FIRST NATIONS PEOPLES' RIGHTS WORKING GROUP



Meeting #1 – 16 February 2023 - 12:00pm to 1:30pm AEST / 2.00pm to 3:30pm NZST

Attachments

- 1- Meeting Slide Deck
- 2- Special Presentation Slide Deck (Laura Melrose)
- 3- MSCI StockWatch Report
- 4- ISS ESG HRWG StockWatch Report

Minutes

Item	Action required	Delegation
 Welcome - Alan Dayeh (Chair, Point Advisory) Acknowledgement of country Working Group objectives Motion to approve latest minutes: Alan Dayeh (Chair, Point Advisory) Motion Passed: Jackie Radisich, Future Super Second: Daniel Meech, Koda Capital 		
 Special Topic Presentation – Dhawura Ngilan Business and Investor Initiative Draft Principles – view recording here Cath Brokenborough, Executive Lead First Nations Engagement and Reconciliation at Lendlease and the Chair of the Dhawura Ngilan Business and Investor Initiative (DNBII). Laura Melrose, Solicitor at Terri Janke and Company on the recently published draft Principles. [see Attachment 2] The Dhawura Ngilan Vision is a First Nations led vision on cultural heritage protection. These principles arise from that vision, which is being led by the First Nations Heritage Protection Alliance, an alliance of the major land councils and other First Nations representative bodies that arose from the Juukan Gorge destruction. The Initiative is led by the Alliance, with RIAA and the UN Global Compact Network Australia. Terri Janke and Company is an Indigenous led and owned law firm with international expertise on cultural heritage protection and Indigenous Cultural and Intellectual Property. Laura explained the purpose and structure of the business and investor guides. She did a deep dive on the section on Free Prior and 	For more information, please contact <u>Laura</u> <u>Melrose (Terri</u> <u>Janke & Co.)</u>	All

	Informed Consent (FPIC), which is grounded in the UN Declaration on		
	the Rights of Indigenous Peoples (UNDRIP) and expanded upon in the guides.		
3.	Updates		
	t Nations Heritage Protection Alliance (Matt Storey, National Native e Council)	For more information please	
	 While Voice to Parliament is a national focus, Minister Plibersek remains committed to ensuring Commonwealth legislation on Indigenous Voice to Parliament, with plans for a bill to be submitted to the House of Parliament in 2024 with a cultural heritage focus. 	contact Matt Storey (National Native Title Council).	
Aot	earoa Māori Update (Temuera Hall, TAHITO)	_	All
	 Waitangi Day was on 6 February, marking 40 years of dealing with treaty grievances and settlements. Rural communities gravely impacted by the weather disasters in New Zealand, yet are also demonstrating community resilience. Current challenges include Indigenous data sovereignty and Intellectual Property rights and protection. 	For more information please contact <u>Temuera</u> Hall (Tahito Ltd.)	All
Sto	kWatch Report (Kuldeep Yadav, MSCI)	information please contact <u>Kuldeep</u>	
	Shared insights into FPIC and the mining industry.See Attachment 3.	Yadav (MSCI)	
4.	Objectives Updates		
	5) Collaborate to support First Nations Peoples' investment markets and economic empowerment (Min Wah Voon, RIAA)	For more	
	 Led by Will Leak (BT), we held our kick-off meeting with First Nations advisors (First Australians Capital and Impact Investment Partners) and founding sponsors, Future Super and Ethical Partners. This is pioneering research on how investors can unlock First Nations Investment Markets and support self-determination and prosperity. 	information, please contact <u>Will Leak</u> (BT)	All
5.	Other Business and Updates		
RI A	ustralia Conference 2023 (Min Wah Voon, RIAA)		
	 RIAA is holding their Australian conference in Melbourne on 10 & 11 May 2023. There will be two First Nations panels – view full conference program here 	Register for RI Australia Conference 2023	
Firs	t Nations Working Group (Alan Dayeh)	<u>here</u>	
	 Seeking nominations for Co-Chair for First Nations Peoples' Rights Working Group. To nominate, please contact Alan and Min Wah. 	To nominate for	All
Voic	e to Parliament Discussion	FNPRWG Co-Chair,	
	 An insightful member-led discussion on the Voice to Parliament, with individuals sharing their perspectives, learnings, actions, and understandings. Members discussed their organisations' relationship with the Voice. 	please contact Alan Dayeh (Chair) and Min Wah Voon (RIAA)	
<u>Add</u>	itional Resources		
	 ISS ESG Human Rights Working Group StockWatch Report FY23 Quarter 3 – read <u>here</u> 		

Next Meeting: 20 July 2023 – register <u>here</u>	Register	All	
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Action Register

Ref	Action	Delegation	Status	
New				
8/23	Next Meeting: 7 July 2023 – register <u>here</u>	All	Pending	
7/23	To nominate for FNPRWG Co-Chair, please contact <u>Alan Dayeh (Chair)</u> and <u>Min Wah Voon (RIAA)</u>	All	Pending	
6/23	Register for RI Australia Conference 2023 <u>here</u>	All	Pending	
5/23	For more information on Objective 5 and the Advisory Group, please contact Min Wah Voon (RIAA)	All	Pending	
4/23	For more information on the StockWatch report please contact Kuldeep Yadav (MSCI)	All	Pending	
3/23	For more information on the Aotearoa Māori update please contact Temuera Hall (Tahito Ltd.)	All	Pending	
2/23	For more information on First Nations Heritage Protection Alliance please contact <u>Matt Storey (National Native Title Council)</u>	All	Pending	
1/23	For more information on the Dhawura Ngilan Business & Investor Initiative, please contact <u>Laura Melrose (Terri Janke & Co.)</u>	All	Pending	
	Previous			
27/22	Next Meeting: 16 February 2023 – register <u>here</u>	All	Complete	
26/22	To engage with the work of First Nations Foundation, visit their <u>website</u>	All	Ongoing	
25/22	For more information on First Nations Heritage Protection Alliance please contact Matt Storey (National Native Title Council)		Ongoing	
24/22	For more information on Australian Sustainable Finance Institute Roadmap please contact <u>Alan Dayeh (Point Advisory)</u> .		Ongoing	
23/22	For more information or to engage with the Nature Working Group or TNFD, please contact <u>Antonia Bowlen (RIAA)</u>		Ongoing	
22/22	For more information on FNPR Working Group Objectives, please contact Min Wah Voon (RIAA)	All	Ongoing	
21/22	For more information or to nominate for Chair/Co-Chair, please contact Min Wah Voon (RIAA)	All	Ongoing	
20/22	For more information on the Workplan, please contact Min Wah Voon (RIAA)	All	Ongoing	
19/22	Next Meeting – 26 October – Register <u>here</u>	All	Complete	
18/22	Share feedback to the NZRB consultation <u>here</u>	All	Ongoing	
17/22	For more information on the FY23 Workplan, get in touch with Min Wah Voon (RIAA)	All	Ongoing	
16/22	Members interested in discussing Aotearoa NZ Modern Slavery Legislation, please get in touch with Min Wah Voon (RIAA)	All	Ongoing	
15/22	For more information on research and updates, get in touch with Min Min Wah Voon (RIAA) to join subgroup	All	Ongoing	

14/22	For more information on StockWatch, please contact <u>Clare Bartram (ISS ESG)</u>	All	Ongoing
13/22	Members are encouraged to contact <u>Jonathan Kolieb</u> and <u>Fauve Kurnadi</u> regarding the Special Presentation.	All	Complete

Attendees (58)

	First Name	Last Name	Company
1	Abi	Singham	СВА
2	Alan	Dayeh	Point Advisory Pty Ltd
3	Anson	Chan	RIAA
4	Antonia	Bowlen	RIAA
5	Ashley	Kopczynski	IFM Investors
6	Bevan	Smith	Koda Capital
7	Bri	Simula	QNR
8	Bridgette	Mcdonald	Pamoda Consult
9	Briony	Doyle Galovic	RIAA
10	Caitlin	Medley	Individual Supporter
11	Caleb	Adams	E&P Financial Group
12	Cath	Brokenborough	Lendlease
13	Claire	Molinari	Care Super
14	Daniel	Meech	Koda Capital Pty Ltd
15	Deb	Cotton	UTS Business School
16	Estelle	Parker	RIAA
17	Gemma	Porter	First State Superannuation Scheme
18	Georgina	Murray	Ethical Partners Funds Management
19	Heath	Branigan	T. Rowe Price
20	Hiroka	Mcgregor	IFM Investors
21	Holly	Marshall	Kiwi Invest
22	Isabella	Marotta	Responsible Investment Association Australasia
23	Isabelle	Forday	Bendigo & Adelaide Bank
24	lvor	Gibbons	Perpetual Limited
25	Jacinta	Young	Ndevr Environmental
26	Jackie	Radisich	Future Super
27	Janice	Morris	Impact Investment Partners
28	Jessica	Walter	Colonial First State
29	Kana	Thorpe	Duxton Capital Australia
30	Karen	Mcwilliams	Chartered Accountants Australia And New Zealand
31	Kate	Gill-herdman	Corrs Chambers Westgarth
32	Kaylene	Oneill	NAB
33	Kieran	Cain-hall	NAB
34	Kirsten	Laurendet	N/A
35	Kuldeep	Yadav	MSCI ESG Research (Australia) Pty Limited
36	Laura	Melrose	Terri Janke And Company Pty Ltd Lawyers And Consultants
37	Lisa	Domagala	Solaris Investment Management Limited
38	Madeleine	Huynh	Perennial
39	Mark	Lyster	Lyster & Associates
40	Mary	Watt	Rest Super

41	Matthew	Storey	Nntc
42	Mel	Sutton	KPMG Banarra
43	Mellisa	Ма	Pollinarion
44	Michaela	Young	Ndevr Environmental
45	Min Wah	Voon	Riaa
46	Natalia	Tsurkova	Responsible Investment Association Australasia
47	Nicolette	Boele	Consultant
48	Nina	Haysler	Australian Retirement Trust
49	Oiivia	Webster	Australianethical
50	Rachel	Halpern	Jana Investment Advisors
51	Samantha	Hutton	IFM Investors
52	Shamus	Mccully	Macquarie Asset Management
53	Shannon	Taylor	Minderoo Foundation - Fire & Flood Resilience Initiative
54	Stephanie	Williams	T. Rowe Price Australia Limited
55	Susan	Quinn	RIAA
56	Temuera	Hall	JMI Wealth - TAHITO Portfolio
57	Venn	Purnell	Active Super
58	Will	Bartlett	First Sentier Investors

First Nations Peoples' Rights Working Group Meeting #1

Thursday 16 February



First Nations Peoples' Rights Working Group Meeting #1



Alan Dayeh, Chair of RIAA's First Nations Peoples' Rights Working Group & Managing Principal at Point Advisory



Principles of participation

- Confidentiality Chatham House Rule
- No self-promotion
- Declaration of conflicts of interest
- Representation
- Collaboration between members
- Positive change in practice/policy
- Not to engage in or discuss competitively sensitive information
- Apolitical



Special Presentation: Dhawura Ngilan Business and Investor Initiative Draft Principles



Cath Brokenborough, Executive Lead First Nations Engagement and Reconciliation at Lendlease & Chair of the Dhawura Ngilan Business and Investor Initiative



Laura Melrose, Solicitor at Terri Janke and Company





Dhawura Ngilan Principles

Business Guide

Structure of the Guide

- Context significance of Dhawura
 Ngilan for businesses
- Principles
- Implementation practical guidance in six key areas
 - Respect and self-determination
 - Collaboration and consent
 - Truth and holistic heritage
 - Caring for Country and Culture
 - Supporting First Nations prosperity
 - Advocacy and Leadership

Investor Guide

Structure of the Guide

- Context significance of Dhawura
 Ngilan for investors
- Principles
- Implementation for both business activity and stewardship (red flags/green flags)
 - Approaching cultural heritage
 - Buying assets
 - Holding assets
 - Divesting
 - Advocacy

16 February 2023

ADVOCACY & LEADERSHIP

- First Nations legislative reform
- Representation on boards and executive levels
- · Industry led responses (regional approaches and understanding cumulative impact)
- · Support for heritage listings, incl. intangible
- · Education, promoting heritage in curriculum

SUPPORTING FIRST NATIONS PROSPERITY

- · First Nations workforce, employment, procurement
- · Engaging First Nations cultural heritage consultants
- Resource First Nations communities for cultural heritage functions
- · Promoting First Nations business development
- First Nations-led Joint Ventures







· Recognising rights: UNDRIP

RESPECT & SELF

- Celebration of culture
- · First Nations Custodianship
- Indigenous Data Sovereignty
- Respect for secret/sacred culture
- · Cultural safety and competency

DHAWURA **NGILAN:**

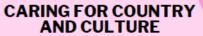
Principles & Actions



COLLABORATION & CONSENT

- FPIC
- · First Nations empowerment in decision-making
- · Agreement-making
- Cultural Safety
- · Grievance mechanisms
- · Community ownership and control





- · Connection between people, land and culture
- Access to Country
- · Biodiversity; protecting culturally significant species
- · Caring for cultural objects and material
- Keeping places and Resting Places
- · Repatriating ancestral remains and Secret/Sacred materials





TRUTH & HOLISTIC **HERITAGE**

- Cultural wellbeing
- Intangible cultural heritage and ICIP
- Language
- Dual and sole naming
- · Cultural maintenance e.g. Digitisation projects
- Support knowledge systems and transfer
- · Supporting truth in research e.g. research massacre maps
- Telling a global story

Dhawura Ngilan Business Guide



- Build cultural heritage considerations into decision-making processes
- First Nations rights as a vital element of ESG

Aims:

- Practical advice on how to manage businesses without negative impact on Country, heritage sites, knowledge and places.
- How businesses can empower and support First Nations Peoples to manage and protect their heritage and Country.

Includes:

- FPIC best practice consultation and seeking consent
- Building relationships based on truth
- Agreement making and benefit sharing

Dhawura Ngilan Investor Guide



IN DEVELOPMENT

- Recognises that key risk for investment returns comes from negative impacts to Indigenous cultural heritage
- Sets out how cultural heritage considerations can inform decision making

Aims:

 Considers investors as both companies themselves, and stewards of corporate behaviour

Includes:

- Developing an investment approach that considers ICH
- What to look for in potential investee companies
- Working with First Nations people to achieve positive outcomes

DEEP DIVE: FPIC in practice



United Nations Declaration on the Rights of Indigenous Peoples

"...free and informed consent prior to the approval of any project affecting their lands or territories and other resources," (Art. 32)

FPIC is:	FPIC is not:
✓ a dynamic and ongoing process	a one-off authorisation
✓ co-design – equal decision-making roles, listening and	only consultation, or consultation
implementing feedback	as a 'tick box' process
✓ sensitive to local contexts, communities and histories	viewed narrowly
✓ allowing sufficient time for cultural decision-making	rushed to meet deadlines
✓ may require multiple consents from interested partie	s consent from one person
✓ open lines of communication and regular updates	only reaching out when you have
between First Nations groups and partners	deadlines
✓ having policies and processes established to stand the	e test relationships rely on individuals
of time	without a succession plan
✓ working creatively to make projects be mutually benefit	eficial only identifying the needs of the
	project proponent
✓ recorded in agreements	verified only by verbal means

Updates

- First Nations Heritage Protection Alliance (Matt Storey, National Native Title Council)
- StockWatch Report (Kuldeep Yadav, MSCI)



Work Group Objectives Update

- Collaborate with First Nations peoples to increase their voices in responsible investment and sustainable finance
- 2. Assist with facilitating First Nations peoples' **conversations** for the RI sector
- 3. Facilitate **education** on First Nations' peoples' rights, empowerment and leadership for the RI sector
 - Educating Indigenous investors on responsible investment markets
- 4. Collaborate with First Nations peoples to promote awareness about UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and develop guidance on minimum standards and application of frameworks/tools
- 5. Collaborate to support First Nations peoples' investment markets and economic empowerment
 - Support Indigenous investors in becoming members of RIAA
- 6. Support RIAA members to challenge racism, support Truth Telling and establish inclusive culture
 - RIAA developing and embarking their own Reconciliation Action Plan (RAP)
- 7. Advocate for **policy** that reduces gaps in wealth, income and wellbeing



RI Australia 2023 Conference – First Nations Peoples' Rights Panels

First Nations investment markets

Plenary session - 10th May 2.15pm - 2.55pm AEST

From the clean energy boom to nature-based solutions, a healthy Australian economy depends on equitable partnerships with Indigenous peoples, business and investors, and learning from First Australians' knowledge, culture, innovation and entrepreneurial thinking. Join a conversation with leading thinkers and doers in First Nations investment markets and hear how responsible investors can be valuable partners for impact and sustained growth.



Benson Saulo
Consul General & Senior Trade
and Investment Commissioner
at Australian Trade and
Investment Commission



Leah Armstrong Managing Director of First Australians Capital Ltd



William Leak
Senior Portfolio Analyst,
Sustainable Investment at BT

First Nations equity in your organisation – be a genuine partner in reconciliation and selfdetermination

Plenary session - 10th May 3.30pm - 4.10pm AEST

From creating Reconciliation Action Plans to expanding your supplier diversity with Indigenous owned businesses, learn from leading First Australian organisations on what investors can do to embed First Nations equity in your organisation.



Karen Mundine
Chief Executive Officer at
Reconciliation Australia



Phil Usher
Chief Executive Officer at First
Nations Foundation



Other Business and Updates

- Nature & First Nations (Min Wah Voon, RIAA)
- First Nations Peoples' Rights Working Group updates (Alan Dayeh, Point Advisory & Chair)
- Voice to Parliament Group Discussion



Upcoming meetings/events

- Human Rights Working Group, Thurs 23 February 12pm 1.30pm AEDT / 2pm 3.30pm NZDT
- Nature Working Group, Wed 22 March 12pm 1.30pm AEDT / 2pm 3.30pm NZDT
- First Nations Peoples' Rights Working Group, Wed 24 May- 12pm 1.30pm AEST / 2pm 3.30pm NZST

View full list of RIAA's events here.







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RESPECT & SELF DETERMINATION

- · Recognising rights: UNDRIP
- Celebration of culture
- First Nations Custodianship
- · Indigenous Data Sovereignty
- Respect for secret/sacred culture
- · Cultural safety and competency

DHAWURA NGILAN:

Principles & Actions



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CARING FOR COUNTRY AND CULTURE

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MSCI Human Rights Working Group StockWatch Report 02/2023

Free Prior and Informed Consent (FPIC) is a specific right pertaining to indigenous peoples which allows them to give or withhold consent to a project that may affect their way of life or their territories. FPIC is backed by the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Biological Diversity, and the International Labour Organization Convention 169. Despite the recognition of FPIC by the most powerful international instruments of human rights, mining companies have not consistently respected this right.

Many countries around the world are introducing stricter consultation requirements for mining companies with indigenous communities including the veto power over mining companies. In Australia, the heritage protection laws and the native title act allow consultations, however, they do not enable traditional owners to say 'no' or veto a project in Australia. The mining sector's impact on the Australian economy cannot be understated and is quite evident from its dominating position in the top exports of the country. The indigenous communities are aware that the mining operations have not distributed the economic benefits fairly in the past and there is a large gap between the mining profits and the social spending of the mining companies. We believe, moving forward, companies don't have a choice, but to maintain their social license to operate as community relations have now become a pre-requisite for most mining projects. Many businesses are running a wide array of health and education programs to benefit the communities and taking initiatives to source their employees and goods locally. We note that 70% of the precious metals & mining peer set were found to have a procurement policy that supports local suppliers or prioritises purchases that support local communities. Procuring goods and hiring employees from local mining areas promote shared benefits, which may increase local support for a mining project.

Mining is an invasive activity that profoundly impacts the indigenous way of life. About 60% of Australian mines are located close to the indigenous communities, providing mining companies an opportunity to help the communities grow and minimise any disruption the mining activities may bring to the local communities. The failure of mining companies to align their interest with the local communities can translate into project delays, reputational damage, project delays, and the loss of permits to operate.



Recent human rights controversies

Rio Tinto Limited

In its October 2022 Communities and Social Performance (CSP) Commitments Disclosure report, the company stated that they are working with the PKKP people and continue to remediate and protect the Juukan Gorge area and they have codesigned new ways to work together to strengthen heritage protection. In Rio Tinto's November 2022 press release, the PKKP and Rio Tinto have agreed to create the Juukan Gorge Legacy Foundation to be led and controlled by Traditional Owners and Rio Tino will provide the financial support to the foundation to support the cultural, social, educational and economic aspirations of the group and to support cultural and social projects including a new keeping place for important cultural materials. In communication with ISS ESG in January 2023, Rio Tinto highlighted that the rehabilitation works is still ongoing.

Energy Resources of Australia Ltd

The traditional owners of Kakadu National Park, the Mirarr people, have welcomed an amendment to the Atomic Energy Act 1953 which gives mining company Energy Resources of Australia (ERA) more time to rehabilitate the Ranger uranium mine. The costs and timeline of the rehabilitation have increased, with the latest assessment putting the bill at \$1.6-\$2.2 billion and a completion date of 2028 at the earliest. The amendment to the act allows ERA to continue to access the site until the clean-up is complete. Minister for Indigenous Australians Linda Burney will start negotiations on a new land access agreement with the Mirarr traditional owners. The rehabilitation could take decades and the cost is not yet known. The changes to the act only allow for rehabilitation at Ranger and no further mining is allowed. [ABC News, 03/12/2022]

Santos Ltd.

Santos has lost its appeal against a ruling that overturned approvals for its \$4.7bn Barossa offshore gas project in the Northern Territory. The Full Federal Court found the project's environmental approval was invalid and that Santos and the federal government regulator failed to ensure that traditional owners were properly consulted. The case has meant Santos' drill rig has been sitting idle since October. Santos has said it still plans to submit a fresh application and expects the project to go ahead. The project would involve piping gas past the Tiwi Islands to Darwin for export to South Korea and Japan. [ABC News, 02/12/2022]

Santos has been instructed to halt construction of its Barossa gas project pipeline until it assesses the impact on any underwater cultural heritage sites along the pipeline route that could have spiritual and cultural connections to Indigenous people. The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) found that some potential risks to Aboriginal cultural sites were not fully examined in the earlier environmental plan. Tiwi Islands traditional owners and environmental groups have welcomed the decision. Santos is facing delays as the company lost a legal battle against a clan of Tiwi Islands traditional owners who argued they were not properly consulted about plans to drill through their sea country. [ABC, 25/01/2023]



The National Native Title Tribunal has approved a \$3 billion gas development by Santos in northern New South Wales, allowing them to drill over 850 coal seam gas wells in the Pilliga Forest for the next 25 years. The decision was made after the tribunal determined that a group of Indigenous Australians who applied for native title of the Pilliga area failed to prove that the project would have grave and irreversible consequences for the Gomeroi people's culture, lands, waters, and would contribute to climate change. The decision was met with disappointment by the local Indigenous Gomeroi people, who plan to appeal the ruling. The company is required to implement provisions in the Aboriginal cultural heritage management plan before the next phase of the project and publish modelling of management plans for groundwater, biodiversity, and other environmental impacts. [AFR, 20/12/2022]

The Gomeroi people in New South Wales are calling for an overhaul of native title laws following the approval of the Narrabri Gas Project by the Native Title Tribunal. The project, declared critical state significant infrastructure by the NSW government, will see oil and gas company Santos drill 850 wells in and around the Pilliga region without the consent of the Gomeroi people. Protesters say the project risks contaminating crucial groundwater and want the government to transition to renewable energy instead. Gomeroi women, who traditionally hold the law over water, say the project flies in the face of thousands of years of culture. [ABC, 17/01/2023]

ISS ESG Report Identifies Corporate Controversies that Dominated the News in 2022

ISS ESG's Norm-Based Research team has recently produced a report titled "Corporate Controversies That Defined 2022". The report leverages ESG Newsroom, ISS ESG's Al-supported news monitoring service that allows users to search, monitor, and filter large volumes of news articles related to ESG controversies that highlight a company's reputational risk. ISS ESG identified and tracked nearly 17,000 ESG controversies, reported by the media and stakeholders, linked to around 3,000 of over 17,000 monitored companies.

Key Takeaways in relation to Human Rights

- The largest share of the 17,000 individual corporate controversies, at nearly 18%, revolved around labour rights, with strike action, working conditions, and union rights as predominant themes.
- While the international community continues to reiterate the need for adequate remediation measures for controversies associated with the Xinjiang region of China, only a few issuers with ties to the region have heeded this call.
- Issuers' activities in Myanmar continue to be scrutinized, with the focus shifting to their exit from these ventures, placing companies in a difficult position.

ISS-ESG.COM 2 of 2