanding they end the five-month-old military takeover, stop killing opponents and free imprisoned civilian leaders.

UNI Global Union's Management Committee adopted a statement on 21 May 2021, which "condemns the military coup in Myanmar in the strongest possible terms." In this statement, UNI "pledges to do everything possible to support the fight for rights and democracy in Myanmar."

The statement calls on international companies operating in Myanmar to:

> "end any direct or indirect business relationships or financial ties to military-owned businesses and to use their leverage to secure the release of detainees, restore democratic institutions, and guarantee the human and labour rights of all Myanmar workers. This must include international companies providing support to workers where operations are curtailed, including protection to workers protesting the coup."

In that light, we were concerned to read the recent report of BankTrack and Justice for Myanmar, which names Wells Fargo as a shareholder with a total of $1.911 billion in shareholdings in companies that have either direct and longstanding commercial ties to Myanmar's military or to state entities that the military is controlling as a result of the coup.

There is increasing international pressure from States, multilateral institutions, and civil society organizations for businesses to act, including an increasing number of targeted sanctions against military officials and military-affiliated entities, the freezing of these individuals' and corporate assets, and international protest and condemnation. On 25 March 2021, the U.S.

Department of the Treasury's Office of Foreign Assets Control (OFAC) sanctioned the military's two largest conglomerates, Myanmar Economic Holdings Public Company Limited (MEHL) and Myanmar Economic Corporation Limited (MEC), and the European Union followed suit on 20 April 2021, adding further individuals and 3 economic entities on 21 June 2021. These actions succeeded US sanctions against military officials and the state-owned gem and timber companies. The United Kingdom, Canada, Australia and New Zealand followed with similar actions.

Responsibility of banks

Under the United Nations Guiding Principles (UNGPs) and OECD Guidelines, all business enterprises, including investors, should take the necessary steps to cease, prevent, or mitigate adverse human rights impacts which they cause, contribute, or are directly linked to through their business relationships. As clarified in the OECD's guidance on *Responsible Business conduct for institutional investors*, minority shareholders such as banks or other institutional investors have human rights' responsibilities for the human rights' impacts of their investee companies.

We note that Wells Fargo acknowledges this responsibility to respect human rights in its human rights statement and that "To that end, [Wells Fargo] strive[s] to respect human rights throughout our operations and our products and services."

A growing number of institutional investors, including banks, have acted upon this responsibility regarding the risks of their investments in Myanmar. For example, 77 institutional investors with $4 trillion in assets under management have signed on to an investor statement which outlines steps for companies with operations linked to Myanmar. Other investors have taken the step to divest from companies over an unacceptable risk of supporting the regime, such as the recent decision of KLP to divest from Adani Ports.

In the current situation following the coup in Myanmar, urgent and heightened due diligence activities are needed by all companies with business relationships in the country given the severity of the human rights' impacts.

Actions needed

BankTrack's report found that Wells Fargo is a shareholder in three out of eight companies identified with long-standing ties to the military junta: Daiwa House Industry Co Ltd, Hilton Worldwide Holdings Inc, and Posco. Furthermore, they also report Wells Fargo shareholdings in all ten companies identified with direct commercial relationships with enterprises that came under military control: Chevron Corp, Eneos Holdings Inc, Eni SpA, GAIL (India) Ltd, Oil and National Gas Corporation Ltd, KDDI Corp, PTT Exploration and Productions PCL, Royal Dutch Shell Plc, Sumitomo Corp, and Total SE.

The report notes that for banks with investments in the eight companies named with long-standing ties to the military junta, using leverage as shareholders to prevent or mitigate human rights' impacts is no longer the appropriate course of action. Rather, they call upon banks and other investors to divest immediately from these eight companies.

This approach is needed in line with the OECD Guidelines given the unfeasibility of mitigation and severity of the impact. As noted by the OECD Guidance for institutional investors: "an appropriate response once adverse impacts have been identified may include divestment after failed attempts at mitigation, where the investor deems mitigation unfeasible, where the investor policy dictates exclusion, or simply because of the severity of the adverse impact."

For the ten companies identified with a direct commercial relationship with enterprises that came under military control following the coup, BankTrack notes that “banks and other investors have a responsibility to conduct meaningful, timebound engagement with these ten companies to insist that they immediately take the specific steps outlined in order to bring themselves into compliance with the international standards. If the companies do not indicate that they are willing to take these steps and at least initiate a process to begin doing so, the banks should divest their shares of the companies until the companies are in compliance with the OECD Guidelines and UNGPs.”

We call upon Wells Fargo to take the necessary steps of divesting from Daiwa House Industry Co Ltd, Hilton Worldwide Holdings Inc, and Posco, and begin robust engagement with Chevron Corp, Eneos Holdings Inc, Eni SpA, GAIL (India) Ltd, Oil and National Gas Corporation Ltd, KDDI Corp, PTT Exploration and Productions PCL, Royal Dutch Shell Plc, Sumitomo Corp, and Total SE. While we note that these investments were likely made prior to the coup, in light of the current situation, action is now needed to end financial support that enables the regime’s brutal crackdown.

Thank you for your attention to this matter. We look forward to your response, and are available to provide further information or discuss this further. Please send your response to UNI Finance Head of Department Angelo Di Cristo: angelo.dicristo@uniglobalunion.org.

Yours sincerely,

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