



Landgrabs, forests & finance: Issue brief #4 Wilmar International and its financiers: commitments and contradictions

Wilmar International¹ (“Wilmar”), a company listed on the Singapore stock exchange, is in the businesses of oil palm cultivation, processing and merchandising of various types of edible oil, and biodiesel manufacturing. The company is one of the world’s largest palm oil plantation owners and the largest palm oil refiner in Indonesia and Malaysia.² In June 2007, Wilmar International completed a major merger with the palm oil and edible oil operations of the Kuok Group.³ Major shareholders of the company include Kuok Khoon Hong, Robert Kuok and Martua Sitorus.⁴

In 2012, Wilmar International revenue was \$45.6 billion, with net profit of \$1.3 billion.⁵ As of December 2012, the company owned 255,648 hectares of oil palm, 73 percent of which is located in Indonesia, 23 percent in East Malaysia and 4 percent in Africa.⁶ At the end of 2008, they held 223,000 hectares, increasing their land ownership by about 14 percent in four years.⁷ Wilmar International and its various subsidiaries also operated 97 palm and lauric oil refineries in 2012, 48 of which were in China, 25 in Indonesia and 13 in Malaysia. Wilmar’s total refining capacity for palm oil and soft oils stands at 25 million tons per year.⁸

Wilmar is the world’s worst company

In 2011 and 2012, Newsweek ranked Wilmar as the world’s least sustainable company in terms of environmental performance (last among the 500 largest publicly traded companies in the world).^{9,10}

Corporate Social Responsibility strategy

Wilmar has developed a CSR strategy, which outlines its commitment to sustainable growth and development, as well as Wilmar’s role as a responsible corporate citizen. The strategy claims that Wilmar has adopted a responsible plantation management approach that enables the company to enhance natural biodiversity without compromising plantation yields or profitability. Most notably, Wilmar says it intends to engage stakeholders by listening to their concerns and addressing them within Wilmar’s business decisions, as well as through strategic collaborations with stakeholders.



Financiers

Shareholders and banks are the most important financial stakeholders of Wilmar International. As of the end of 2012, shareholders financed 34.2 percent of its assets, while banks accounted for 52.4 percent, largely in the form of short-term loans. European and U.S. financial institutions own or manage 4 percent of Wilmar International's outstanding shares, with a value of \$481 million. The pension funds hold \$71.75 million of Wilmar International shares.

Table 1. Most important North American and Europeans financiers of Wilmar International (since July 2009)

Financial institution	Country	Share value (\$USD millions)	Bond underwriter (\$ millions)	Provider of bank loans (\$ millions)
ABP	Netherlands	9.17		
Bank of America	United States			106.09
Barclays	United Kingdom			133.59
BlackRock	United States	113		
BNP Paribas	France			315.64
Caisse de Depot et Placement du Quebec	Canada	10		
CalPERS	United States	25.05		
Capital Group International	United States	39.99		
Citigroup	United States			183.13
Credit Agricole	France			95.61
Deutsche Bank	Germany	2.62		31.43
Fidelity Investments	United States	28.22		
Goldman Sachs	United States	1.75		
HSBC	United Kingdom	5.24	83.82	1206.23
J.P. Morgan	United States	24.13		
KBC Group	Belgium			56.32
Massachusetts Mutual	United States	22.79		
Northern Trust Corporation	United States	8.57		
Pesnioenfonds Zorg en Welzijn	Netherlands	9.17		
Pictet & Cie	Switzerland	8.98		
Rabobank	Netherlands			290.75
Schroders	United Kingdom	19.27		
State Street Corporation	United States	17.03		
The Charles Schwab Corporation	United States	1.69		
TIAA-CREF	United States	14.10		
Van Eck Global	United States	271.61		
Vanguard Group	United States	54.09		

Source: Profundo Research & Advice (2013).



Sustainable investment policies by investors

Many financiers, including those involved in Wilmar, have developed ESG (Environment, Social and Governance) policies. Some ask the companies they invest in to uphold U.N. Global Compact Principles, while others require companies to respect the Organization for Economic Cooperation and Development Guidelines or the Roundtable on Sustainable Palm Oil criteria. Some investors, like Rabobank in Europe, have developed their own palm oil financing policies. All these policies require companies to protect natural forests and respect national laws on land rights and the environment.

North American financiers

Many North American banks and investors, including some of the largest banks and pension funds, are involved with Wilmar International. In particular, some of these financiers have specific Environmental and Social Governance policies that are breached by Wilmar's actions.

Bank of America, the second largest bank in the United States, was among a syndicate of banks that loaned \$400 million to Wii Pte, a wholly-owned subsidiary of Wilmar, in June 2010. Under its Forest lending principles,¹¹ Bank of America says it will assure that lending proceeds are not used to finance operations that result in resource extraction from, or the clearing of, primary tropical moist forests or high conservation value forests. Bank of America says it will not finance companies or projects that knowingly purchase timber from illegal logging operations. Bank of America also claims to respect the rights of indigenous communities whose livelihoods or cultural integrity could be adversely impacted, and says it will not finance the operations unless it is determined that indigenous peoples impacted by projects in these sensitive areas, whether directly or by induced impact, have the opportunity and culturally appropriate representation necessary to access information needed for informed participation. Additionally, the bank says it will not finance operations in areas where indigenous land claims are not settled.

BlackRock

BlackRock considers itself one of the world's largest responsible investors, with \$270 billion (or 7 percent of the firm's total assets under management) in mandates that explicitly address social, ethical or environmental considerations. In

June 2011, BlackRock received an "A" rating from MSCI Research in its Environmental, Social and Governance Industry Report, making it the highest rated among the top five global asset managers by market capitalization. Nevertheless, BlackRock owns or manages 39 million shares in Wilmar, worth over \$87 million.

Caisse de Depot et Placement du Quebec is a signatory to the UN Principles for Responsible Investment (PRI), which commits them to incorporate ESG issues into their investment decisions.¹² Caisse de Depot holds Wilmar shares worth over \$5.98 million.

CalPERS, the California Public Employees Retirement System, provides retirement and health benefits to more than 1.6 million public employees, retirees, and their families and more than 3,000 employers. CalPERS is a founding member of the UN-backed Principles for Responsible Investment and the Investor Network on Climate Risk (INCR), and professes a commitment to investments that are sensitive to climate change, resource scarcity, and exploitative labor practices.¹³ CalPERS holds close to \$15 million worth of shares in Wilmar.

Capitol Group International is a signatory to the UN Principles for Responsible Investment, which commits them to incorporate ESG issues into its investment decisions.¹⁴

The **Charles Schwab Corporation** is one of the world's largest discount brokers, serving 7.9 million client accounts, with \$1.65 trillion in assets.¹⁵ Charles Schwab has no explicit environmental and social governance principles. Schwab owns or manages 598,166 shares in Wilmar, worth about \$1 million.

Citigroup, the third largest bank in the United States, is a signatory to the Equator Principles, and has made a public commitment not to engage in business with companies known to be in violation of local or national laws regarding illegal logging, and not to execute transactions that significantly convert or degrade a critical habitat (consistent with IFC Performance Standards).¹⁶ Citi also claims to support human rights through its supply chain.¹⁷ Citigroup has made two sizable loans to Wilmar, one for \$81 million (in 2011) and the second for \$26 million (in 2012).



FIL Investments is a privately owned investment manager that belongs to Fidelity Investments,¹⁸ which is a signatory to the UN Principles for Responsible Investment. Fidelity says that PRI principles are consistent with Fidelity’s approach to corporate social responsibility.¹⁹ But it makes clear that environmental and social issues are only of concern when these issues have a material impact on either investment risk or return. Fidelity does not screen out companies on the grounds of poor ESG performance but rather chooses to engage with the management of the companies in which it invests.²⁰

Goldman Sachs is not a signatory to the Equator Principles, but takes note of them in its environmental policy framework²¹. This policy framework claims that Goldman Sachs prefers to only finance non-extractive uses of forest resources in forests whose high conservation values are endangered, to develop due diligence procedures around key environmental issues, and to strive to protect the highest conservation values in forests. Goldman Sachs commits not to knowingly finance companies or projects that engage in illegal logging, and it “recognize[s] the rights of communities regarding issues affecting their lands and territories,” and “prefer[s] to only finance projects in indigenous

areas where free, prior informed consultation results in support of the project by the affected indigenous peoples.”²² Goldman Sachs holds 609,000 shares in Wilmar, worth over \$1 million.

J.P. Morgan is a signatory to the Equator Principles and the UN Principles for Responsible Investment.²³ Where projects involve palm oil production, JPMC says it “may require the project to conform to the Principles and Criteria for Sustainable Palm Oil Production of the Roundtable on Sustainable Palm Oil.” JPMorgan Chase also states that it prefers to only finance projects in areas where robust, free, prior informed consultation results in support of the project by the affected indigenous peoples, and which include measures to avoid potentially significant adverse effects on the indigenous communities or minimize, mitigate, and compensate for such effects.²⁴ J.P. Morgan Asset Management holds 8,983,000 shares in Wilmar, worth \$14.4 million.

Northern Trust Corporation, which holds over 3 millions shares in Wilmar, asserts that its investments conform to the principles of sustainability and it seek to integrate environmental considerations into its decision-making process²⁵.

State Street Corporation is the largest servicer of U.S. pension plans and the largest investment



Some of the men and their machines on a newly cleared site of hundreds of acres by the lakeside. This land assumed by locals to be common land and therefore for public use was all of a sudden in the hands of the plantation owner, BIDCO.



manager of institutional assets worldwide.²⁶ It considers itself to be one of the largest managers of environmentally and socially responsible investments in the world²⁷ with approximately \$126 billion in assets that are screened for environmental and social concerns, though this is far from the amount of its total investments. State Street is a signatory to UNPRI, and holds 5,998,241 shares in Wilmar, worth over \$10 million.

TIAA-CREF is one of America's largest institutional investors, and is a signatory to UNPRI. Under its ESG policies, TIAA-CREF asserts that it invests in assets that prove to be strong stewards of the environment, devoted to serving local communities and society generally, and that manage their companies in an exemplary and ethical manner.²⁸ TIAA-CREF holds 4,957,418 shares in Wilmar, worth \$8.5 million.

Van Eck Global considers itself a leader in global investing, with international mutual funds, global bond funds, and emerging markets assets.²⁹ Van Eck Global currently manages assets on behalf of more than 350 institutions including endowments, foundations, hospitals, pensions, and private banks. The company has gained recognition for protecting an important stand of old growth redwoods in California^{30, 31} showing its understanding of the need to protect forests and maintain their climate benefits. Yet Van Eck Global has no publicly available ESG standards. Van Eck Global holds 94,652,515 shares in Wilmar (1.5 percent of all shares), worth \$160.6 million.

Vanguard Group is a private fund manager for individual and institutional investors, with no public statement regarding environmental and social governance,³² which holds 18,848,692 shares in Wilmar, worth about \$40 million.

Same meat, different gravy

Despite Wilmar's CSR policy, the company continues to be involved in conflicts, both on its own plantations as well as through its subsidiaries' plantations. Wilmar's 2011 Sustainability Report³³ acknowledges that Wilmar and its subsidiaries "need to improve. We recognize that we have sometimes been managing symptoms, rather than addressing the root cause of an issue, itself a reflection that grievance and mediation processes take up significant

resources, both at operational and management levels. The experience is a reminder that sustainability is a journey."

In the report, Wilmar claims to "respect and uphold the principles of human rights based on the free, prior and informed consent (FPIC) concept," and to "have adopted a proactive stance towards our engagement with local communities." Yet the expansion of Wilmar's palm oil plantations in Uganda, Nigeria, West Kalimantan and elsewhere have violated national laws and have failed to reign in the concerns that have historically plagued the company. In many cases, NGOs and local communities have filed complaints or lawsuits against Wilmar.

West Kalimantan and Indonesia: The International Finance Corporation complaints

The IFC Compliance Advisor Ombudsman handles complaints filed against projects financed by IFC (an arm of the World Bank) loans. Since 2007, three complaints have been submitted against Wilmar's operations in Indonesia and West Kalimantan for clearing land without appropriate community approvals, legally required permits, or the completion of required Environmental Impact Assessment processes.

The most recent complaint, which was filed in 2011, highlighted the fact that Wilmar had called on government forces to dismantle a community settlement on disputed land, and that the company's actions contradicted the IFC's Performance Standards. In some cases, complaints were resolved to the satisfaction of both parties, with ongoing monitoring of progress. In other cases, although mediation continues, community members in different areas of Indonesia are still waiting for resolution of the conflict with Wilmar. These complaints were filed by different community groups and local and international NGOs, including Friends of the Earth Netherlands/Milieudefensie, Forest Peoples Programme and Sawit Watch, Setara, Lembaga Gemawan and Kontak Rakyat Borneo.

Indonesia and Nigeria: The Roundtable on Sustainable Palm Oil complaints

In Indonesia and in Nigeria, several complaints have been filed with the Roundtable on Sustainable Palm Oil, of which Wilmar is a member.



Indonesia

In February 2013, Friends of Borneo, SAVE Wildlife Conservation Fund, Jakarta Animal Aid Network and others filed a complaint with the RSPO.³⁴ They stated that the company PT Mekar Bumi Andalas, a Wilmar subsidiary, had violated RSPO Principles and Criteria in building a crude palm oil processing unit. The company allegedly failed to provide adequate information to stakeholders; did not comply with all relevant local, national and ratified international laws and regulations; did not mitigate the environmental impacts of the development; and breached parts of the RSPO Code of Conduct.

In addition, Wilmar and other companies are encroaching into areas classified as High Conservation Value Forests and building crude palm oil shipping stations in Balikpapan Bay, which is home to one of the five largest known populations of proboscis monkeys. The developments there are also impacting Irrawaddy dolphins, dugongs, green turtles, and unique coral reefs and sea grass beds near the estuary of Sungai Berenga.³⁵

Nigeria

Wilmar International is expanding its operations in Cross River State in southeastern Nigeria. In a formal RSPO complaint, the Nigerian NGO Rainforest Resource and Development Centre³⁶ accused Wilmar of a lack of commitment to transparency and failure to reach an agreement with community landlords. RRDC also alleges that Wilmar failed to account for migrant communities in its assessment of project impacts, and importantly, did not comply with national laws and regulations in unlawfully acquiring massive parcels of forest land belonging to indigenous communities.³⁷ There is no Environmental Impact Assessment (EIA) on any of the Nigerian concessions made to Wilmar, yet Wilmar has already deforested and bulldozed several thousand hectares of land.³⁸

The RSPO recognized the merit of RRDC's complaint and requested that Wilmar stop all work until the complaint is resolved. RRDC is also accusing Wilmar of acquiring land that illegally encroaches on large portions of the Cross River National Park and the Ekinta Forest Reserve. The group also alleges that Wilmar has illegally obtained ownership to one of its plantations. Importantly, RRDC denounces Wilmar's development of the Ibad Plantation as unlawful because the property rights for the lands upon which it is located are obscured by pending ownership issues.

RRDC contends that by not complying with Nigerian laws, Wilmar has engaged in human rights violations, environmental destruction, fraud, land grabs, cultural destruction and conflicts, corruption, and is a threat to the future and survival of indigenous resource owners. The group has recently filed a lawsuit in the Federal High Court of Nigeria against the Wilmar project.

Uganda

In Uganda, Wilmar's local subsidiary has undertaken a vegetable oil development project that aims to plant 10,000 hectares of oil palm in the Kalangala islands.³⁹ So far, 7,500 hectares have been planted⁴⁰ and the project has been marred by concerns similar to those in Nigeria: no environmental impact assessment,⁴¹ failure to meet the stated objectives, by growing for export and not limiting production to for domestic consumption requirements,⁴² and violating Ugandan law⁴³ by forcibly acquiring land, failing to compensate evicted people⁴⁴, and failing to respect a 200 meter buffer zone between the plantations and Lake Victoria.

What are responsible investors to do?

Given Wilmar's dismal track record, what is a responsible investor to do? The UN Guiding Principles on Business and Human Rights, or the Ruggie Principles,⁴⁵ ask businesses to meet internationally recognized human rights obligations by preventing and mitigating the adverse human rights impacts of their operations, and giving victims access to effective remedies. Similarly, the UN Principles for Responsible Investment and many other commitments require financiers to engage with the company or sector in an effort to try to get it to change its ways.

Over the last several years, some investors have tried to engage with Wilmar to improve its practices, to no avail. Finding the problems too intractable, they have decided that the only responsible thing to do is to divest. In 2012, the Norwegian Government Pension Fund Global (GPF) divested from Wilmar, along with 22 other palm oil companies, because GPF believed these companies were producing palm oil unsustainably and causing seriously adverse human rights impacts.⁴⁶

Given the potential power that investors and lenders have over Wilmar International, the opportunity is ripe for engagement with the company towards improving its practices. In the event that no improvement is



forthcoming, divestment may be the only responsible option.

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- 7 Wilmar International, "Annual Report 2008"; Wilmar International, March 2009.
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